COPYRIGHT LAW

COPYRIGHT LAW

BY

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LONDON
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1903

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POSTSCRIPTUM.

SINCE this work has been in the press the House of Lords has reversed the judgments of the Lower Court and of the Court of Appeal in the case of *Aflalo* v. *Lawrence and Bullen*, referred to on pages 28 and 29, and decided in favour of the defendant publishers.

H. A. H.

ERRATA.

Page 44, line 15, for "was paid" read "has paid."

Page 52, line 5, for "will be" read "to be."

PREFACE.

THIS work is intended primarily for the use of Authors, Artists, Editors, Publishers, Dramatists, and others to whom a knowledge of the law of copyright is necessary, or at least desirable, in the management of their affairs.

Many people suffer injustice because they are ignorant that the law supplies them with weapons of defence, and in no case is this more common than in the matter of copyright. Sometimes an injury comparable only with that of theft or fraud is suffered because the victim is ignorant of his rights and of the power which the law has given him to claim and obtain compensation from the wrong-doer.

It must not, of course, be supposed that in every case in which copyright has been infringed the wrong has been done wittingly. Often the infringer errs through ignorance and in the honest belief that the author has no further claim to his property when once it has been made public.

To most authors the name copyright is a vague and almost unmeaning term. They shrug their shoulders wearily at the mention of it, and consign it to oblivion with the remark, "Oh, no one knows anything of copyright."

It is true that the various statutes which regulate copyright and playright are at times vaguely expressed and complex—a fault which I find common to most statutes—but it is equally true that these statutes, together with the leading decisions in which they have been interpreted, afford few chances to the wrong-doer of immunity for his offence.

Many people sign agreements and enter into contracts without a full knowledge of the obligations which they thereby impose upon themselves. The result is disputes, ill-will, and possibly costly litigation. No one should enter into a contract without ascertaining all that it means. The positions of both contracting parties should be clearly defined, so that there shall be no misapprehension as to what each may claim from the other.

It is always desirable that friendly relations subsist between the parties to a contract, especially authors and those who bring their work before the public, and they can best be pre-

served when the parties have a full and complete knowledge of their mutual rights and obligations.

As I have said, this book is intended as a guide to those who have to deal with matters of copyright and who may not be lawyers. I have therefore omitted anything unnecessary or needlessly contentious, and as my aim has been clearness and simplicity, I have used technical legal terms as sparingly as possible. I desire to acknowledge my indebtedness to my friend Mr. A. Cameron Connell, LL.B., of the Middle Temple, for his valuable assistance in revising the proofs.

HENRY A. HINKSON.

6, Pump Court,
Temple.

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COPYRIGHT LAW.

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No copyright before publication.

THERE is no copyright in any work before publication, and the rights which authors possess in such works are merely the common law incidents of property, and are altogether independent of the statute. Lord Brougham (Jefferies *v.* Boosey, 1854) laid it down that the author has the undisputed right to his manuscript; he may withhold or he may communicate it, and communicating he may limit

the number of persons to whom it is imparted, and impose such restrictions as he pleases upon the use of it.

This is to say that the author can deal with his manuscript as absolutely as he can deal with any other property.

It is not until after the publication of the manuscript that the statute begins to operate, for once the manuscript is published it is open to anyone to copy it unless he is restrained by the statute.

To be property the work must be the result of some mental or intellectual labour. It need not be of any literary quality, nor have any ascertainable value, but it must be original.

There can be no property in works of an immoral nature, or which are likely to have an injurious influence, for to such the law will give no protection (Southey *v.* Sherwood, 1817).

No copyright in title.

There is no copyright in a name or title, but if one person uses another person's title in order to mislead the purchaser into thinking that he was purchasing that other person's work, then he may be proceeded against at the common law for fraud. But there has been no infringement of copyright (Dicks *v.* Yates, 1881).

Colourable imitation.

It will be necessary for the plaintiff to show

that the title or particular form of publication has become in the public mind attached to his productions before he can complain that the defendant has been guilty of a colourable imitation of the title and form of the publication. Then the question arises, Has the plaintiff suffered through the alleged imitation having been substituted for the original and caused confusion in the public mind (Mack *v.* Petter, 1872)?

In the case of a newspaper evidence may be given to connect a falling off in the circulation with the appearance of the imitation.

Results of intellectual work must be in writing.

For practical purposes it may be considered necessary to put the results of any intellectual work in writing so as to vest the common law right in the author, "because the court must be satisfied that the publication complained of is an invasion of the written work, and this can only be done by comparing the composition with the piracy" (Lord Eldon in Abernethy *v.* Hutchinson, 1825).

As I have said, the author can deal with his manuscript precisely as he may deal with any other piece of property. He can assign the manuscript or copies of it, with the undertaking express or implied not to publish, in which case

the property in the MS. passes, but not the right to publish.

Publication destroys common law right.

After publication the common law right is lost, and statutory copyright in books (if the requirements of the statute are complied with) then takes its place.

The publication of a work for private purposes and private circulation is not regarded as a publication sufficient to deprive an author of his rights at common law.

Letters.

With regard to *letters* the copyright is vested in the writer of the letter, so that he may restrain the receiver from publishing the contents. But the property in the paper upon which the letter is written is vested in the person to whom the letter has been addressed.

The case of Pope *v.* Curll is interesting as showing the law upon this point. Alexander Pope, the poet, in 1741 applied for an injunction to restrain Curll the bookseller from publishing letters written by and to Pope. Lord Hardwicke granted the injunction as to the letters which Pope himself had written, but not as to those letters which were written to Pope, holding that "the receiver has only a special property possibly in the paper, but this does not give a licence to any person whatsoever to publish letters to the

world, for at most the receiver has only a joint property with the writer."

The author retains right to control publication even when he has ceased to own MS.

The right to control the publication of a manuscript or letter belongs to the author and his representatives even after the material property, that is, the paper upon which it is written, has with his own consent been bestowed on another (Lytton *v.* Devey, 1884).

If an author waive or surrender his rights, of course he loses his copyright.

Apart from the common law right against all the world to restrain the publication of an unpublished work, there are certain other rights which may be enforced at the common law. Such are those which arise under special conditions. As a general rule an employer may restrain his former agent, servant, or apprentice from making use of materials which they have obtained in the course of that employment, or which they have obtained through a breach of implied confidence attaching to their position.

Communications sent to editors of periodicals for publication.

Communications received by editors and proprietors of periodical publications become the property of the person to whom they are directed, if sent either expressly or impliedly for publication, and they cannot be published by anyone else obtaining possession of them.

But the editor or proprietor may not publish them if he shall have, previous to publication, received a request from the writer not to publish. But there is no obligation upon either the editor or the proprietor to preserve such written communications for the benefit of the writers, and he is quite at liberty to destroy them.

CHAPTER II.

Copyright in books—Definition of words Copyright and Book—Meaning of publication—Qualification of copyright work—Book should give information, pleasure, or instruction—Literary copyright and patent right—Photographic album—Ideas and inventions must be embodied in words—Catalogues, directories, etc., not subjects of copyright—Exceptions—Illustrated furniture guide—Face of barometer—Book illustrations.

Definition of words *copyright* and *book*.

THE Act of 1842 defines the meaning of the word *copyright* to be the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the word is applied. The word *book* means and includes every volume, part or division of a volume, pamphlet, sheet of letterpress, sheet of music, map, chart, or plan separately published. For example, a Christmas card with a verse on it is a book.

The words *separately published* do not necessarily mean published in a separate volume, but separate and distinct parts of the same volume, as in the case of a volume of short stories by different authors. As I have said already, the copyright in a book vests in the author imme-

diately on publication, and that without any act on his part. From the date of publication he has the benefit of the statute.

Meaning of publication.

Publication has been defined as the "making a thing public in any manner in which it is capable of being communicated to the public." It is usually by means of sale for the purpose of profit, but not necessarily so.

Now to obtain the advantages of copyright, a book must possess certain qualities. It must not be seditious, or libellous, the libel being against the State.

It must not be immoral. In the case of Stockdale *v.* Onwhyn (1826) it was held that the first publisher of an immoral work could not maintain an action against any person for publishing a pirated edition. The plaintiff had published *The Memoirs of Harriette Wilson*, which professed to be a history of the amours of a well-known courtesan, and the defendant had reprinted 5,000 copies of it and exposed them for sale.

A work which is blasphemous cannot obtain the benefit of copyright, nor one which professes to be what it is not with intent to deceive.

The book should give information, pleasure, or instruction by words, pictures, or signs, but it

need hardly be said that very little of these qualities will suffice to render the work capable of copyright.

It is obviously no easy matter to appraise the literary value of a work, but it must be a literary production of some kind to make it subject to copyright.

In the case of Hollinrake *v.* Truswell, 1894, the plaintiff claimed copyright in a cardboard pattern sleeve, containing upon it scales, figures, and descriptive words for adapting it to sleeves of any dimensions. It was held (reversing the decision of Mr. Justice Wright) that it was not capable of copyright as a "map, chart, or plan" within section 2 of the *Copyright Act*, 1842 (5 & 6 Vict. 45), but that it might be the subject of a patent as an instrument or tool. The distinction therefore was between literary copyright and the right to patent an invention.

Mr. Justice Chitty held that a photographic album containing pictures of castles, with short descriptions in words on some of the pages, was not a book within the meaning of the Act of 1842, since it was not a literary work.

To obtain protection under the Act it is necessary that the ideas or inventions shall be embodied in words.

There is no copyright in a dry catalogue of names, nor in mere specifications of patents, but protection may be afforded to a bookseller's catalogue containing a description of the books offered for sale, and short anecdotes relating to them.

There is no copyright in a postal directory, nor in a court guide, which must be substantially the same by however many persons published, and however independently compiled.

In certain cases tradesmen's catalogues may obtain the benefit of copyright, but an advertisement which can serve no other purpose than to make known the place of business and the nature of the business carried on by the advertiser is outside the scope of the copyright law.

Protection, however, has been afforded to a "cemetery stone and marble mason" who had published a book containing, in addition to some descriptive letterpress, a number of lithographic sketches of monumental designs. The object of the book was to advertise the business, and also to enable customers readily to make selections from the designs (Grace *v.* Newman, 1875). The point upon which the decision turns is whether the advertisement is merely for the purpose of making known the advertiser's business, or

whether, in addition, it has a value as a literary composition.

In the case of an illustrated furniture guide it was held that the drawings of the furniture were not entitled to protection on the ground that they were mere advertisements. With regard to the letterpress, the distinction was made between the part "which bears the trace of original composition and that which simply describes the contents of a warehouse, the exertions of the proprietors, or the common mode of using familiar articles" (Cobbet *v.* Woodward, 1872).

Original composition as opposed to mere advertisement.

On the other hand, an illustrated catalogue of furniture has been protected as to its illustrations, although it was decided that there was no copyright in the letterpress, as being a simple announcement of the sale of goods which any might sell or announce for sale.

Copyright in illustrations.

The face of a barometer, although it displayed a special letterpress, was held not to be capable of copyright; but a gloved hand printed on a card cut to the exact size, and showing the back and palm of the hand, the card opening like a book and containing on the inside the lines of life of palmistry in the palm of the hand, and on the back of the hand some verses, was protected

(Hildesheimer and Faulkner *v.* Dunn and Co., 1891).

Illustrations in a book will be protected under the Act of 1842 if they are bound with the volume, or if they are published in connection with the letterpress, even though the letterpress itself be not entitled to protection. Vice-Chancellor Parker held that a book must include every part of a book—every print, design, or engraving which forms part of the book, as well as the letterpress (Bogue *v.* Houlston, 1852).

In Comyns *v.* Hyde (1895) a coloured plate given away with the weekly number of a magazine, part of the letterpress of which it illustrated, was protected as part of the book, although it was not attached to the book.

So, too, a volume containing a number of drawings bound together without any letterpress has been held entitled to protection (Maple *v.* Army and Navy Stores, 1882).

But a drawing will not be entitled to protection under the Act of 1842 if it have been first published separately before inclusion in a book.

In Strong *v.* Worskett (1896) a magazine was advertised by posters before publication. The steps necessary to protect the illustration under

the Artistic Copyright Acts had not been taken. The same illustration that appeared on the poster was subsequently reproduced in the magazine. The Court held that it could not be protected as a part of the magazine. A drunken scrawl wholly unintelligible is not entitled to protection (Fournet *v.* Pearson, 1897).

CHAPTER III.

Plan of a work—No copyright in title—Dicks *v.* Yates—Miss Braddon's *Splendid Misery*—Selling a work under the title of another—Originality generally essential to copyright—Abridgment—Book need not necessarily be new—Right to use copyright work of another—Compilations—Railway time-table—Guide-books—Parry *v.* Moring, 1903—Doctrines treated need not be original—Jarrold *v.* Heywood—Use of common sources of information.

No copyright in mere plan of a work.

THERE is no copyright in the mere plan of a work, nor can there be any exclusive property in a general subject, nor in any particular method of treating it. Common materials are open to all to make use of in like manner and for a similar purpose. The same thought and ideas may be represented in their work, and the resemblance to each other is immaterial, provided there is no undue copying.

No copyright in title.

There can be no copyright in the title of a book, except under very special circumstances. In the famous case of Dicks *v.* Yates (1881), the decision in which may be taken as final, it was held that the plaintiff had no title to sue for infringement of copyright, and that it was clear

that the public could not be misled into purchasing the defendant's tale under the belief that it was the same as that of the plaintiff, so that there was no ground for the interference of the court on the principles applicable to trade marks, and the action ought to be dismissed with costs.

Semble, that as a general rule "there cannot be any copyright in the title of a book."

Miss Braddon's *Splendid Misery*.

In this case the plaintiff had published in a weekly periodical, called *Every Week*, a tale entitled *Splendid Misery; or, East End and West End*, by C. A. Hazlewood. The defendant subsequently commenced issuing in weekly parts in a newspaper published by him, a tale by Miss Braddon entitled *Splendid Misery*. The defendant proved that a novel bearing the same title had been published in 1801, and had had a large circulation, and that second-hand copies could still be had. An injunction against the defendant was refused.

Lord Justice James said, "Where a man sells a work under the name or title of another man, or another man's work, that is not an invasion of copyright, it is a common law fraud."

So, as I have shown above, although there is no copyright in the title of a book as title, one

may not use the title of another man's book for the purpose of gaining any advantage from the original user's connection with that title and the work indicated by that title.

The work must generally be original.

To be the subject of copyright a work must generally be an original production (but see page 49). The term *original* is necessarily somewhat vague, and there are many who contend that nothing original has been created within the memory of man. But, in law, the word "original," as applied to literary creations, has a more liberal interpretation than is assigned to it by ordinary convention. Thus an abridgment of an existing work, in which the mind has been employed in weeding out unnecessary details and circumstances, may be regarded as a new and original work. But in such a case, to avoid the imputation of piracy, the arrangement of the book abridged must be preserved, the ideas must also be taken and expressed not in language copied from the original work, but condensed.

Abridgment.

I shall return to this subject when I come to deal with infringement of copyright.

It is not necessary that the subject of a book should be new, but some originality must be shown in the treatment of it. An author may

claim copyright in a book in which he has arranged in a new form existing materials common to all writers, since by so doing he displays a certain judgment and skill in production of a new work.

An author also has copyright in new additions made to an old work, and can restrain anyone from copying the new work.

The case of *Gray's Poems* is a good illustration of the law on this point. The *Poems* had been published for a number of years when Mr. Mason brought out a new edition of the book, with the addition of several hitherto unpublished poems. The defendant copied the whole, and the Lord Chancellor granted an injunction against him, although the plaintiff had copyright only in the additions.

An author has only a limited right to make use of the copyright productions of another.

Compilations, dictionaries, maps, guide-books, directories.

In reference to dictionaries, maps, and such like, the law has been laid down by Vice-Chancellor Page-Wood. In the case of a dictionary, map, guide-book, or directory, where there are certain common objects of information, which must, if described correctly, be described in the same words, a subsequent compiler is bound to set about doing for himself that which the first

compiler has done; in the case of a road-book he must count the milestones for himself. Generally he is not entitled to take one word of the information previously published without independently working out the matter himself, so as to arrive at the same result from the same common sources of information, and the only use he can legitimately make of a previous publication is to verify his own calculations and results when obtained (Scott *v.* Stanford).

The circumstances in the recent case of Parry *v.* Moring (1903) were as follows. The plaintiff had edited *The Letters of Dorothy Osborne to Sir William Temple* from the original MS. The MS. was afterwards sold to the British Museum. The defendants subsequently published an edition of the letters, using the plaintiff's work as the base of this new edition, and repeating some of the errors of the former edition, instead of having recourse to the common sources—to wit the MS.

Mr. Justice Farwell granted judgment for delivery up of the books, plates, etc., and for an inquiry as to damages.

But where the compiler of a book has made no other use of the common sources except to reprint what he has derived from them, as in the

case of a railway time-table, he cannot restrain another person from copying his reprint, though if he can show any considerable original labour expended upon the work, as in the case of guide and touring books, it will be different.

Generally speaking, an author may not save himself trouble and expense by having recourse to the copyright works of others for his own profit.

Compiler must produce original result.

While it is necessary for a compiler to produce an original result, it is not necessary that the doctrines treated of should display any originality.

In Jarrold *v.* Houlston (1857), the publishers of Dr. Brewer's *Guide to Science* obtained an injunction restraining the publication of the *Reason Why*. Both works were written on the same method, and by means of question and answer presented a variety of useful information in a popular form on scientific subjects. The point of decision was whether the defendants had gone beyond a fair use of plaintiff's book, and whether there was any intention of taking for the purpose of saving labour.

The same plaintiffs proceeded against the publisher of a work called *Class Book of Modern Science* for the piracy of Dr. Brewer's

Guide, and it was admitted by the defendant that he had referred to plaintiff's work in the course of compiling the *Class Book*, but he maintained that every fact and illustration in the *Class Book* had been carefully verified by the labour and research of the authors themselves, and by reference to standard scientific works, of which the plaintiff's did not claim to be one.

It was held that the imitations of the questions in the plaintiff's book were no piracy as long as the defendant's writers had gone to independent sources in the preparation of their answers (Jarrold *v.* Heywood).

A writer may therefore use all the common sources of information (Parry *v.* Moring, 1903).

He may ascertain where those common sources are to be found by reference to the works of another, or he may use the work of another to satisfy himself as to the completeness of his own to verify it.

CHAPTER IV.

Copyright in translations—Consent of owner of copyright work necessary before publishing a translation—Copyright in additions to a non-copyright work—New editions—Are they the subject of copyright?—Must contain a substantial amount of new matter—Scientific and medical works—New edition must be practically a new book to obtain copyright—If letterpress is the same, notes only obtain a new term of copyright—Date of copyright in new edition—Publication in the United Kingdom necessary—Simultaneous publication in United Kingdom and United States of America—Previous publication abroad prevents copyright—Routledge *v.* Low—British resident abroad can obtain copyright—Term of copyright—Extent of copyright—Works on commission—In the absence of agreement copyright vests in the author—Registration not necessary to vest copyright.

Copyright in translation.

THERE is copyright in a translation, if it be made from the original non-copyright work by independent labour (Wyatt *v.* Barnard, 1814). And it appears to be the law that the consent of the proprietor of a work in which the copyright still subsists is necessary before it can be translated, notwithstanding some decisions to the contrary.

The editor of a non-copyright work who makes substantial annotations and additions to it may obtain copyright as to his additions.

New editions.

The question as to whether there is copyright in a new edition of a published work is of some nicety. If the new edition is merely a reprint of the original edition, it does not entitle the author to a new term of copyright, dating from the publication of the new edition. But if the new edition contains a substantial amount of new matter, it will become entitled to protection as a new work.

Scientific medical books.

This is more often the case with new editions of scientific, medical, and law books, which may in a few years become more or less out of date and valueless.

New edition.

The new edition must be practically a new book, and the notes must add a real value to the work independently of that possessed by the last, so that the work will procure purchasers in the market on account of these notes.

Where the text is the same in both the edition without notes and that with notes, the notes only obtain a new term of copyright (Black *v.* Murray, 1870).

Copyright in each new edition dates from the publication of that edition and is altogether independent of the copyright in any previous edition, and no person except the proprietor of the copyright may publish or authorise the publication of a new edition.

Publication in the United Kingdom necessary for copyright. Simultaneous publication in United Kingdom and America.

To obtain copyright the book must either first have been published in the United Kingdom, or if published abroad must have been published simultaneously in this country and abroad.

A previous publication abroad will prevent copyright in this country unless under the provisions of the International Copyright Acts.

If an author first publishes a work in the United States and after its publication there publishes it in the United Kingdom, he loses British copyright, since he is not publishing here an original work, but a copy of one which has already appeared.

Section 19 of the International Copyright Act (1844) lays it down expressly that the author of a book which shall, after the passing of the Act, have been first published out of His Majesty's dominions shall have no copyright therein.

This does not touch the question of the result of first publication out of the United Kingdom, but within His Majesty's dominions.

But in the case of Routledge *v.* Low (1868) the House of Lords (per Lord Cairns) held that publication within the United Kingdom was indispensable to copyright.

A British subject resident abroad has the right

of publishing and acquiring copyright here, since he has not divested himself of his nationality, nor of his allegiance to the Crown. A foreigner if actually resident in the United Kingdom at the time of publication can obtain copyright if publication has been in the United Kingdom, and there has been no previous publication elsewhere.

Lord Cairns held, however, that "protection is given to every author who publishes in the United Kingdom wheresoever that author may be resident, or of whatsoever state he may be the subject" (Routledge *v.* Low, 1868).

Term and extent of copyright.

Copyright lasts for forty-two years, dating from the first publication of the book, or for the author's life and seven years after his death, whichever term shall be the longer.

Copyright extends to all parts of the British dominions, and therefore to the colonies as well as to the United Kingdom.

Works on commission.

I now come to a subject which is of the utmost importance to both author and publisher, to wit, the copyright in works and articles executed on commission. A considerable amount of litigation has resulted from disputes between author and publisher as to which of them is invested with the copyright in a work under-

taken on commission, and paid for by the person giving the commission.

To avoid loss and unpleasantness, I strongly advise both author and publisher to state clearly in the agreement to whom the copyright in the work is to belong. Express contracts are always better than implied contracts.

If there is no agreement between author and publisher the copyright in the work belongs to the author, and, of course, if the author expressly reserves the right of republication the copyright vests in him.

As I have already explained, registration is not necessary to vest the copyright in the author. The copyright vests on publication, but to enable the owner of the copyright to sue in respect of infringement it is necessary.

CHAPTER V.

Contributions to periodicals—Registration of a series—Payment for commissioned works—No action can be brought before payment—Proprietor of copyright may not reprint article in a separate form without the consent of the author—Copyright in author in so far as he has not parted with it—Aflalo *v.* Lawrence and Bullen, Ltd.—When employers design plan of work—Author's remedies as against the proprietor of the copyright, not against third parties—Consent of author and proprietor, when necessary for republication—Registration of encyclopædias and works published in a series—Reversion of copyright in essays, articles, etc., to author—Exception in the case of encyclopædias and works on commission—Assignment of copyright—Copyright and bankruptcy—Assignment of MS. and the right to publish—Assignment of copyright by entry at Stationers' Hall—Assignment must be in writing—Receipt for purchase money no conclusive proof of intention to pass copyright—Assignment must be stamped if not made at Stationers' Hall—Cost of registration—Assignment for a term or of a share—One of several joint proprietors may sue.

Contributions to periodicals.

IN the case of Johnson *v.* George Newnes, Ltd. (1894) it was held that the author of a contribution to a periodical who had not parted with his article to the proprietor of the periodical might sue an infringer before publishing his contribution in a separate form.

Registration of a series.

And where the author had registered the series of contributions to the periodical, stating

as the date of first publication the date when the first part was published in the periodical, the effect of section 19 of the Copyright Act was that the registration protects each contribution of the series which has been subsequently so published.

If a publisher or other person commissions an author to produce a certain work or article on the agreement that the copyright therein is to belong to the person who gives the commission, and the work has been paid for, then he will have copyright in the whole work thus produced, just as if he were the actual author of it. But it is necessary that the publisher or other person giving the commission shall have paid for the work, to obtain copyright in it. A mere contract to pay has been held to be insufficient. And it must be proved that the author of the work himself has received the payment. It is not sufficient to show that the editor of the periodical in which the work has appeared has been paid.

Commissioned works.

Registration of the copyright in such a work cannot be made until after payment, and therefore no action can be brought before payment, since the proprietor does not acquire the copyright until after the making of payment.

If there is no express stipulation to the contrary the proprietor of the copyright or his personal representative, if deceased, has the sole right of reprinting the article as part of the work for which it was written for a term of forty-two years, dating from its first publication, or for his own life and seven years after, whichever is the longer. But the proprietor of the copyright may not reprint the article at any time *in a separate form* without the consent of the author, and since the author has no copyright in the article registration is not necessary before bringing an action. In the case of the Bishop of Hereford *v.* Griffin (1848), the plaintiff wrote an article on Thomas Aquinas for the *Encyclopædia Metropolitana*, there being no stipulation regarding the copyright. It was held that according to the law the copyright was in the plaintiff, except so far as he had parted with it; therefore no reservation was necessary to constitute a right in him.

Copyright in author in so far as he has not parted with it.

Again, in the case of Aflalo *v.* Lawrence and Bullen, Ltd. (1901), Mr. Justice Joyce granted an injunction restraining the defendants from republishing in a separate form an article written by the plaintiff for the *Encyclopædia of Sport*, and having appeared therein. The defendants

published a work entitled *The Encyclopædia of Sport*, and employed Mr. Aflalo to edit the work. He was to be paid £500 for his services, and to write without further fee seven thousand words of the special articles. In pursuance of this agreement Mr. Aflalo contributed to the *Encyclopædia* a signed article entitled "Sea Fishing."

Subsequently the defendants, without the knowledge or consent of the plaintiff, published a book entitled *The Young Sportsman*, containing a copy of this article. The plaintiff thereupon called upon the defendants to discontinue the further sale and publication of the book, and to compensate him for the infringement of his copyright. The defendants alleged that it was an implied term of the plaintiff's employment that the copyright in the article should belong to the defendants as proprietors of the *Encyclopædia*.

Joyce, J., held that there was nothing to show that the article was contributed on the terms that the copyright should belong to the defendants so as to bring it within section 18 of the statute. This decision has been upheld by the Court of Appeal. In Shepherd *v.* Conquest (1856) the Court questioned whether under any

circumstances the copyright in a literary work could vest from the beginning in the employer or in any person other than the author of the work, since the whole of it emanated from the mind of the person employed, and no single idea had been contributed by the employers.

It is different where the employers not merely suggest the work but devise the plan, or have a share in designing the work.

Sir John Leach, in Barfield *v.* Nicholson (1824), held that under the statute (8 Anne, c. 19) "the person who forms the plan and who embarks in the speculation of a work and who employs various persons to compose different parts of it, adapted to their own peculiar requirements, that he, the person who so forms the plan and scheme of the work and pays different artists of his own selection, who upon certain conditions contribute to it, is the author and proprietor of the work, if not within the literal expression, at least within the equitable meaning of the statute of Anne, which being a remedial law is to be construed liberally."

Author's remedies.

The author's remedies are as against the proprietor of the copyright, but not against third parties, so, though he can restrain the publication of the article in separate form by the pro-

prietor of the copyright, he cannot restrain the publication by other persons than the proprietor until after the expiry of twenty-eight years.

When the copyright vests in the proprietor, the work may not be reprinted as a separate publication for the first twenty-eight years after publication, without the consent of both author and proprietor.

Proprietors of encyclopædias, periodicals, and works published in a series may enter at once at Stationers' Hall, and thereon have the benefit of the registration of the whole, that is to say, that the registration of the first part will be in effect a registration of all the subsequent parts for forty-two years after the publication of the subsequent part, and that although many years may have elapsed since the publication of the first and any subsequent part.

Copyright in essays, articles, etc.

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 separate form reverts to the author for the remainder of the term given by the Act.

But this does not apply to encyclopædias or works on commission.

But this right does not extend to encyclopædias or works produced by the author altogether on commission.

Copyright, since it is personal property, may be assigned, or bequeathed, and, if not bequeathed, it will devolve after the death of the owner upon his personal representative.

The property in the manuscript of an author does not upon the bankruptcy of that author pass to the trustees in bankruptcy, since the author's control over his manuscript is not affected by bankruptcy. But the moment that the manuscript has been made public the copyright will pass for the benefit of the bankrupt's creditors.

Assignment.

An unpublished manuscript is personal property and is therefore governed by the same general rules as affect ordinary personal property. But the assignment of a manuscript does not pass the right to publish in the absence of any express or manifest intention to that effect.

By the Copyright Act, 1842, sec. 13, the proprietor of the copyright may assign his interest. or any portion of his interest therein by making entry in the book of registry at Stationers' Hall of such assignment, and of the name and place of abode of the person to

whom it is assigned, after he has registered his own copyright in the work which he desires to assign in whole or part.

The assignment is exempt from stamp duty, and has the same force and effect as if made by deed.

A certified copy of the entry is by the Act *primâ facie* proof of assignment, but liable to be rebutted by other evidence.

If the assignment be not made by entry at Stationers' Hall it must be in writing, but no witnesses are necessary.

A receipt for the purchase-money may in certain cases operate as an assignment of copyright, as being evidence of the proprietor's intention to pass the copyright, but as will be seen later in this work, it is by no means a conclusive proof of the author's intention to part with the copyright.

Assignments must be stamped if made otherwise than by entry at Stationers' Hall. And it will generally be found to be more economical to adopt the latter course. For registration of a title or of an assignment the fee is five shillings in each case.

The proprietor may assign his copyright for any term less than the whole term during which

the copyright will continue, since by the 15th section of the Act of 1842 it is lawful for the registered proprietor to assign any portion of his interest by making entry in the book of registry of such assignment, and of the name and place of abode of the assignee.

So, likewise, an assignment may be made of a share in the copyright, and such assignments are usually entered in the register at Stationers' Hall.

Where there are several joint proprietors any one of them may sue for infringement.

CHAPTER VI.

Infringement of copyright—Literary piracy—Larceny—Protection against two modes of infringement—Selling work under another writer's title—Piracy of whole or part—Error—Design *where* there is no legal remedy—Newspapers within Copyright Act—Newspaper proprietor and infringement—Registration of newspapers—Who only can sue—Piracy by provincial papers—Acknowledgment of source by infringer—Honesty of intention—The author and piracy of his work—How to discover the pirate—Custom no defence—Motive—Translation rights in United States—Translation an infringement—Infringement by importation—Penalty for such infringement—When actions must be brought—Duty of author to register copyright—Certificate of registration—Reproduction of errors—Effect of offer to compromise an action.

Infringement.

I NOW come to a subject which is of vast importance to both author and publisher, to wit, the infringement of copyright. Nor can I find a better definition of what constitutes infringement of copyright than that given by Lord Justice James in the case of Dicks *v.* Yates, to which I have already had occasion to refer.

"Literary property," says Lord Justice James, "can be invaded in three modes, and, as I believe, in three modes only. First, where a publisher in

this country publishes an unauthorised edition of a work in which copyright exists, or where a man introduces and sells a foreign reprint of such a work, that is open piracy.

"The second mode is where a man pretending to be the author of a book illegitimately appropriates the fruit of a previous author's literary labour, and that is literary larceny. These are the two modes of invasion against which the Copyright Acts have protected an author.

"There is another mode which, to my mind, is wholly irrespective of any copyright legislation, and that is where a man sells a work under the name or title of another man or another man's work; that is not an invasion of copyright, it is common law fraud, and can be redressed by ordinary common law remedies wholly irrespective of any of the conditions or restrictions imposed by the Copyright Acts."

Literary piracy may result from the reprinting of the whole original work or a part of it *verbatim*.

It is very much more common than is generally supposed. Sometimes it happens through error of fact, or error of law, as in the case of Routledge *v.* Sampson Low (1868).

In the case of Walter *v.* Howe the defendant sold a pamphlet entitled *The Life and Work of Benjamin Disraeli* (*Earl of Beaconsfield*), reprinted from *The Times*. It was, in fact, a reprint of a memoir of the late Earl of Beaconsfield. There was no evidence that the proprietors of *The Times* were entitled to the copyright in the memoir beyond the fact that they had paid the author for his literary services in respect thereof, and the author was not a party to the action.

The Times was not registered at Stationers' Hall under the Act of 1842. The court refused to presume that the plaintiff was the proprietor of the copyright from the fact that the author had been paid for writing the memoir, and held that the plaintiff was not entitled to sue without the author, and, even if he had the copyright in the memoir, he was not entitled to sue because his *newspaper* had not been registered under the Act.

Newspapers within the Copyright Act.

A newspaper is within the Copyright Act of 1842, and needs registration under that Act in order to give the copyright in its contents to the proprietor, and so enable him to sue in respect of a piracy.

Also to enable the proprietor of a newspaper

to sue in respect of a piracy of any article in it he must show, not only that the author of the article has been paid for his services, but that it has been composed on the terms that the copyright in it shall belong to the proprietor. The newspaper also must have been registered at Stationers' Hall. This decision is of great importance to contributors to newspapers and magazines.

Proprietor of copyright only can sue.

Only the proprietor of the copyright is entitled to sue in respect of its infringement, and authors would be well advised not to part lightly with their copyright in any work, however trivial.

There are many newspapers, chiefly in the provinces, which practically subsist on taking articles and stories of well-known writers from reputable magazines and reviews and transferring them to their own pages, with or without an acknowledgment of the source from which they have taken them.

Acknowledgment of source no defence for appropriators.

Now some of these piratical editors act through an ignorant belief that the mere acknowledgment of the source is sufficient to relieve them of all legal liability.

An acknowledgment of the source from which a copyright work has been taken has no effect whatever on the legal liability of the infringer,

nor will the absence of any dishonest intention excuse the appropriator, where the effect of his appropriation is of necessity to injure or supersede the sale of the original work.

Of course, if the author of the stolen matter has parted with his copyright he himself has no redress in such a case. It is to be suspected that many piratical editors do not act in ignorance of the offence which they are committing by stealing copyright matter, but rather trust to the improbability of the fraud being detected.

The author and piracy of his work.

Of course it is not always easy for the author to trace acts of piracy, especially in obscure papers, and very often the author does not take the trouble to follow up and exact reparation from the delinquent, regarding the matter as of trivial importance. This is an error on the author's part, since every pirated story or article must necessarily tend to lessen the demand for the author's work, and the proprietor of a newspaper or magazine who can get "copy" for nothing is not likely to pay for it.

In one way an author may ascertain cases of infringement of his copyright by instructing a press-cutting agent to supply him with the titles of all the articles and stories written by him and published, together with the name and address

of the newspaper or magazine in which these stories or articles appear. In such cases, if the article or story reprinted bears the author's name, he will have no difficulty in finding the pirate and bringing him to book. And if the pirate retaliate by omitting the author's name so as to escape identification, the author may console himself with the reflection that the stolen copy is of less value to the thief without the author's name than with it.

Custom no defence of piracy.

It is usual for the pirate publisher to allege in his defence the custom of the trade. He might just as well set up the highwayman's plea of the custom of Hounslow Heath. Custom has frequently been relied upon as a valid defence, but has always been repudiated by the courts. So, too, the defence that republication is as much in the author's as in the pirate's interest is of no avail, whether the author's work occupies a "prominent position" or not in the pirate's publication.

Neither does the court take into consideration the question of motive. The infringer is presumed to have intended all the consequences of his act.

Nor will ignorance of the fact that the matter has been stolen protect the publisher of copy-

right work against the owner of the copyright. Thus where B, alleging that he is the author, sells a work to C for publication, the copyright in the work really belonging to A, C, although he publishes the work in the *bonâ fide* belief that B is the author, is liable to be sued by A for infringement of copyright.

Translation.

The words "all rights reserved," "copyright," "the rights of translation reserved," are unnecessary so far as regards British literary copyright, since the owner of the copyright has all the rights which such words indicate without any special reservation.

In the United States, however, the author is required to reserve the rights of translation expressly, so as to obtain protection against unauthorised translations.

Copyright may be infringed by a translation either of the whole or part of the work, and even a translation of a work not entitled to copyright, but open to all, is protected by English law.

In Tinsley *v.* Lacy, 1863, it was held to be no infringement of copyright to represent a play dramatised from a novel written by another author, but it is an infringement to print and publish a play so constructed.

Importation.

It is an infringement of copyright for anyone to import into any part of the British dominions, for sale or hire, copies printed abroad of a work first printed in the United Kingdom, and it is immaterial whether or not he have sold or let out on hire a single copy.

Penalty.

The penalty for such an offence is ten pounds and double the value of every copy of such book imported. Books may be seized by officers of the customs and excise, and of the penalty five pounds go to the use of such officers of customs or excise, and the remainder to the proprietor of the copyright in such book.

Actions for infringement of copyright should be brought within twelve calendar months of the date of the offence, but even after the lapse of that time an author may obtain an injunction restraining the publication of his copyright work, or maintain an action for damages in respect of its piracy.

Limitations of actions.

Vice-Chancellor *Hall held* that the limitation did not destroy the author's property in his work, and that an action for damages might be maintained, or a suit for an injunction, even though more than twelve calendar months had elapsed since the wrong had been done (Hogg *v.* Scott, 1868).

Duty of author to register copyright.

The first duty of an author on discovering that his copyright has been infringed, if he means to take action against the infringer, is to produce and register his book at Stationers' Hall on the form used for that purpose, and required by the Act. The writ may issue any time *after* the registration, but not before, and in the case of books registration need not precede infringement. A book cannot be registered before publication. Accuracy in filling in the details on the registration form is of the utmost importance, as any error may defeat the action.

The title of the book must be given accurately, and if the book have no title, then such a description as will indicate it with sufficient certainty.

The date of first publication must be stated. In the case of a new edition, which contains so much new matter as to be practically a new book, the date of the publication of such new edition will be sufficient.

The name and place of residence of both the publisher and the proprietor must be given.

Certified copies of such entry in the register may be obtained from Stationers' Hall at the price of five shillings. Such certificate is *primâ*

facie proof that the plaintiff is the proprietor, and will be received as evidence in any court. This proof is subject to be rebutted by other evidence. The plaintiff must prove that he is the proprietor of the work in respect of which he brings the action, and a copy of the work by which he alleges his copyright to have been infringed must be produced.

It is a good evidence of piracy to show that errors in the first book have been reproduced in the second (Parry *v.* Moring, 1903). To enable the proprietor, if he have employed others to write the book and paid them for it, to maintain an action for infringement, he must prove that he was paid for the work on the terms that the copyright shall belong to him.

The defendant in actions for piracy must give notice to the plaintiff of the objections to the plaintiff's title on which he means to rely at the trial.

Effect of offer to compromise an action.

If an author offer to compromise an action for a certain sum of money in reparation of a wrong sustained by him, evidence of such offer will not be accepted as at all conclusive proof that the amount of his injury was represented by the sum which he offered to take, since a person might be willing to forego his rights and so

avoid litigation; but after the litigation, which he had shown himself anxious to avoid, had begun, the circumstances were changed, and he surely ought to be allowed to insist on his rights to the utmost (Vice-Chancellor Page-Wood, in Ainsworth *v.* Bentley, 1866).

CHAPTER VII.

Newspapers and registration—Registration before publication—Copyright in literary form of news—Copying—Copyright of *verbatim* reports—Duration of copyright—Letters—Editor's right to make alterations—Unsigned contributions—Title of newspaper—Publication of contributions as correspondence—Reviews and quotation—Colonial copyright—Berne Convention—Registration in the colonies—Notice of copyright—Copyright in United States—Simultaneous publication in both countries.

Newspaper is a book.

SINCE a newspaper or other periodical is a "book," within the meaning of the Copyright Act, 1842, the provisions of the statute apply to newspapers as far as the special circumstances permit.

Before the proprietor can sue for infringement of his copyright he must register his newspaper or periodical at Stationers' Hall. He cannot register until after publication, but registration of the first number of the series, or of the first number published after the passing of the Copyright Act, 1842, will operate as a registration of every subsequent number in the series. The registration of any single number

will protect the contents of that particular number.

The registration of a periodical before its publication is bad in law (Dicks *v.* Yates).

There is copyright in the literary form in which news is conveyed, so that one newspaper proprietor can restrain another from copying special articles or telegrams from his paper, but to enable him to do so he must prove his copyright.

Practice of newspapers copying one from another no defence.

In Walter *v.* Steinkopff, 1892, it was held that the form of expression in which news is conveyed is the subject of copyright, and that a practice of newspapers copying from other newspapers is no defence to an action for infringement.

Copyright of verbatim shorthand reports can exist in the reporter.

The copyright of *verbatim* shorthand reports can exist in the reporter as the "author," and by assignment in the proprietor of the newspaper in which such reports appear (Walter *v.* Lane, 1900, House of Lords reversed Court of Appeal, and restored Mr. Justice North's Judgment).

Between 1896 and 1898 the Earl of Rosebery delivered five speeches on subjects of public interest to public audiences. *The Times*' reporters attended with reporters from other news-

papers, and took down the speeches in shorthand. Afterwards they wrote out their notes, corrected, revised, and punctuated their reports for publication. These reports were published in *The Times*, the speeches being given *verbatim* as delivered by Lord Rosebery. The reporters were employed under the terms that the copyright in all reports and articles composed by them should belong to the proprietors. In 1899 Mr. Lane published a book called, *Appreciations and Addresses: Lord Rosebery*. It consisted of reports of the above speeches of Lord Rosebery, these speeches being preceded by short notes explaining the occasion. It was admitted that these reports were taken substantially *verbatim* from the reports in *The Times*. The proofs of Mr. Lane's book were said to have been corrected by comparing them with an album containing Lord Rosebery's speeches kept and revised by himself. The album contained *The Times'* reports of four of the speeches in question, and these reports had not been altered in the album. Lord Rosebery made no claim. *The Times'* reporters having formally assigned the copyright in the reports to the proprietors of *The Times*, the latter brought an action against Mr. Lane, claiming

a declaration that the copyright of the reports was vested in them, and also an injunction, damages, and costs.

There can be no doubt of the wisdom and justice of this decision, notwithstanding the dissent of so eminent a judge as Lord Robertson. If Lord Rosebery, who was not a party to the action, had waived his copyright by neglecting to secure it, the copyright, not being therefore extinguished, should naturally vest in the proprietor of the first printed and published version.

The reporter had a common law right to the report which he made, and this he assigned to the proprietors of *The Times* newspaper.

Lord Halsbury was of opinion that there was nothing in the statute to make originality of thought or idea necessary to the right.

If a proprietor have employed and paid a writer for articles which have appeared in his newspaper, he can restrain anyone else from republishing them for twenty-eight years. But he may not, save with the consent of the author, republish these articles in any separate form. After twenty-eight years the copyright reverts to the author. During that period he merely has the right to prevent the republication in a separate form.

Property in letters.

The property in letters remains in the person to whom they are sent, but the writer of the letters has a right to restrain the publication of their contents. This right can only be taken away when the letters contain materials which make it necessary for the recipient to use them for his own justification, or for the vindication of his character from any charge.

So letters sent to the editor of a periodical are the property of the proprietor of that periodical for whom the editor is agent.

Generally speaking, the proprietor is under no liability to preserve or return any manuscript sent to him uninvited, nor can the author recover its value when lost.

But where the periodical contains a statement to the effect that the editor will consider contributions submitted to him and will endeavour to return them if found unsuitable, there may be an implied contract on the part of the proprietor to use reasonable care, and if the manuscript be lost through the negligence of the proprietor or his servants, the author may have a good case for compensation notwithstanding the proprietor's denial of liability.

Editor's right to make alterations in contributions.

A question sometimes arises as to the right of the editor to make alterations in matter sent

to him by a contributor. The law on the subject seems to be that in cases where the communications are signed by the author the editor has no right to make any alteration unless to omit something libellous or offensive, but he must not add any new matter.

With regard to unsigned contributions, the editor has practically unlimited power to alter or amend.

Title of newspaper.

There is no copyright in the title of a newspaper, but it is a common law fraud to assume the title of a newspaper for the purpose of deceiving the public, and of trading on the reputation of the original newspaper. It must be shown that the assumption of the name by the defendant is calculated not only to deceive the public, but also that there is a probability of the plaintiff being injured by such deception (Borthwick *v. Evening Post*, 1888).

Editor publishing contributions as correspondence without consent of author.

If a literary contribution be sent to the editor of a periodical by an author and the editor accept the contribution, but publish it without the author's consent as *correspondence*, the author may claim payment therefor, since the form of publication which the editor adopts does not divest the proprietor of his responsibility. This trick has been several times tried by a well-known weekly review.

Extracts from work reviewed.

A reviewer may make such extracts from the work under criticism as are necessary to illustrate his criticism, but not to such an extent as to form a substitute for the book itself, or will be likely to injure the sale of the book. Whether the critic has or has not transgressed the rules of fair quotation is a question which will be governed by the particular circumstances of the case.

Fair quotation.

Colonial copyright.

As I have already stated, the publication of a book in the United Kingdom secures copyright for that book in all parts of the British dominions, and by the Act of 1886 the same protection is given to a literary or artistic work first produced in a British possession. Thus, a book published in Australia obtains the same copyright throughout the British possessions as if it had been published in the United Kingdom. Moreover, books published in the colonies have copyright in all countries which are signatories of the Berne Convention, and books published in these countries have colonial copyright. If the law of the particular colony provides for registration, then the English provisions with regard to registration are not to apply, and duly certified extracts from the colonial register are admissible in English courts. There is another

Berne Convention and the colonies.

Registration in the colonies.

matter of great importance to both author and publisher. By section 152 of the Customs Act, "Any books wherein the copyright shall be subsisting, first composed, or written, or printed in the United Kingdom, and printed or reprinted in any other country, shall be and are hereby absolutely prohibited to be imported into the British possessions abroad: provided always that no such books shall be prohibited to be imported as aforesaid unless the proprietor of such copyright or his agent shall have given notice in writing to the Commissioners of Customs that such copyright subsists, and in such notice shall have stated when the copyright will expire." It will be well therefore for the British author or publisher to give the required notice to the Commissioner of Customs in the United Kingdom.

Notice of copyright to be given to Commissioners of Customs.

In order to obtain copyright in the United States a British author must publish his work simultaneously in both countries. The book must be printed from *type set up in the States* to secure its copyright there. This important point has been sometimes overlooked or inadequately expressed by writers on copyright law. Copyright in the United States lasts for forty-two years, provided that after the expiration of

Copyright in the United States.

twenty-eight years certain formalities, to which I shall refer later, are observed.

The effect of the copyright is to protect the author from piracy, and to prevent the importation of the work into the States. It is not necessary for an American author to be resident in the United Kingdom to enable him to obtain copyright, but to secure copyright in both countries the publication of the work must be simultaneous. The printing may be done in the United Kingdom from plates made in a foreign country.

It will be observed that whereas simultaneous publication in the United Kingdom is sufficient to secure copyright there, irrespective of the place where the type was set, it is necessary in order to secure copyright in the United States that the type shall have been set up within the limits of the Republic.

CHAPTER VIII.

Artistic copyright—Rights of purchaser of a picture—Rights of proprietor before publication—Fine Arts Copyright Act—Reservation of copyright in writing—Artistic Copyright Act less favourable to author than Literary Copyright Act—Qualifications of artistic copyright—The duty of artists, editors, and proprietors—When a written agreement is not necessary to vest copyright—Registration—Assignment—Registration evidence of title—Penalties for infringement—Copy of a copy—Original picture need not be produced—Photographs—Who is author?—On commission—Non-commissioned photographs—Right to exhibit or sell photographs—Photographs taken by request of photographer—Payment for some copies at reduced rate—The necessity of assuring artistic copyright in writing.

Artistic copyright.

THE proprietor of a picture, engraving, photograph, drawing, sculpture or other work of fine art has the right of preventing any copy of it being made before its publication.

If anyone purchase the copyright of a picture he holds the picture absolutely free from all interference by anyone. But, if he merely buys the picture as a picture, the copyright in it being reserved to the artist by *some note in writing*, he can only enjoy the pleasure of

possessing and contemplating it, he cannot multiply copies of it nor make engravings from it, nor use it for any purpose different from that for which the artist sold it. But it should be borne in mind that the purchaser of a picture is under no obligation to lend the picture to the artist or to any other person for the purpose of engraving.

Before publication the proprietor has a common law right in his picture, engraving, drawing, etc. But after publication, copyright, *i.e.* the exclusive right of multiplying copies of a work already published, is entirely regulated by the statute (25 & 26 Vict. c. 68). This is entitled

Fine Arts Copyright Act.

"An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works." It provides that the author, being a British subject or resident within the dominions of the Crown, of every original painting, drawing, and photograph which shall be or shall have been made, either in the British dominions or elsewhere, and which shall not have been sold or disposed of before the commencement of the Act, and his assigns, shall have the sole and exclusive right of copying, engraving, reproducing, and multiplying such

painting or drawing, and the design thereof, or such photograph and negative thereof, by any means and of any size, for the term of the natural life of such author, and seven years after his death; provided that when any painting or drawing, or the negative of any photograph, shall for the first time after the passing of this Act be sold or disposed of, or shall be made or executed for or on behalf of any person for a good or a valuable consideration, the person so selling or disposing of or making or executing the same shall not retain the copyright thereof, *unless it be expressly reserved to him by agreement in writing, signed, at or before the time of such sale* or disposition, by the vendee or assignee of such painting or drawing, or of such negative of a photograph, or by the person for or on whose behalf the same shall be so made or executed; nor shall the vendee or assignee thereof be entitled to any such copyright, unless, at or before the time of such sale or disposition, an agreement in writing, signed by the person so selling or disposing of the same, or by his agent duly authorised, shall have been made to that effect. There are several important points in this section to be noted, and it will be seen that the Fine Arts

Copyright Act of 1862 is less favourable to the artist than is the Literary Copyright Act of 1842 to the author. In the latter case publication of the MS. vests the copyright in the author, without any act on his part, and merely by virtue of the Act.

What is necessary in order to secure artistic copyright.

In the former case the artist must at the sale, or at or before the time of delivery or the completion of the bargain, obtain the signature of the purchaser or assignee, or of the person for whom the work has been executed, *to a written* reservation of the copyright to himself if he desire to retain it. Or he *must assign in writing* the copyright to the purchaser at or before the completion of the transaction. If one or other of these things be not done, the copyright will be irredeemably lost. If the purchaser of the picture do not obtain this agreement in writing he cannot protect himself against piracy or repetition by the artist.

An interesting case (Constable *v.* Martin and others, December, 1902) came before Mr. Justice Byrne in the Chancery Division having reference to an infringement of copyright in a portrait and signature. The plaintiffs published a history of the Boer War by General Christian de Wet,

Portrait and signature.

the volume including a portrait of the author,

together with his signature. Copies of the book were sent out for review to the press in the ordinary course, and amongst others to the defendants' newspapers—*The Newcastle Daily Leader* and *The Northern Weekly Leader.* In reviewing the book, both these papers published the portrait and signature of General de Wet. The plaintiffs thereupon sought an injunction to restrain the publication.

The case was settled by the defendants agreeing to pay the full costs as between solicitor and client, and to give up all blocks and pictures connected with the appearance of the portrait in their papers.

The plaintiffs waived their claim to damages and an account of profits.

The case is important to editors and newspaper proprietors, although there was no difficult point of law involved, as showing within what limits extracts may be made from a book for the purpose of reviewing it. .In the case under notice there were special reasons why the publishers objected to the republication of the portrait and the signature, but it should be understood that in all cases the extracts from a copyright book under review are republished at the risk of the person or persons republishing

such extracts. Whether more is taken than is necessary for the purpose of an adequate review is a question of fact.

Copying illustrations.

With regard to illustrations, it is advisable to obtain the consent of the owner of the copyright in them before copying them, and this is commonly done.

Artists should always bear in mind, when they are selling a picture or drawing, that unless they reserve the copyright in writing they will lose it; and editors and proprietors should remember that when they purchase a drawing or painting from the artists they do not obtain the copyright in such drawing or painting unless at or before the completion of the transaction the copyright has been assigned to them *in writing* by the artist.

But a written agreement is not necessary to vest copyright in the patron or person for or on whose behalf the work has been expressly executed. I now come to an important instance wherein the law differs as between the literary

Registration

author and the artist. In both cases registration at Stationers' Hall is a condition precedent to suing for damages for infringement. But whereas the author can, *after* registration, sue for acts of infringement which took place before regis-

tration, the artist can sustain no action and recover no penalty in respect of anything done before registration.

An assignee may not sue for penalties before the assignment to him has been registered, but it is not necessary that all or any previous assignment should be registered or that the copyright of the original author should be registered. Assignment.

As in the case of literary copyright, registration of the proprietorship of artistic works is only *primâ facie* evidence of title, and may be rebutted by further evidence.

The penalties for infringement, whether by the author after disposing of the copyright, or by another, are the payment of a sum not exceeding ten pounds for each offence to the proprietor of the copyright and the surrender to him of all repetitions, copies and imitations, and all negatives of photographs made for the purpose of obtaining such copies.

A copy of a copy is just as much an infringement as a copy of the original. The penalties are cumulative, that is to say, that the infringer is liable to a penalty for every copy sold. Copy of a copy.

It is not necessary to produce the original picture to maintain an action for infringement,

and that for the obvious reason that the copyright might belong to one person, but the property in the picture to another (Lucas *v.* Williams and others, 1892).

Photographs.

The question sometimes arises, who is the author of a photograph. The author of a photograph is the artist who takes the negative; not the person who employs the artist and supplies him with the camera.

In the case of commissioned pictures and photographs, the copyright belongs to the person giving the commission (Boucas *v.* Cooke, Court of Appeal, 1903), but the property in the negative and the glass upon which the photograph is, in the absence of any agreement to the contrary, vests in the photographer.

The copyright in non-commissioned works vests absolutely in the photographer.

The photographer has no right to exhibit or sell to a third party copies of a photograph of any person of whom he has taken a likeness in order to supply copies for money to that person (Pollard *v.* Photographic Co., 1888). Yet photographers have offended and still do often offend in this particular.

If a photographer asks a person to give him a sitting, and the sitter pays nothing for it nor for copies of the photograph, the copyright will obviously belong to the photographer if he is the author.

If the sitter pay for some copies, but at a reduced rate, the decision will turn upon the special facts of the case. The copyright in a photograph taken at the request of the photographer appears to belong to him even if the sitter afterwards pays for the copies. Unlike other copyright acts, there is no limit of time in artistic copyright within which actions must be brought.

Copyright in engravings, designs, and prints lasts for twenty-eight years from date of first publication, and actions for infringement must be brought within six calendar months after the infringement. The name of the proprietor and date must be printed on each engraving and print. No registration is necessary, but the work must have been produced in Great Britain. There is no copyright in immoral engravings.

To repeat what I have already said, it cannot be too earnestly impressed upon the minds of all artists that they should either reserve to themselves or assign to the purchaser *in writing* the copyright in their pictures. Otherwise the copyright will be irredeemably lost, and will become public property. Again, they should remember that they cannot recover penalties for any infringement which has preceded registration.

CHAPTER IX.

Dramatic copyright—Duration—Consent of author—When actions must be brought—Effect of public performance—Dramatic work published as a book—Omission to register—Place of infringement—Board-room of a hospital—Charge for admission—What is dramatic composition?—"*The Ship on Fire*"—Literary production if neither musical nor dramatic spectacular production—Scenic effects—Dramatisation of novel—Novel founded on a play—Independent dramatisation of same novel—*Little Lord Fauntleroy*—Dramatiser's right to novelist's work—Immoral or blasphemous play—First publication must be in United Kingdom—Law of United States different—Piracy of dramatic pieces—Commissioned plays—Registration of playright—First publisher—Cost of registration—Transference of playright—Part owner cannot assign the whole copyright—Copyright personal property—Adaptations—Penalty for infringement—Costs—Liability of proprietors—Injunction—Damages—Delivery of copies.

Dramatic copyright.

THE rights of dramatic authors are governed by the Statute of 1833, commonly known as Bulwer Lytton's Act, and the Copyright Act of 1842.

The first of these enacts that the author of any tragedy, comedy, 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 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 should 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

Duration of copyright.

shall be deemed and taken to be the proprietor thereof.

In cases where previous to the passing of the Act a consent has been given by the author, the Act will not operate prejudicially against such persons as have obtained his consent or the consent of his assignee. All actions for infringing the author's right must be brought within twelve calendar months after the offence has been committed.

When actions must be brought.

If a play in manuscript be publicly performed, the author loses his *common law right* to the exclusive representation, and can only claim the protection afforded by the statute.

Effect of public performance.

The author of a dramatic work which has been published as a book before it has been publicly performed retains the exclusive right of performing it (Chappell *v.* Boosey, 1882). This right, of course, he may assign to another.

The omission to register the copyright of a dramatic piece at Stationers' Hall has been held not to prejudice the right to sue for infringement, which belongs to the proprietor, of the sole liberty of representing the piece (Clark *v.* Bishop).

The place of infringement must be a place of dramatic entertainment.

"The place where the infringement took place must be a place of dramatic entertainment."

In Russell *v.* Smith (1848) it was held that the room where the song was performed, and to which persons paying for tickets were admitted for the purpose of hearing it, was, for the time, a place of dramatic entertainment within the meaning of the statutes, though the room was ordinarily used for different purposes.

In the case of Duck *v.* Bates (1883) the defendant and others joined in representing a dramatic piece in the board-room of Guy's Hospital without the consent of the proprietor of the copyright in the drama. The performance was merely for the entertainment of the nurses, attendants, and others connected with the hospital, who were admitted free of charge. It was held that the room where the drama was represented was not a place of public entertainment, and that the defendant was therefore not liable to damages or penalties under the Copyright Acts. It was questioned whether it is essential, in order to make the room where the play is represented a place of dramatic or public entertainment, that a charge should be made for admission to it.

What is a dramatic composition?

The question what is a dramatic composition is not easy to answer with certainty. By the statute of Victoria the words "dramatic piece"

are defined "to mean every tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic entertainment."

In Russell *v.* Smith, above referred to, Lord Denman defined them to "comprehend any piece which could be called dramatic in its widest sense, any piece which on being presented by any performer to an audience would produce the emotions which are the purpose of the regular drama, and which constitute the entertainment of the audience." It was decided that the song "The Ship on Fire" was a dramatic piece written within the meaning of the statute.

In the case of Clark *v.* Bishop (1872) it was held that the song "Come to Peckham Rye" was a dramatic piece.

A literary production which is neither a musical nor a dramatic production is not protected by the statute, and anyone may read or recite such a production without the author's consent. This, of course, only applies to published works, since the unauthorised public reading of an unpublished work would be an invasion of the owner's common law rights in his manuscript.

A spectacular piece is protected by the statute, and Mr. Justice Brett held that situa-

tions and scenic effects were more peculiarly the subject of copyright than the words themselves.

Dramatisation of a novel.

The dramatisation of a novel is no infringement of the author's copyright, nor can the latter prevent the representation of the dramatised work, unless he has dramatised the novel first himself, and secured playright in it before the publication of the novel. But to print a dramatisation of a novel would be an infringement of the author's copyright in his novel (Reade *v.* Conquest).

If a novel founded on a play be dramatised, the acting of such dramatised version would be an infringement of the playright in the play, but not of the copyright in the novel.

But to print such dramatised version would infringe both the copyright in the novel and the copyright in the play, and ignorance is no defence (Page-Wood in Reade *v.* Lacy, 1861).

Independent dramatisations of the same novel.

A second dramatisation of the same novel does not necessarily infringe the playright of the first, since after the publication of the novel anyone is at liberty to dramatise it, and the representation on the stage of one dramatisation was not a representation of the other dramatisation (Chief Justice Cockburn in Toole *v.* Young, 1874).

In the case of Warne and Co. *v.* Seebohm (1888) the defendant dramatised the novel *Little Lord Fauntleroy*, and caused his play to be performed on the stage. The infringement of copyright complained of was that for the purpose of producing the play the defendant made four copies of it—one for the Lord Chamberlain and three for the use of the performers, either in MS. or by the aid of a typewriter. Very considerable passages in the play were extracted almost *verbatim* from the novel. The defendant claimed the right to make more copies if it should be necessary to enable him to give further representations of the play in London and elsewhere. It was held what had been done by the defendant constituted an infringement of the plaintiff's copyright, and that they were entitled to an injunction to restrain the defendant from printing and otherwise multiplying copies of his play containing any passages from the plaintiff's book, and also that all passages from the plaintiff's book in the four copies must be cancelled.

From this case it will be seen that a dramatiser has only a limited right to use the novelist's work, and in using the story he must take care not to reproduce *verbatim* or

colourably imitate the form of literary expression used by the novelist.

This decision is of great importance to novelists and to would-be dramatisers.

The court will not grant protection to the author of an immoral or blasphemous play, and the Lord Chamberlain has a discretionary power to prevent personages being held up to ridicule on the stage. In order to obtain copyright or playright in the United Kingdom, in the absence of any copyright conventions affecting the matter, it is necessary that the first publication, either by printing or representation, should have been made in the United Kingdom (Boucicault *v.* Delafield, 1863). "The plain purpose of the statute is to secure for this country the benefit of the first publication of new works, and certain conditions are made without which works first published abroad are not to be entitled to copyright" (Page-Wood, Vice-Chancellor).

First publication in United Kingdom.

The law of the United States is different from English law on this particular point. A British subject resident in England wrote a play, and, without having it printed, had it performed in London. An American printed the play and sold copies of it in New York.

The court held that the performance in London had not destroyed the author's common law rights in the unpublished MS., and that therefore he was entitled to an injunction.

The law with regard to the piracy of a dramatic piece is much the same as that which governs infringement of literary copyright. A material part must have been taken to amount to infringement, and substantial identity constitutes piracy (Daly *v.* Palmer).

Commissioned plays.

If one person employ another to write a play for him the playright vests in the author, even though the employer may have suggested the subject. A written assignment by the author is necessary to transfer the playright.

Registration.

It is not necessary to register the playright before commencing an action, as in the case of literary copyright. But registration is advisable as *primâ facie* evidence of the right.

The name of the *first* publisher of the work must be registered. The fee payable to the Registrar at Stationers' Hall is five shillings.

It is not necessary to register a play which has been neither acted nor printed, nor is registration necessary to protect playright.

An author may protect his novel by dramatising it *before* publication, but he cannot so protect it after publication.

Transference of playright.

An author may transfer his copyright or playright by a written consent or by the written consent of his agent. The document need not be witnessed nor under seal. Of course a part owner cannot assign the whole copyright or playright without the consent of the co-owners, nor can he grant a good licence for representation without the consent of the co-owners.

Section 25 of the Act enacts 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 movable estate.

Adaptations.

Adaptations of non-copyright plays have the benefit of the Act. The statute of William IV. imposes a penalty of forty shillings on the infringer, or 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 meaning of this Act. By the Act of 1842 a full and reasonable indemnity as to costs was allowed, and although only forty shillings is

recovered, the plaintiff is entitled to costs on the High Court scale, since the rules of the Supreme Court do not operate to repeal the provisions of special statutes giving special costs in particular cases (Court of Appeal, in case of Reeve *v.* Gibbon, 1891).

A person is not liable to any penalties unless either he himself or his agent on his behalf takes part in the performance. The proprietors of theatres are not liable for penalties for infringement incurred by the companies to whom they let their theatre and scenery.

Actions must be brought within twelve calendar months from the date of the infringement. It is no defence that the infringement has been committed unwittingly. The aggrieved person may, in addition to the damages for infringement, obtain an injunction to restrain unauthorised performance.

Under the Copyright Act, the owner has an action for damages against the infringer, and can require the delivery up of all copies containing the infringement, or, in default, further damages. He can also obtain an injunction to restrain the unauthorised printing of copyright matter.

CHAPTER X.

Musical compositions—Author and his MS.—Song set to music—Printed notice restraining public performance—Right of performance and copyright in different persons—Notice to owner of copyright—Penalty on owner of copyright for non-compliance with notice—Innocent proprietor of place of dramatic entertainment—Operas and plays excepted—Rights of author—Duration of copyright—Publication in United Kingdom—Necessity of registration of musical piece—Adaptation of words to an old air—Combination of non-copyright air with original words—Pianoforte arrangement from an opera—Publication of musical composition—Quadrilles and waltzes from airs of opera—Score from non-copyright arrangement of copyright opera—Assignment in writing—Verbal assignment—Penalties for infringement—Discretion of the court respecting costs—Innocent proprietor of place of public performance—Musical (Summary Proceedings) Copyright Act, 1902—Seizure, etc., of pirated copies—Power to seize copies on hawkers—Definitions—"Musical work," "Pirated musical work"—Commencement and extent of application—Interpretation—Evidence of title—Necessary to summon hawker.

Musical compositions.

MUSICAL compositions in English law are closely allied with the drama, and owing to their nature it is not always easy to distinguish a musical composition from a dramatic piece.

The author of a musical composition has, before its publication, an absolute right over

his manuscript, as he has in the case of other literary works. Once the manuscript is printed and published, it acquires protection as a book under the Literary Copyright Act of 1842, which defines "a sheet of music" as a "book."

With regard to a song set to music, there are three separate parts of copyright—(*a*) the right to print the words, (*b*) the right to print the music, and (*c*) the right to perform the music.

Now as these separate rights might belong each to a different person, great inconvenience and injustice was frequently caused to persons who sang copyright songs in public through ignorance that a penalty attached thereto. To remedy this unsatisfactory state of things the Musical Copyright Act of 1882 was passed. The result of this is briefly as follows.

The owner of the copyright in any musical composition first published after August 10th, 1882, who shall be entitled to or desire to retain in his own hands the exclusive right of public performance, must print on the title-page of every copy a notice that the right of public performance is reserved.

When the right of performance and copyright are vested in different owners before publication, if the owner of the right of public

representation and performance shall desire to retain the same he must, before any such publication of any copy of such musical composition, give to the owner of the copyright therein notice in writing requiring him to print upon every copy of such musical composition a notice to the effect that the right of public representation or performance is reserved.

Notice to owner of copyright.

In case the right of public representation or performance of and the copyright in any musical composition shall, after publication of any copy thereof subsequently to the passing of this Act, first become vested in different owners, and such notice as above mentioned shall have been duly printed on all copies published after the passing of this Act, previously to such vesting, then if the owner of the right of performance and representation shall desire to retain the same, he shall before the publication of any further copies of such musical composition give notice in writing to the person in whom the copyright shall be then vested, requiring him to print such notice as aforesaid on every copy of such musical composition to be thereafter published.

If the owner for the time being of the copyright in any musical composition shall, after

due notice being given to him or his predecessor in title at the time, and generally in accordance with the last preceding section, neglect or fail to print legibly and conspicuously upon every copy of such composition published by him or by his authority, or by any person lawfully entitled to publish the same, and claiming through or under him, a note or memorandum stating that the right of public representation or performance is reserved, then and in such case the owner of the copyright at the time of the happening of such neglect or default shall forfeit and pay to the owner of the right of public representation or performance of such composition the sum of twenty pounds.

By the Act of 1882 the plaintiff might recover forty shillings for each infringement, and costs if he recovered more than forty shillings. This was amended by a subsequent Act (1888), by which both the penalty and the costs were left absolutely in the discretion of the court.

And further that the proprietor, tenant, or occupier of any place of dramatic entertainment, or other place at which any unauthorised representation or performance of any musical composition, whether published before or after the passing of this Act, shall take place, shall

not by reason of such representation or performance be liable to any penalty or damages in respect thereof, unless he shall wilfully cause or permit such unauthorised representation or performance, knowing it to be unauthorised.

But the provisions of this Act shall not apply to any action in respect of a representation or performance of any opera or stage play in any theatre or other place of public entertainment duly licensed in that respect.

Rights of author.

The author of a musical composition has the sole right of performing such composition in public for forty-two years, dating from the first performance, or for the life of the author and seven years after his death, whichever shall be the longer term.

He has also the sole right of publishing such compositions in print for forty-two years or during the life of the author and seven years after his death, dating from the first publication in print.

To obtain this right the work must first have been published or performed in the United Kingdom. But it would appear not to be necessary for the author to be even in temporary residence in the British Dominions at the time of publication (Routledge *v.* Low, 1868).

Necessity of registration of musical piece.

In order to protect the copyright in a musical piece, the work must be registered at Stationers' Hall. The title, date of first publication, and the name and place of abode of the publisher and the name and place of abode of the owner of the copyright must be accurately given in the case of a musical composition which has been published. If it has not been published it will suffice to register the title, the name and place of abode of the author and proprietor, and the date of first performance. An arrangement for the pianoforte of an opera is an independent musical composition, therefore the name of the arranger and not of the composer must be entered on the register (Wood *v.* Boosey, 1868).

Adaptation of words to an old air.

If anyone adapts words of his own to an old air and adds to it a prelude and accompaniment of his own, the copyright in the resulting combination belongs to him (Lover *v.* Davidson, 1856).

It was held, also, that when to a non-copyright air were adapted original words with a preface, the result was protected.

A pianoforte arrangement from an opera in which there is no copyright is protected. But of course anyone else may make another arrangement from the same opera.

The publication or public performance of any portion of a musical composition infringes the composer's copyright therein. It has also been held to be an act of piracy to publish in the form of quadrilles and waltzes the airs of an opera of which there exists an exclusive copyright. The English assignee of the copyright of a foreign musical composer is within the protection of the statutes relating to copyright. And likewise a foreigner, who resides and publishes in England, is within the same protection.

"Substantially the piracy is where the appropriated music, though adapted to a different purpose from that of the original, may still be recognised by the ear. The adding variations makes no difference in the principle" (The Lord Chief Baron in D'Almaine *v.* Boosey, 1835).

In Fairlie *v.* Boosey (1879, H. L.) it was held to be piracy to construct a score from the non-copyright pianoforte arrangement of a copyright opera.

All assignments of copyright in musical pieces must be in writing.

A registered assignment in writing overrides any previous verbal assignment.

In the case of Leyland *v.* Stewart (1876) the author of a song agreed verbally with Stewart

to part with his copyright, and subsequently by instrument in writing assigned to Leyland, who entered the song at Stationers' Hall. It was held that the title of Leyland must prevail to restrain Stewart from infringing his copyright.

The proprietor of the performing right in music can recover from the infringer for each and every offence an amount not less than forty shillings, or 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 greater damages to the author.

The court, however, has absolute discretion in the matter of costs, and, as I have shown above, can give protection to innocent proprietors, tenants, or occupiers of any such place where the performance takes place, always excepting musical compositions which are operas or plays adapted for the stage. The proprietor of the copyright of a musical piece has the same remedy as the proprietor of the copyright in a book, that is to say, that after registration he can sue the infringer for damages.

In the case of Boosey *v.* Whight (1900, 1 Ch.) it was held that the mechanical organ called the

"Æolian" did not infringe the copyright in the musical score.

Mechanical organ.

The defendants sold for use in a mechanical organ called the Æolian perforated rolls of paper representing the musical score in certain songs, the copyright in the music of which was owned by the plaintiffs. The rolls were inserted in the organ and were unrolled by its mechanism when worked by the performer, so that the passage of air through the perforations in the rolls into the pipes of the organ produced musical notes which corresponded, the pitch and duration of which were determined by the position and length of the perforations. The organ had also stops, swells, and pedals, which enabled the performer to vary the pace and expression at will, and in the margin of some of the rolls were directions as to time and expression which were also printed on the plaintiffs' songs. The court decided that the rolls, so far as they contained perforations, were part of the organ, and were not "Copies" of "Sheets of Music" within the Copyright Act of 1842, and therefore were not an infringement of the plaintiffs' copyright, and also that, apart from the plaintiffs' musical scores and when not used in connection with them, the plaintiffs'

Performance.

directions as to time and expression were not protected by their copyright.

Musical (Summary Proceedings) Copyright Act, 1902.

By the Musical (Summary Proceedings) Copyright Act, 1902, a court of summary jurisdiction, upon the application of the owner of the copyright in any musical work, may act as follows. If satisfied by evidence that there is reasonable ground for believing that pirated copies of such musical work are being hawked, carried about, sold, or offered for sale, may by order authorise a constable to seize such copies without warrant and to bring them before the court, and the court, on proof that the copies are pirated, may order them to be destroyed or to be delivered up to the owner of the copyright if he makes application for that delivery.

Seizure, etc., of pirated copies.

Power to seize copies on hawkers.

If any person shall hawk, carry about, sell, or offer to sell any pirated copy of any musical work, every such pirated copy may be seized by a constable without warrant, on the request in writing of the apparent owner of the copyright in such work, or of his agent thereto authorised in writing and at the risk of such owner.

On seizure of any such copies, they shall be conveyed by such constable before a court of summary jurisdiction, and on proof that they

are infringements of copyright, shall be forfeited or destroyed, or otherwise dealt with as the court may think fit.

"Musical copyright" means the exclusive right of the owner of such copyright, subject to the Copyright Acts for the time being, to do or to authorise another person to do all or any of the following things in respect of a musical work :— Definitions.

(1) To make copies by writing or otherwise of such musical work.

(2) To abridge such musical work.

(3) To make any new adaptation, arrangement, or setting of such musical work, or of the melody thereof, in any notation and system.

"Musical work" means any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced. "Musical work."

"Pirated musical work" means any musical work written, printed, or otherwise reproduced, without the consent lawfully given by the owner of the copyright in such musical work.

The Act shall come into operation on the 1st October, 1902, and shall apply only to the United Kingdom.

The interpretation of the statute by the Interpretation.

different magistrates before whom cases have been brought has not been altogether consistent. Certain magistrates have interpreted the Act less liberally than others, and have refused to grant an order for the destruction of pirated copies unless evidence of title, *i.e.* a certificate of registration, is produced in court.

A copy of the original of the pirated music has also been required in order to enable the magistrate to compare it with the pirated matter.

The seizure is made solely at the risk of the apparent owner or owners. In a recent case before Mr. Plowden, the constable was requested to seize the music "at the risk of the person or persons *from whom* it is taken."

This, the magistrate pointed out to the agent of the Musical Copyright Association, who were the applicants, was quite wrong, and that the constable made the seizure solely at the risk of the Association.

Necessary to summon the hawker.

On a case stated by Mr. Curtis Bennett, Metropolitan Magistrate, at the Marylebone Police-court, in the matter of a complaint by Wm. Francis and others (January 12th, 1903), the Lord Chief Justice held, Mr. Justice Wills and Mr. Justice Channell concurring, that it was

necessary to summon the hawker of piratical musical copies in order to obtain an order for the destruction of such copies.

It would seem therefore that, as the law stands at present, the police may, without a warrant, seize such piratical copies on the request, in writing, of the apparent owner of the copyright, or of his agent thereto authorised in writing, and at the risk of such owner; but they may not be destroyed without an order of the court after the hawker has been summoned.

It appears likewise that the Commissioner of Police may retain such copies for twelve months, and afterwards deal with them as he thinks fit.

CHAPTER XI.

Lectures—Right to publish—Notice of lecture—Unpublished lectures—Persons who pay a fee to attend lectures—Lectures delivered in colleges, etc.—Implied right to take notes of lectures—Sermons preached in church—Private circulation—Sculpture—Sale of—When actions must be commenced—Duration of copyright.

Lectures.

THE delivery of a lecture to a limited number of persons is not regarded as a publication of the lecture, and the author of the lecture has a common law right to prevent its publication by others. Authors of lectures, or the persons to whom they have assigned them, have the sole right of publishing them; and any person who publishes such lecture without leave is liable to a penalty under the Lecture Act, 1835. But to take advantage of this Act it is necessary to give notice of the lecture to two justices living within five miles of the place where the lecture is to be delivered at least two days before its delivery (Walter *v.* Lane, 1900).

Notice of lecture.

This notice must be given whenever such lecture is to be delivered. The fact that on a previous occasion due notice was given before

the delivery of the lecture will not prevent a person who has obtained a copy from publishing it, if no notice of this particular lecture has been given.

The statute does not prevent anyone from delivering in public another person's unpublished lecture without the author's consent.

Lectures delivered in colleges, etc.

Persons who have leave to attend lectures for a certain fee are not on that account licensed to publish them, but of course the Act does not prohibit the publishing of lectures after the expiration of the copyright therein. The Act does not apply to any lecture delivered in any university or public school, or college or any public foundation, or by an individual in virtue of any gift, endowment, or foundation.

If a lecturer delivers his lecture to the public generally, that is tantamount to publishing them for the use or employment of the public. But there may be a condition expressed or implied, that while the audience are admitted for the purpose of deriving information or amusement from the lecture, they are not to publish what they hear for their own profit or for the benefit of the public at large. Where the audience are admitted by ticket or payment there is an implied right that they may take full notes of

the lecture for their own personal purposes, but may not afterwards publish them for profit. The Act of 1835 does not apply to lectures in schools, colleges, or universities. Such lectures therefore have no copyright until they have been published in print. And if they have not been published in print, no person other than the author or the person to whom he has assigned his rights may publish them.

Sermons preached in a church.

Lord Halsbury, in the case of Caird *v.* Sime (1887), gave it as his opinion that sermons preached in a church, the doors of which are thrown open to all mankind, were published absolutely and without limitations, and that a lecture delivered on behalf of the University as the authorised exposition of the university teaching was an unlimited publication. In the same case it was held that the delivery of lectures by a professor was only conditional publication, and that though the students attending the lecture might take notes of the lecture for their own information, they were not at liberty to publish them. Printing for private circulation is not regarded as publication within the meaning of the Act.

Sculpture.

The law relating to sculpture depends on the statute of 1814. According to this Act, the

sole right and property of all new and original sculptures, models, copies, and casts are vested in the original proprietors for *fourteen* years. Persons putting forth pirated copies or pirated casts within the fourteen years shall be liable to damages in an action on the case. Persons purchasing the copyright from the proprietors shall not be subject to any action for copying or casting or vending the new and original sculpture or model or copy or cast. The sale must be expressed in a deed in writing, and signed by the proprietor with his own hand in the presence of and attested by two credible witnesses.

Sale of.

All actions must be commenced within six calendar months next after the discovery of every such offence, and not afterwards.

After fourteen years the copyright shall return to the original proprietor, if then living, for a further term of fourteen years. The owner must put his name and the date (probably of publication) on every sculptured cast before it is put forth or published.

Duration of copyright.

CHAPTER XII.

Colonial copyright—Acts of 1842 and 1847—Canadian Copyright Act, 1875—International Act, 1886—Book produced in British colonies has same rights as British book—Registration—Colonial books and British libraries—British possession defined—Colonial copyright and foreign countries—Customs Consolidated Act, 1876—Fisher Act, 1900—Notice of copyright by author and publisher—Berne Convention—Signatories—Austria—Rights of English authors in foreign countries—Limit of protection—Country of origin—Unpublished works—Posthumous works—Act of Paris, 1896—Definitions of literary and artistic work, and author—Authorised translations—Works composed in several volumes—Serial novels—Dramatic and musical works—Pirated works—Photographs—Mechanical musical instruments.

Colonial copyright.

THE rights which authors of works first published in the colonies enjoy, in the United Kingdom are governed by imperial legislation.

The authors of works first published in the United Kingdom depend on colonial legislation for protection in the colonies.

Copyright Act of 1842.

The Copyright Act of 1842 extended to all the British dominions, and prohibited the importation into the colonies of pirated editions

of copyright works. But this enactment proved of none effect, since large quantities of cheap reprints continued to be imported from the United States into the British possessions in North America.

Colonial Copyright Act, 1847.

To remedy this state of affairs the Colonial Copyright Act of 1847 was passed. This Act provides that if any British possession passes an Act or Ordinance securing the rights of British authors in such possession, His Majesty may, by Order in Council, suspend the prohibitions against the importing into such possessions foreign reprints of books first composed, written, printed, or published in the United Kingdom.

This Act proved a great failure so far as regards British authors and owners of copyright.

Canadian Copyright Act, 1875.

In 1875 a Canadian Copyright Act was passed, by which any person domiciled either in Canada or in any part of the British dominions or in any country having a copyright treaty with Great Britain, may obtain copyright in Canada for twenty-eight years, with a further term of fourteen years if his work be published or republished in Canada.

International Copyright Act, 1886.

The International Copyright Act of 1886 considerably extended colonial copyright. This

Act provides that the English Copyright Acts shall apply to a literary or artistic work first produced in a British possession in like manner as they apply to a work first produced in the United Kingdom.

A book, therefore, produced in any one of the British colonies at once obtains the same copyright in all the British dominions as if it had been first produced in the United Kingdom.

Registration.

If the law of any such possession provides for the registration of the copyright, then it will not be necessary to register such copyright at Stationers' Hall, and an extract from the colonial register if duly certified shall be admitted as evidence in the English courts.

Where the work is a book, the delivery to any person or body of persons of a copy of any such work shall not be required.

Therefore it is not necessary to send copies of a colonial book to the British libraries. Any British possession may pass an Act respecting the copyright within the limits of such possession of works first published in that possession.

British possession defined.

The expression "British possession" is defined to include any part of His Majesty's dominions, exclusive of the United Kingdom, and where parts of such dominions are under both a central

and a local legislature, all parts under one central legislature are for the purposes of this definition deemed to be one British possession.

Colonial copyright and foreign countries.

Works produced in the colonies have the benefit of copyright in all those foreign countries which are signatories to the Berne Convention, and works produced in such foreign countries have copyright in the colonies.

Berne Convention.

Customs Consolidated Act, 1876.

The Customs Consolidated Act, 1876, states that any book wherein the copyright shall be subsisting first composed or written or printed in the United Kingdom, and printed or reprinted in any other country is absolutely prohibited to be imported into the British possessions abroad, provided that no such book shall be prohibited to be imported as aforesaid unless the proprietor of such copyright or his agent shall have given notice in writing to the Commissioners of Customs that such copyright subsists and in such notice shall have stated when the copyright will expire. It will, therefore, be advisable for British authors and publishers to give this notice to the Commissioners of Customs in the United Kingdom.

The Canadian Legislature has lately passed a Copyright Act, commonly known as the Fisher Act (1900), with the object of regulating the

importation of books having Imperial copyright into Canada. By this Act it is provided that if a book has acquired Imperial copyright by first publication in a British dominion other than Canada, and a licence have been granted for its republication in Canada, the Canadian Minister of Agriculture may, on satisfactory proof being given, prohibit the importation of other reprints without the consent of the licensee.

In the case of Black *v.* The Imperial Book Company and James Hales, heard at Toronto (1903), in which the plaintiff sought to restrain the defendants from importing into Canada a cheap American imprint of the *Encyclopædia Britannica*, its duly authorised agents for Canada being the Clark Co., of Toronto Street. The court, in giving the relief sought for, expressed the opinion that Canada possessed no copyright legislation which ousted the statute of 1842.

Berne Convention.

The International Copyright Act of 1886 gave further protection, and since the Berne Convention, 1887, which created a copyright union, and the additional Act of Paris, 1896, all the countries which are parties to them enjoy a comparatively uniform system.

Signatories.

These countries are the British dominions, Belgium, France, Germany, Italy, Spain, Por-

tugal, Switzerland, Luxemburg, Tunis, Hayti, Monaco, Montenegro, Japan, and Denmark. Norway is a signatory of the Berne Convention. There is a separate Convention with the Austro-Hungarian Empire which generally follows the lines of the Berne Convention. It applies to the United Kingdom and all its colonies with the exception of India, Canada, New South Wales, Tasmania, and Cape Colony. Austria.

Rights of English authors in foreign countries.

The rights of English authors in foreign countries depend upon the terms of the Berne Convention, the additional Act of Paris, and upon any special laws in force in any particular country. If the rights of an English author be infringed in any foreign country having a copyright convention with Great Britain he must sue the infringers, not in a British court, but in the court of the country where the infringement has taken place. In the case of *Morocco Bound* Syndicate, Ltd. *v.* Harris, Mr. Justice Kekewich refused to grant an injunction to restrain a British subject from performing the plaintiff's British play in Germany, on the ground that it was no more a part of the duty or power of an English court to enforce German law in Germany than it was of a German court to enforce English law in England. The defendants if

they were not in England might set any such judgment at defiance.

Limit of protection.

A British writer first publishing in the United Kingdom is protected in each of the countries of the copyright union in the same manner as the natives of those countries, and for the same term. But in no case can he obtain a larger protection than he is entitled to in his own country, that is to say, forty-two years from the date of first publication, or for the author's life and seven years after death, and if a British writer first publish his book in France his copyright will be protected in each of the countries of the union in the same manner as the natives of those countries, but for no longer a term than is given by French law to natives.

By the amended Act of Paris, 1896, it was agreed that authors of any countries of the union, or their lawful representatives, should enjoy in the other countries for their works, either not published or published for the first time in one of those countries, the rights which their respective laws do now or shall hereafter grant to natives. But in no case can the protection afforded in the other countries exceed that granted in the country of origin.

The country of origin is that in which the

work is first published. If it is published simultaneously in more than one country, the term of protection shall be the shortest granted by the law of any one of the countries.

In the case of unpublished works the country of origin is considered to be that to which the author belongs.

By the Act of Paris posthumous works are included amongst protected works.

An author, even though he be not a subject of one of the countries of the union, but has published for the first time his literary or artistic works in one of those countries, enjoys for those works the protection accorded by the Berne Convention and the additional Act of Paris.

Definitions. Literary and artistic work.

The expression "literary and artistic" means every book, print, lithograph, article of sculpture, dramatic piece, musical composition, painting, drawing, photograph, and other works of literature and art to which the Copyright Acts or the International Copyright Acts, as the case requires, extend.

Author.

The expression "author" means the author, inventor, designer, engraver, or maker of any literary or artistic work, and includes any person claiming through the author; and in the case of a posthumous work, means the pro-

prietor of the manuscript of such work, and any person claiming through him, and in the case of an encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, include the proprietor, projector, publisher, or conductor.

Authorised translations.

An author or his representative has in other countries the exclusive right to authorise the translation of his works during the whole duration of the right in the original work. But the exclusive right of translation shall cease to exist when the author shall not have made use of it within ten years from the first publication of the original work, by publishing in one of the countries of the union a translation in the language for which he claims protection.

In the case of works published in incomplete parts, the period of ten years begins from the date of publication of the last part of the original work.

Works composed in several volumes.

For works composed of several volumes published at intervals, or for bulletins or collections published by literary or scientific societies, or by private persons, each volume, bulletin, or collection is, with regard to the period of ten years, considered as a separate work.

Authorised translations are protected as

original works. In the case of a work for which the translation right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

Serial novels, which include novels published in newspapers or periodicals of one of the countries of the union, cannot be produced either in the original or in a translation in any of the other countries without the consent of the authors. Serial novels.

And this applies equally to other articles in newspapers or periodicals, whenever the author or publisher shall have expressly declared in the paper or periodical in which they may have published them that they forbid their reproduction.

For periodicals it is sufficient if the prohibition is made in a general way—at the beginning of each number.

In the absence of such prohibition, reproduction will be permitted on condition of indicating the source.

But this prohibition cannot in any case apply to articles of political discussion, to the news of the day, or to current topics.

Authors of dramatic or dramatic-musical works are equally protected during the exist- Dramatic-musical works.

ence of their exclusive right of translation against the unauthorised public representation of their works.

Indirect appropriations of a literary or artistic work, such as *adaptations, arrangements of music*, etc., without the consent of the author, are specially included in illicit reproductions.

For the purpose of instituting proceedings against pirates before the courts of the various countries of the union, it will be sufficient that the author's name shall be indicated on the work in the usual manner.

Where a work is published anonymously or pseudonymously, the publisher's name will be sufficient.

Pirated works.

Pirated works may be seized by the competent authorities of the countries of the union, where the original work has a right to legal protection, and the seizure will be made in accordance with the domestic legislation of each country.

Photographs.

Photographic works and those obtained by similar processes are protected in the several countries of the union, in so far as the domestic legislation allows it to be done, and according to the measure of protection which it gives to similar national works.

The protection is for the same term as the principal right of reproduction of the work itself subsists.

Mechanical musical instruments

The manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright will not be considered an infringement of musical copyright.

No author can have a greater right nor enjoy a longer term of copyright than that which he enjoys in the country in which the work is first produced.

In order to enjoy the privileges given by the conventions, it is necessary for the British author to fulfil all conditions and formalities required by the law in the United Kingdom, that is to say, that he must register his copyright where the statute requires it.

CHAPTER XIII.

Copyright in the United States—Conditions—Type must be set within the United States—Duration of copyright—Regulations—Extent of production—Acting a play not a publication in United States—American author need not be resident in Great Britain—Play acted abroad a publication in English law—President's proclamation and reciprocity—British and American law relating to copyright—American works of art not protected in Great Britain—Notice of American copyright—Penalty for false return.

Copyright in the United States.

I HAVE already referred briefly to copyright in the United States as it affects the British author. Since July 1st, 1891, the citizen or subject of a foreign state or nation, when such foreign state or nation permits the citizen of the United States of America the benefit of copyright on substantially the same basis as its own citizens, or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright by the terms of which agreement the United States of America may at its pleasure become a party to such agreement—the existence of either conditions to be determined by the President of the United States by procla-

mation—can obtain copyright in the United States on the same terms as a native of the States.

Conditions of American copyright.

That is to say, that he must on or before the day of publication deliver to the Librarian of Congress at Washington a printed copy of the title of the literary or dramatic work or a description of the work of art. Not later than the day of publication he must deliver to the Librarian of Congress two copies of the copyright book, map, chart, dramatic or musical composition, engraving, chromo, art print or photograph, or in case of a painting, drawing, statue, statuary, model or design for a work of the fine arts, a photograph of the same. Provided that in the case of a book, photograph, chromo or lithograph, the two copies of the same required to be delivered shall be printed from type set within the limits of the United States or from plates made therefrom or from negatives or drawings on stone made within the limits of the United States or from transfers made therefrom.

Type must be set within United States.

Duration of copyright.

The term lasts for twenty-eight years, which may however be extended to forty-two years if at the end of the twenty-eight years the author, if he be living, or his widow and children if he

be dead, record the title of the work or description of the article a second time and comply with all other regulations in regard to original copyrights within six months before the expiration of the first term, and such person shall within two months from the date of the renewal cause a copy of the record to be published in one or more newspapers printed in the United States for the space of four weeks.

Regulations.

Extent of protection.

The proprietor of this copyright will be protected from piracy in the United States or from importations of his works into the United States.

As I have stated before the British author must publish his work simultaneously in both the United Kingdom and the United States in order to secure British and American copyright. And while it is immaterial to British copyright where the type is set up or the work printed, it is essential that the type be set up in the United States to secure copyright there.

Acting a play is not publication in States.

Acting a play is not regarded as a publication in the United States, and therefore an unprinted play, although it has been acted, is protected by the common law. And, if the play be printed in Great Britain, the copies to be delivered to the Librarian of Congress need not have been printed in the States.

An American author need not be resident in Great Britain in order to obtain copyright, but he must publish simultaneously in both countries if he desires to secure copyright in both.

If a play is acted abroad the English courts regard such acting as a publication. The consequence is that if an American dramatist seeks to obtain British copyright he must print or perform his play in the United Kingdom simultaneously with its production in the States, and of course comply with the ordinary regulations, such as registration and the delivery of copies, just as if he were a British author.

Play acted abroad a publication in English law.

By the President's proclamation the subjects of the United Kingdom, France, Germany, Italy, Denmark, Belgium, Portugal, Spain, Mexico, Chili, Costa Rica, Netherlands, and Switzerland have the privileges of the Act, but subjects of other foreign countries not mentioned in the proclamation are excluded from copyright in the United States.

The law of copyright in books is, as I have shown, more favourable to the American author and publisher and printer than it is to the British, inasmuch as it is essential that the type of the book be set up in the States to secure copyright there.

American works of art not protected in Great Britain.

On the other hand, the British authors of works of art produced in Great Britain can obtain American copyright, but works of art produced in the United States by American subjects are debarred from British copyright.

Notice of American copyright must be given.

No person can maintain an action for the infringement of his copyright in the United States unless he have given notice of it by inserting in the several copies of every edition published, in the title-page or the page immediately following if it be a book, or if a map, chart, musical composition, print, cut, engraving, photograph, painting, etc., upon some portion of the front of it the words—"Entered according to the Act of Congress in the year —— by A. B. in the office of the Librarian of Congress at Washington."

Penalty for false return.

The penalty for making such declaration falsely is one hundred dollars, which is, of course, only recoverable in the courts of the United States.

It has been held, however, by the Court of Appeals of the United States that the owner of a copyright MS. will not be deprived of his exclusive right to publish because the person who has printed the article, with the author's consent, has carelessly omitted to give the

necessary notice to the public as the law provides.

The purchaser of unbound copyright books may bind and sell them in the United States.

U.S. copyright.

In the case of Rudyard Kipling *v.* the Putnams (January, 1903), the United States Court of Appeals have held that a publisher who has purchased unbound copyright volumes is not prevented by the statute from binding and reselling them.

The appellant had contended that the respondents had bound the books in a manner so as to resemble the edition issued with the authorisation of the writer, which was thereby injured.

If the resemblance of the binding of the edition complained of to the authorised edition was so close as to lead the public into the belief that they were purchasing the authorised edition when they purchased the edition of Messrs. Putnam, the author might have had an action at the common law, but in such case the statute gives him no protection.

CHAPTER XIV.

Author and publisher—Agreements—Liability of author and publisher for breach of contract—Commissioned work countermanded—Author may bind himself not to write on particular subject—New and corrected edition—Author's death before completion of commissioned work—Bankruptcy of author and publisher—Publisher not bound to publish—Royalty on published price, nett or discount—Form of publication—Transference by publisher—Definition of "edition"—Copyright for limited term, and copies remaining over on expiry—Sum advanced to author on account of royalty—Republication as new or under new title a fraud on the public—Liability of publisher for lost MS.

Author and publisher.

I NOW come finally to discuss the relations between authors and publishers, and in this chapter I will briefly sum up the results of the various statutes and decisions in such a way as I hope will be clearly understood by the reader.

To begin with, all agreements between the author and the publisher should be in writing.

If the author contract with the publisher to supply him with the manuscript of a book for publication and he fail to fulfil his contract, then the publisher can sue him for damages for breach of contract, unless the work con-

tracted for was libellous and likely to render the author liable to punishment.

If the publisher undertake to publish the book, he is under the same legal obligation; but the court will not decree specific performance of the contract in either case, for it would not have any power to enforce it.

If an author be employed by a publisher to compose a certain piece of work for a stipulated sum for his publication, and before the completion of the work the publication has been discontinued, the author can claim a reasonable sum for the part which he has performed.

If an author sign an agreement not to write on a particular subject or only for a particular person, he will be bound by such agreement, and will be liable to an action for its breach. But the aggrieved person may not invoke the protection of the courts until the author has by publication violated his agreement.

An author may, in the absence of any agreement to the contrary, publish separately a continuation of his work.

If a publisher, having purchased the author's copyright outright, issues a new edition with annotations and corrections not by the author, he may render himself liable to damages for

injury to the author's reputation if the new edition is published under the author's name and is found to be seriously inaccurate. But the publisher may issue without the author's consent new editions of the work with additions and corrections if they be accurate.

Author's bankruptcy.

If an author undertake a certain work and die before its completion, his executors or administrators are discharged from the contract, or if the author becomes bankrupt his trustee cannot compel him to finish the work.

Publisher's bankruptcy.

If the publisher becomes a bankrupt, the copyright in any work which belongs to the bankrupt passes to his trustee in bankruptcy.

Publisher not bound to publish.

If a publisher purchase the copyright of a work from the author, he is not obliged to publish such work in the absence of any agreement binding him to do so.

In agreements whereby the publisher is to pay a certain sum as royalty on the published price of the book, the author should be careful to specify whether the said price is nett or discount. For example, the purchase price to the public of a book published at six shillings is four shillings and sixpence. The publisher gains more on the sale of a book at five shillings nett than he does on one at six shillings dis-

count, but the author might receive less if the question of nett or discount publication were not taken into account.

Form of publication.

The publisher, of course, is bound by any special agreement as to the form and style of publication. But if there is no agreement, the publisher is the person to decide on the form of publication and price, but he must in so deciding do nothing to injure the author's reputation or pecuniary interests.

If an author sell the copyright in his work, he may not incorporate the same matter in another work.

Transference by publisher.

A publisher who has made a contract to pay the author a royalty on the copies sold, is not at liberty to transfer the work to other publishers, though it is possible that he may if he have paid a lump sum to the author.

Definition of "edition."

The term "edition" is somewhat vague and unsatisfactory. Vice-Chancellor Page-Wood defined an edition of a work as the putting of it forth before the public, and if this were done in batches at successive periods, each successive batch was a new edition.

Where the agreement is for one or more editions, of course the number of copies of which the edition is to consist should be stated.

If the publisher purchase the copyright in a work for a limited term, and at the expiration of that term he still have copies on hand which were printed before the expiry, he may sell such copies.

So the assignor of the copyright may sell any copies of the book which he has printed before the date of the assignment.

When an author agrees with a publisher to accept a certain sum paid down on account of royalties the publisher takes the risk—in the absence of any agreement to the contrary—of the royalties on the sales not amounting to the sum paid down. A case has occurred wherein the publisher, who had entered into a royalty agreement, made a demand on the author for the balance by which the amount paid exceeded the royalty on the alleged sales. But it may safely be said that such a demand would not be enforced in any court of law.

An author, of course, would be very foolish were he to render himself liable to refund any part of the money so paid on account of royalty.

The publisher naturally takes the risk of the book not selling sufficiently to refund him into consideration when making the agreement.

The demand to which I have referred is probably unique in the history of dealings between author and publisher.

An injury has sometimes been done to an author's reputation by the republication of his work, either as a new book under the original title or as a new book under a different title from that under which it first appeared.

An author's earlier works are usually of less commercial value than his later achievements. There is therefore a strong temptation to the less reputable publishing firms to take advantage of the writer's increased reputation, and publish the early work as though it were new. This is a fraud on the public in which the writer's good name is involved, even though the fraud is committed without his consent and against his will. But it is not certain that the author has any remedy against such a publisher, and there has been no test case on the subject.

The author should stipulate with the publisher that any republication of an old work should be indicated by the words "New Edition" printed on the title-page, and that under no circumstances shall an old work be republished under a new title different from that under which it first appeared.

It would appear that a publisher is liable for the loss of a MS. although submitted to him unsolicited. In a recent case, unreported, an author successfully claimed damages from a publisher at whose office she left a MS. in the hands of a clerk. The MS. was alleged to have been returned, but it did not reach the author.

As I have said above, it is most desirable that friendly relations should subsist between author and publisher, and the best means of securing this is to have agreements which are *full, clear, and adequate*, and which omit no point concerning which disputes may arise afterwards.

APPENDIX.

STATUTES

ARTISTIC COPYRIGHT (PRINTS).

8 GEO. II. c. 13.

An Act for the Encouragement of the Arts of Designing, Engraving, and Etching Historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers, during the Time therein mentioned.

BE it enacted, That from and after *June* 24, 1735, every Person who shall invent and design, engrave, etch, or work in Mezzotinto or Chiaro Oscuro, or, from his own Works and Invention, shall cause to be designed and engraved, etched, or worked in Mezzotinto or Chiaro Oscuro, 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; and that if any Printseller, or other Person whatsoever, from and after *June* 24, 1735, within the Time

limited by this Act, shall engrave, etch, or work, as aforesaid, or in any other Manner copy and sell, or cause to be engraved, etched, or copied and sold, in the Whole or in Part, by varying, adding to, or diminishing from the main Design, or shall print, reprint, or import for Sale, or cause to be printed, reprinted, or imported for Sale, any such Print or Prints, or any Parts thereof, without the Consent of the Proprietor or Proprietors thereof first had and obtained in Writing, signed by him or them respectively, in the Presence of Two or more credible Witnesses, or knowing the same to be so printed or reprinted, without the Consent of the Proprietor or Proprietors, shall publish, sell, or expose to Sale, or otherwise, or in any other Manner dispose of, or cause to be published, sold, or exposed to Sale, or otherwise, or in any other Manner disposed of, any such Print or Prints without such Consent first had and obtained as aforesaid, then such Offender or Offenders shall forfeit the Plate or Plates on which such Print or Prints are or shall be copied, and all and every Sheet or Sheets (being part of or whereon such Print or Prints are or shall be so copied or printed) to the Proprietor or Proprietors of such original Print or Prints, who shall forthwith destroy and damask the same; and further, that every such Offender or Offenders shall forfeit Five Shillings for every Print which shall be found in his, her, or their Custody, either printed or published, and exposed to Sale, or otherwise disposed of contrary to the true Intent and Meaning of this Act, the One Moiety

thereof to the King's most Excellent Majesty, His Heirs and Successors, and the other Moiety thereof to any Person or Persons that shall sue for the same, to be recovered in any of His Majesty's Courts of Record at Westminster, by Action of Debt, Bill, Plaint, or Information, in which no Wager of Law, Essoign, Privilege, or Protection, or more than One Imparlance, shall be allowed:

Provided nevertheless, That it shall and may be lawful for any Person or Persons, who shall hereafter purchase any Plate or Plates for printing, from the Original Proprietors thereof, to print and reprint from the said Plates, without incurring any of the Penalties in this Act mentioned.

And be it further enacted by the Authority aforesaid, That if any Action or Suit shall be commenced or brought against any Person or Persons whatsoever, for doing or causing to be done any Thing in pursuance of this Act, the same shall be brought within the Space of Three Months after so doing; and the Defendant and Defendants, in such Action or Suit, shall or may plead the General Issue, and give the special Matter in Evidence; and if upon such Action or Suit a Verdict shall be given for the Defendant or Defendants, or if the Plaintiff or Plaintiffs become nonsuited, or discontinue his, her, or their Action or Actions, then the Defendant or Defendants shall have and recover full Costs, for the Recovery whereof he shall have the same Remedy as any other Defendant or Defendants in any other Case hath or have by Law:

Provided always, and be it further enacted by the Authority aforesaid, That if any Action or Suit shall be commenced or brought against any Person or Persons, for any Offence committed against this Act, the same shall be brought within the Space of Three Months after the Discovery of every such Offence, and not afterwards, any Thing in this Act contained to the contrary notwithstanding.

7 Geo. III. c. 38.

An Act to amend and render more effectual an Act (8 *Geo. II. c.* 13) *for Encouragement of the Arts of Designing, Engraving, and Etching Historical and other Prints.*

WHEREAS an Act (8 Geo. II. c. 13) has been found ineffectual for the Purposes thereby intended: Be it enacted, That from and after *January* 1, 1767, all and every Person and Persons who shall invent or design, engrave, etch, or work in Mezzotinto or Chiaro Oscuro, or, from his own Work, Design, or Invention, shall cause or procure to be designed, engraved, etched, or worked in Mezzotinto or Chiaro Oscuro, any Historical Print or Prints, or any Print or Prints of any Portrait, Conversation, Landscape, or Architecture, Map, Chart, or Plan, or any other Print or Prints whatsoever, shall have, and are hereby declared to have, the Benefit and Protection of the said Act, and this Act, under the Restrictions and Limitations herein-after mentioned.

And be it further enacted by the Authority aforesaid, that from and after the said *January* 1, 1767, all and every Person and Persons who shall engrave, etch, or work in Mezzotinto or Chiaro Oscuro, or cause to be engraved, etched, or worked, any Print taken from any Picture, Drawing, Model, or Sculpture, either ancient or modern, shall have, and are hereby declared to have, the Benefit and Protection of the said Act, and this Act, for the Term herein-after mentioned, in like Manner as if such Print had been graved or drawn from the Original Design of such Graver, Etcher, or Draughtsman; and if any Person shall engrave, print, and publish, or import for Sale, any Copy of any such Print, contrary to the true Intent and Meaning of this and the said former Act, every such Person shall be liable to the Penalties contained in the said Act, to be recovered as therein and herein-after is mentioned.

And be it further enacted, That all and every the Penalties and Penalty inflicted by the said Act, and extended, and meant to be extended, to the several Cases comprised in this Act, shall and may be sued for and recovered in like Manner, and under the like Restrictions and Limitations, as in and by the said Act is declared and appointed; and the Plaintiff or common Informer in every such Action (in case such Plaintiff or common Informer shall recover any of the Penalties incurred by this or the said former Act) shall recover the same, together with his full Costs of Suit.

Provided also, That the Party prosecuting shall

commence his Prosecution within the Space of Six Calendar Months after the Offence committed.

And be it further enacted, That the sole Right and Liberty of printing and reprinting intended to be secured and protected by the said former Act and this Act, shall be extended, continued, and be vested in the respective Proprietors, for the Space of Twenty-eight Years, to commence from the Day of the First Publishing of any of the Works respectively hereinbefore and in the said former Act mentioned.

And be it further enacted, That if any Action or Suit shall be commenced or brought against any Person or Persons whatsoever for doing, or causing to be done, anything in pursuance of this Act, the same shall be brought within the Space of Six Calendar Months after the Fact committed; and the Defendant or Defendants in any such Action or Suit shall or may plead the General Issue, and give the Special Matter in Evidence; and if, upon such Action or Suit, a Verdict shall be given for the Defendant or Defendants, or if the Plaintiff or Plaintiffs become nonsuited, or discontinue his, her, or their Action or Actions, then the Defendant or Defendants shall have and recover full Costs; for the Recovery whereof he shall have the same Remedy as any other Defendant or Defendants, in any other Case, hath or have by Law.

17 Geo. III. c. 57.

An Act for more effectually securing the Property of Prints to Inventors and Engravers, by enabling them to sue for and recover Penalties in certain Cases.

WHEREAS (by) an Act of Parliament 8 Geo. II. c. 13: And by an Act 7 Geo. III. for amending and rendering more effectual the aforesaid Act, and for other Purposes therein mentioned, it was (among other Things) enacted that, from and after *January* 1, 1767, all and every Person or Persons who should engrave, etch, or work in Mezzotinto or Chiaro Oscuro, or cause to be engraved, etched, or worked, any Print taken from any Picture, Drawing, Model, or Sculpture, either ancient or modern, should have, and were thereby declared to have, the Benefit and Protection of the said former Act, and that Act, for the Term therein-after mentioned, in like Manner as if such Print had been graved or drawn from the Original Design of such Graver, Etcher, or Draughtsman: And whereas the said Acts have not effectually answered the Purposes for which they were intended, and it is necessary, for the Encouragement of Artists, and for securing to them the Property of and in their Works, and for the Advancement and Improvement of the aforesaid Arts, that such further Provisions should be made as are herein-after mentioned and contained; Be it enacted that, from and after *June* 24, 1777, if any Engraver, Etcher, Printseller, or other

Person, shall, within the Time limited by the aforesaid Acts, or either of them, engrave, etch, or work, or cause or procure to be engraved, etched, or worked, in Mezzotinto or Chiaro Oscuro, or otherwise, or in any other Manner copy in the Whole or in Part, by varying, adding to, or diminishing from, the main Design, or shall print, reprint, or import for Sale, or cause or procure to be printed, reprinted, or imported for Sale, or shall publish, sell, or otherwise dispose of, or cause or procure to be published, sold, or otherwise disposed of, any Copy or Copies of any historical Print or Prints, or any Print or Prints of any Portrait, Conversation, Landscape, or Architecture, Map, Chart, or Plan, or any other Print or Prints whatsoever, which hath or have been, or shall be, engraved, etched, drawn, or designed, in any Part of *Great Britain*, without the express Consent of the Proprietor or Proprietors thereof first had and obtained in Writing, signed by him, her, or them respectively, with his, her, or their own Hand or Hands, in the Presence of and attested by Two or More credible Witnesses, then every such Proprietor or Proprietors shall and may by and in a special Action upon the Case, to be brought against the Person or Persons so offending, recover such damages as a 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.

ARTISTIC COPYRIGHT (SCULPTURE).

54 GEO. III. c. 56.

An Act to amend and render more effectual an Act of His present Majesty, 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. [18*th May*, 1814.]

WHEREAS by an Act (38 Geo. III. c. 71) the sole Right and Property thereof were vested in the original Proprietors, for a Time therein specified; And whereas the Provisions of the said Act having been found ineffectual for the Purposes thereby intended, it is expedient to amend the same, and to make other Provisions and Regulations for the Encouragement of Artists, and to secure to them the Profits of and in their Works, and for the Advancement of the said Arts: be it enacted, That from and after the passing of this Act, every Person or Persons who shall make or cause to be made any new and original Sculpture, or Model, or Copy, or Cast of the Human Figure or Human Figures, or of any Bust or Busts, or of any Part or Parts of the Human Figure, clothed in Drapery or otherwise, or of any Animal or

The sole Right and Property of all new and original Sculpture, Models, Copies, and Casts, vested in the Proprietors, for 14 Years.

Animals, or of any Part or Parts of any Animal combined with the Human Figure or otherwise, or of any Subject being matter of Invention in Sculpture, or of any Alto or Basso-Relievo representing any of the Matters or Things herein-before mentioned, or any Cast from Nature of the Human Figure, or of any Part or Parts of the Human Figure, or of any Cast from Nature of any Animal, or of any Part or Parts of any Animal, or of any such Subject containing or representing any of the Matters and Things herein-before mentioned, whether separate or combined, shall have the sole Right and Property of all and in every such new and original Sculpture, Model, Copy and Cast of the Human Figure or Human Figures, and of all and in every such Bust or Busts, and of all and in every such Part or Parts of the Human Figure, clothed in Drapery or otherwise, and of all and in every such new and original Sculpture, Model, Copy and Cast representing any Animal or Animals, and of all and in every such Work representing any Part or Parts of any Animal combined with the Human Figure or otherwise, and of all and in every such new and original Sculpture, Model, Copy and Cast of any Subject, being Matter of Invention in Sculpture, and of all and in every such new and original Sculpture, Model, Copy and Cast in Alto or Basso-Relievo, representing any of the Matters or Things herein-before mentioned, and of every such Cast from Nature, for the Term of Fourteen Years from first putting forth or publishing the same; provided, in all and in every Case, the

Proprietor or Proprietors do cause his, her, or their Name or Names, with the Date, to be put on all and every such new and original Sculpture, Model, Copy or Cast, and on every such Cast from Nature, before the same shall be put forth or published.

II. And be it further enacted, That the sole Right and Property of all Works, which have been put forth or published under the Protection of the said recited Act, shall be extended, continued to and vested in the respective Proprietors thereof, for the Term of Fourteen Years, to commence from the Date when such last mentioned Works respectively were put forth or published.

III. And be it further enacted, That if any Person or Persons shall, within such Term of Fourteen Years, make or import, or cause to be made or imported, or exposed to Sale, or otherwise disposed of, any pirated Copy or pirated Cast of any such new and original Sculpture, or Model or Copy, or Cast of the Human Figure or Human Figures, or of any such Bust or Busts, or of any such Part or Parts of the Human Figure clothed in Drapery or otherwise, or of any such Work of any Animal or Animals, or any of such Part or Parts of any Animal or Animals combined with the Human Figure or otherwise, or of any such Subject being Matter of Invention in Sculpture, or of any such Alto or Basso-Relievo representing any of the Matters or Things herein-before mentioned, or of any such Cast from Nature as aforesaid, whether such pirated Copy or pirated Cast be produced by moulding or copying from, or imitating in any way,

any of the Matters or Things put forth or published under the Protection of this Act, or of any Works which have been put forth or published under the Protection of the said recited Act, the Right and Property whereof is and are secured, extended and protected by this Act, in any of the Cases as aforesaid, to the Detriment, Damage, or Loss of the original or respective Proprietor or Proprietors of any such Works so pirated; then, and in all such Cases, the said Proprietor or Proprietors, or their Assignee or Assignees, shall and may, by and in a Special Action upon the Case to be brought against the Person or Persons so offending, receive such Damages as a Jury on a Trial of such Action shall give or assess, together with Double Costs of Suit.

IV. Provided nevertheless, That no Person or Persons who shall or may hereafter purchase the Right or Property of any new and original Sculpture or Model, or Copy or Cast, or of any Cast from Nature, or of any of the Matters and Things published under or protected by virtue of this Act, of the Proprietor or Proprietors, expressed in a Deed in Writing signed by him, her, or them respectively, with his, her, or their own Hand or Hands, in the Presence of and attested by Two or more credible Witnesses, shall be subject to any Action for copying or casting, or vending the same, any Thing contained in this Act to the contrary notwithstanding.

V. Provided always, and be it further enacted, That all actions to be brought as aforesaid, against any Person or Persons for any Offence committed

against this Act, shall be commenced within Six Calendar Months next after the Discovery of every such Offence, and not afterwards.

An additional Term of 14 Years, in case the Maker of the original Sculpture, &c. shall be living.

VI. Provided always, and be it further enacted, That from and immediately after the Expiration of the said Term of Fourteen Years, the sole Right of making and disposing of such new and original Sculpture, or Model, or Copy, or Cast of any of the Matters or Things herein-before mentioned, shall return to the Person or Persons who originally made or caused to be made the same, if he or they shall be then living, for the further Term of Fourteen Years, excepting in the Case or Cases where such Person or Persons shall by Sale or otherwise have divested himself, herself, or themselves, of such Right of making or disposing of any new and original Sculpture, or Model, or Copy, or Cast of any of the Matters or Things herein-before mentioned, previous to the passing of this Act.

DRAMATIC COPYRIGHT.

3 WILL. IV. c. 15.

An Act to amend the Laws relating to Dramatic Literary Property. [10*th June*, 1833.]

WHEREAS by an Act (54 Geo. III. c. 156) it was amongst other things provided and enacted, that from and after the passing of the said
54 G. III. c. 156. 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, 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

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.

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 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.

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.

LECTURE COPYRIGHT.

5 & 6 WILL. IV. c. 65.

An Act for preventing the Publication of Lectures without Consent. [*9th September*, 1835.]

Authors of Lectures, or their Assigns, to have the sole Right of publishing them.

WHEREAS Printers, Publishers, and other Persons have frequently taken the Liberty of printing and publishing Lectures delivered upon divers Subjects, without the Consent of the Authors of such Lectures, or the Persons delivering the same in public, to the great Detriment of such Authors and Lecturers: Be it enacted, That from and after *September* 1, 1835, the Author of any Lecture or Lectures, or the Person to whom he hath sold or otherwise conveyed the Copy thereof, in order to deliver the same in any School, Seminary, Institution, or other Place, or for any other purpose, shall have the sole Right and Liberty of printing and publishing such Lecture or Lectures; and that if any Person shall, by taking down the same in Short Hand or otherwise in Writing, or in any other Way, obtain or make a Copy of such Lecture or Lectures, and shall print or lithograph or otherwise copy and publish the same, or cause the same to be printed, lithographed, or otherwise copied and published,

without Leave of the Author thereof, or of the Person to whom the Author thereof hath sold or otherwise conveyed the same, and every Person who, knowing the same to have been printed or copied and published without such Consent, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, any such Lecture or Lectures, shall forfeit such printed or otherwise copied Lecture or Lectures, or Parts thereof, together with One Penny for every Sheet thereof which shall be found in his Custody, either printed, lithographed, or copied, or printing, lithographing, or copying, published or exposed to sale, contrary to the true Intent and Meaning of this Act, the one Moiety thereof to His Majesty, His Heirs or Successors, and the other Moiety thereof to any Person who shall sue for the same, to be recovered in any of His Majesty's Courts of Record in *Westminster*, by Action of Debt, Bill, Plaint, or Information, in which no Wager of Law, Essoign, Privilege, or Protection, or more than One Imparlance, shall be allowed.

II. And be it further enacted, That any Printer or Publisher of any Newspaper who shall, without such Leave as aforesaid, print and publish in such Newspaper any Lecture or Lectures, shall be deemed and taken to be a Person printing and publishing without Leave within the Provisions of this Act, and liable to the aforesaid Forfeitures and Penalties in respect of such printing and publishing.

Persons having Leave to attend Lectures not on

III. And be it further enacted, That no Person allowed for certain Fee and Reward, or otherwise, to

that Account licensed to publish them.

attend and be present at any Lecture delivered in any Place, shall be deemed and taken to be licensed or to have Leave to print, copy, and publish such Lectures only because of having Leave to attend such Lecture or Lectures.

IV. Provided always, That nothing in this Act shall extend to prohibit any Person from printing, copying, and publishing any Lecture or Lectures which have or shall have been printed and published with Leave of the Authors thereof or their Assignees, and whereof the Time hath or shall have expired within which the sole Right to print and publish the same is given by an Act (8 Anne, c. 19), and by another Act (54 Geo. III. c. 156), or to any Lectures which have been printed or published before the passing of this Act.

Act not to extend to Lectures delivered in unlicensed Places, &c.

V. Provided further, That nothing in this Act shall extend to any Lecture or Lectures, or the printing, copying, or publishing any Lecture or Lectures, or Parts thereof, of the delivering of which Notice in Writing shall not have been given to Two Justices living within Five Miles from the Place where such Lecture or Lectures shall be delivered Two Days at the least before delivering the same, or to any Lecture or Lectures delivered in any University or public School or College, or on any public Foundation, or by any Individual in virtue of or according to any Gift, Endowment, or Foundation; and that the Law relating thereto shall remain the same as if this Act had not been passed.

5 & 6 VICT. c. 45.

An Act to amend the Law of Copyright.

[*1st July*, 1842.]

II. 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.

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.

IV. [*Has reference to books published before* 1842.]

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.

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*.

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.

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 authorised 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.

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 Expense, to such Librarian or other Person authorised 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.

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 default 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 re-

cover his Costs reasonably incurred, to be taxed as between Attorney and Client.

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.

XI. 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 Stationers 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.

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.

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.

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.

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.

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 authorised 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 re-printed in any Country or Place whatsoever out of the *British* Dominions; and if any Person, not being such Proprietor or Person authorised 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.

As to the Copyright in Encyclopædias, Periodicals, and Works published in a Series, Reviews, or Magazines.

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, Projector, 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.

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 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.

XX. And whereas an Act was passed (3 Will. IV. c. 15) 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 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.

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 (3 & 4 Will. IV. c. 15) 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.

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.

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 (3 & 4 Will. IV. c. 15) 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.

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. Copyright shall be Personal Property.

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 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; 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 herein-before mentioned.

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.

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.

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.

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 .

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

Witness

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.*

INTERNATIONAL COPYRIGHT.

7 Vict. c. 12.

An Act to amend the Law relating to International Copyright. [10*th May*, 1844.]

WHEREAS by an Act (1 & 2 Vict. c. 59) hereinafter designated as "the International Copyright Act," Her Majesty was empowered by Order in Council to direct that the Authors of Books which should 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, should have the sole Liberty of printing and reprinting such Books within the *British* Dominions for such Term as Her Majesty should by such Order in Council direct, not exceeding the Term which Authors, being *British* Subjects, were then, (that is to say) at the Time of passing the said Act, entitled to in respect of Books first published in the United Kingdom; and the said Act contains divers Enactments securing to Authors and their Representatives the Copyright in the Books to which any such Order in Council should extend: And whereas an Act (5 & 6 Vict. c. 45) was passed,

designated as "the Copyright Amendment Act," repealing various Acts therein mentioned relating to the Copyright of printed Books, and extending, defining, and securing to Authors and their Representatives the Copyright of Books: And whereas an Act (3 & 4 Will. IV. c. 15) was passed, designated as "the Dramatic Literary Property Act," whereby the sole Liberty of representing or causing to be represented any Dramatic Piece in any Place of Dramatic Entertainment in any Part of the *British* Dominions, which should be composed and not printed or published by the Author thereof or his Assignee, was secured to such Author or his Assignee; and by the said Act it was enacted, that the Author of any such Production which should thereafter be printed and published, or his Assignee, should have the like sole Liberty of Representation until the End of Twenty-eight Years from the first Publication thereof: And whereas by the said Copyright Amendment Act the Provisions of the said Dramatic Literary Property Act and of the said Copyright Amendment Act were made applicable to Musical Compositions; and it was thereby also enacted, that the sole Liberty of representing or performing, or causing or permitting to be represented or performed, in any Part of the *British* Dominions, any Dramatic Piece or Musical Composition, should endure and be the Property of the Author thereof and his Assigns for the Term in the said Copyright Amendment Act provided for the Duration of the Copyright in Books, and that the Provisions therein enacted in

respect of the Property of such Copyright should apply to the Liberty of representing or performing any Dramatic Piece or Musical Composition: And whereas under the Four several Acts next herein-after mentioned; (that is to say, 8 Geo. II. c. 13, 7 Geo. III. c. 38, 17 Geo. III. c. 57, 6 & 7 Will. IV. c. 59), herein-after designated as the Engraving Copyright Acts; every Person who invents or designs, engraves, etches, or works in Mezzotinto or Chiaro-oscuro, or from his own Work, Design, or Invention causes or procures to be designed, engraved, etched, or worked in Mezzotinto or Chiaro-oscuro any historical Print or Prints, or any Print or Prints of any Portrait, Conversation, Landscape, or Architecture, Map, Chart, or Plan, or any other Print or Prints whatsoever, and every Person who engraves, etches, or works in Mezzotinto or Chiaro-oscuro, or causes to be engraved, etched, or worked, any Print taken from any Picture, Drawing, Model, or Sculpture, either ancient or modern, notwithstanding such Print shall not have been graven or drawn from the original Design of such Graver, Etcher, or Draftsman, is entitled to the Copyright of such Print for the Term of Twenty-eight Years from the first publishing thereof; and by the said several Engraving Copyright Acts it is provided that the Name of the Proprietor shall be truly engraved on each Plate, and printed on every such Print, and Remedies are provided for the Infringement of such Copyright: And whereas under an Act (38 Geo. III. c. 71), and an Act (54 Geo. III. c. 56), which said Acts are herein-

after designated as the Sculpture Copyright Acts, every Person who makes or causes to be made any new and original Sculpture, or Model or Copy or Cast of the Human Figure, any Bust or Part of the Human Figure clothed in Drapery or otherwise, any Animal or Part of any Animal combined with the Human Figure or otherwise, any Subject, being Matter of Invention in Sculpture, any Alto or Basso Relievo, representing any of the Matters aforesaid, or any Cast from Nature of the Human Figure or Part thereof, or of any Animal or Part thereof, or of any such Subject representing any of the Matters aforesaid, whether separate or combined, is entitled to the Copyright in such new and original Sculpture, Model, Copy, and Cast, for Fourteen Years from first putting forth and publishing the same, and for an additional Period of Fourteen Years in case the original Maker is living at the End of the first Period; and by the said Acts it is provided that the Name of the Proprietor, with the Date of the Publication thereof, is to be put on all such Sculptures, Models, Copies, and Casts, and Remedies are provided for the Infringement of such Copyright: And whereas the Powers vested in Her Majesty by the said International Copyright Act are insufficient to enable Her Majesty to confer upon Authors of Books first published in Foreign Countries Copyright of the like Duration, and with the like Remedies for the Infringement thereof, which are conferred and provided by the said Copyright Amendment Act with respect to Authors of Books first published in

the *British* Dominions; and the said International Copyright Act does not empower Her Majesty to confer any exclusive Right of representing or performing Dramatic Pieces or Musical Compositions first published in Foreign Countries upon the Authors thereof, nor to extend the Privilege of Copyright to Prints and Sculpture first published abroad; and it is expedient to vest increased Powers in Her Majesty in this respect, and for that Purpose to repeal the said International Copyright Act, and to give such other Powers to Her Majesty, and to make such further Provisions, as are herein-after contained: 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 the said recited Act herein designated as the International Copyright Act shall be and the same is hereby repealed.

II. And be it enacted, That it shall be lawful for Her Majesty, by any Order of Her Majesty in Council, to direct that, as respects all or any particular Class or Classes of the following Works, (namely,) Books, Prints, Articles of Sculpture, and other Works of Art, to be defined in such Order, which shall after a future Time, to be specified in such Order, be first published in any Foreign Country to be named in such Order, the Authors, Inventors, Designers, Engravers, and Makers thereof respectively, their respective Executors, Administrators, and Assigns, shall have the Privilege of

Copyright therein during such Period or respective Periods as shall be defined in such Order, not exceeding, however, as to any of the above-mentioned Works, the Term of Copyright which Authors, Inventors, Designers, Engravers, and Makers of the like Works respectively first published in the United Kingdom may be then entitled to under the hereinbefore recited Acts respectively, or under any Acts which may hereafter be passed in that Behalf.

III. And be it enacted, That in case any such Order shall apply to Books, all and singular the Enactments of the said Copyright Amendment Act, and of any other Act for the Time being in force with relation to the Copyright in Books first published in this Country, shall, from and after the Time so to be specified in that Behalf in such Order, and subject to such Limitation as to the Duration of the Copyright as shall be therein contained, apply to and be in force in respect of the Books to which such Order shall extend, and which shall have been registered as herein-after is provided, in such and the same Manner as if such Books were first published in the United Kingdom, save and except such of the said Enactments, or such Parts thereof, as shall be excepted in such Order, and save and except such of the said Enactments as relate to the Delivery of Copies of Books at the *British Museum*, and to or for the Use of the other Libraries mentioned in the said Copyright Amendment Act.

IV. And be it enacted, That in case any such Order shall apply to Prints, Articles of Sculpture, or

to any such other Works of Art as aforesaid, all and singular the Enactments of the said Engraving Copyright Acts and the said Sculpture Copyright Acts, or of any other Act for the Time being in force with relation to the Copyright in Prints or Articles of Sculpture first published in this Country, and of any Act for the Time being in force with relation to the Copyright in any similar Works of Art first published in this Country, shall, from and after the Time so to be specified in that Behalf in such Order, and subject to such Limitation as to the Duration of the Copyright as shall be therein contained respectively, apply to and be in force in respect of the Prints, Articles of Sculpture, and other Works of Art to which such Order shall extend, and which shall have been registered as herein-after is provided, in such and the same Manner as if such Articles and other Works of Art were first published in the United Kingdom, save and except such of the said Enactments or such Parts thereof as shall be excepted in such Order.

V. And be it enacted, That it shall be lawful for Her Majesty, by any Order of Her Majesty in Council, to direct that the Authors of Dramatic Pieces and Musical Compositions which shall after a future Time, to be specified in such Order, be first publicly represented or performed in any Foreign Country to be named in such Order, shall have the sole Liberty of representing or performing in any Part of the *British* Dominions such Dramatic Pieces or Musical Compositions during such Period as shall be defined in such Order, not exceeding the Period

during which Authors of Dramatic Pieces and Musical Compositions first publicly represented or performed in the United Kingdom may for the Time be entitled by Law to the sole Liberty of representing and performing the same; and from and after the Time so specified in any such last-mentioned Order the Enactments of the said Dramatic Literary Property Act and of the said Copyright Amendment Act, and of any other Act for the Time being in force with relation to the Liberty of publicly representing and performing Dramatic Pieces or Musical Compositions, shall, subject to such Limitation as to the Duration of the Right conferred by any such Order as shall be therein contained, apply to and be in force in respect of the Dramatic Pieces and Musical Compositions to which such Order shall extend, and which shall have been registered as herein-after is provided, in such and the same Manner as if such Dramatic Pieces and Musical Compositions had been first publicly represented and performed in the *British* Dominions, save and except such of the said Enactments or such Parts thereof as shall be excepted in such Order.

VI. Provided always, and be it enacted, That no Author of any Book, Dramatic Piece or Musical Composition, or his Executors, Administrators, or Assigns, and no Inventor, Designer, or Engraver of any Print, or Maker of any Article of Sculpture, or other Work of Art, his Executors, Administrators, or Assigns, shall be entitled to the Benefit of this Act, or of any Order in Council to be issued in pursuance thereof, unless, within a Time or Times to

be in that Behalf prescribed in each such Order in Council, such Book, Dramatic Piece, Musical Composition, Print, Article of Sculpture, or other Work of Art, shall have been so registered, and such Copy thereof shall have been so delivered as herein-after is mentioned; (that is to say,) as regards such Book, and also such Dramatic Piece or Musical Composition, (in the event of the same having been printed,) the Title to the Copy thereof, the Name and Place of Abode of the Author or Composer thereof, the Name and Place of Abode of the Proprietor of the Copyright thereof, the Time and Place of the first Publication, Representation, or Performance thereof, as the Case may be, in the Foreign Country named in the Order in Council under which the Benefits of this Act shall be claimed, shall be entered in the Register Book of the Company of Stationers in *London*, and One printed Copy of the whole of such Book, and of such Dramatic Piece or Musical Composition, in the event of the same having been printed, and of every Volume thereof, upon the best paper upon which the largest Number or Impression of the Book, Dramatic Piece or Musical Composition shall have been printed for Sale, together with all Maps and Prints relating thereto, shall be delivered to the Officer of the Company of Stationers at the Hall of the said Company; and as regards Dramatic Pieces and Musical Compositions in Manuscript, the Title to the same, the Name and Place of Abode of the Author or Composer thereof, the Name and Place of Abode of the Proprietor of the Right of representing

or performing the same, and the Time and Place of the first Representation or Performance thereof in the Country named in the Order in Council under which the Benefit of the Act shall be claimed, shall be entered in the said Register Book of the said Company of Stationers in *London*; and as regards Prints, the Title thereof, the Name and Place of Abode of the Inventor, Designer, or Engraver thereof, the Name of the Proprietor of the Copyright therein, and the Time and Place of the first Publication thereof in the Foreign Country named in the Order in Council under which the Benefits of the Act shall be claimed, shall be entered in the said Register Book of the said Company of Stationers in *London*, and a Copy of such Print, upon the best Paper upon which the largest Number or Impressions of the Print shall have been printed for Sale, shall be delivered to the Officer of the Company of Stationers at the Hall of the said Company; and as regards any such Article of Sculpture, or any such other Work of Art as aforesaid, a descriptive Title thereof, the Name and Place of Abode of the Maker thereof, the Name of the Proprietor of the Copyright therein, and the Time and Place of its first Publication in the Foreign Country named in the Order in Council under which the Benefit of this Act shall be claimed, shall be entered in the said Register Book of the said Company of Stationers in *London*; and the Officer of the said Company of Stationers receiving such Copies so to be delivered as aforesaid shall give a Receipt in Writing for the same, and such Delivery shall to all

Intents and Purposes be a sufficient Delivery under the Provisions of this Act.

VII. 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.

VIII. And be it enacted, That the several Enactments in the said Copyright Amendment Act contained with relation to keeping the said Register Book, and the Inspection thereof, the Searches therein, and the Delivery of certified and stamped Copies thereof, the Reception of such Copies in Evidence, the making of false Entries in the said Book, and the Production in Evidence of Papers falsely purporting to be Copies of Entries in the said Book, the Applications to the Courts and Judges by Persons aggrieved by Entries in the said Book, and the expunging and varying such Entries, shall apply to the Books, Dramatic Pieces, and Musical Compositions, Prints, Articles of Sculpture, and other Works of Art, to which any Order in Council issued in pursuance of this Act shall extend, and to the Entries and Assignments of Copyright and Proprietorship therein, in such and the same Manner as if such Enactments were here expressly enacted in relation thereto, save and except that the Forms

of Entry prescribed by the said Copyright Amendment Act may be varied to meet the Circumstances of the Case, and that the Sum to be demanded by the Officer of the said Company of Stationers for making any Entry required by this Act shall be One Shilling only.

IX. And be it enacted, That every Entry made in pursuance of this Act of a first Publication 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, no Order for expunging or varying such Entry shall be made unless it be proved to the Satisfaction of the Court or of the Judge taking cognizance of the Application for expunging or varying such Entry, 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; 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.

X. And be it enacted, That all Copies of Books wherein there shall be any subsisting Copyright under or by virtue of this Act, or of any Order in Council made in pursuance thereof, printed or reprinted in any Foreign Country except that in which such Books were first published, shall be and the same are hereby absolutely prohibited to be imported into any Part of the *British* Dominions, except by or with the Consent of the registered Proprietor of the Copyright thereof, or his Agent authorised in Writing, and if imported contrary to this Prohibition the same and the Importers thereof shall be subject to the Enactments in force relating to Goods prohibited to be imported by any Act relating to the Customs; and as respects any such Copies so prohibited to be imported, and also as respects any Copies unlawfully printed in any Place whatsoever of any Books wherein there shall be any such subsisting Copyright as aforesaid, any Person who shall in any Part of the *British* Dominions import such prohibited or unlawfully printed Copies, or who, knowing such Copies to be so unlawfully imported or unlawfully printed, shall sell, publish, or expose to sale or hire, or shall cause to be sold, published, or exposed to sale or hire, or have in his Possession for sale or hire, any such Copies so unlawfully imported or unlawfully printed, such Offender shall be liable to a special Action on the Case at the Suit of the Proprietor of such Copyright, to be brought and prosecuted in the same Courts and in the same Manner, and with the like Restrictions upon the Proceedings of the Defendant,

as are respectively prescribed in the said Copyright Amendment Act with relation to Actions thereby authorised to be brought by Proprietors of Copyright against Persons importing or selling Books unlawfully printed in the *British* Dominions.

XI. And be it enacted, That the said Officer of the said Company of Stationers shall receive at the Hall of the said Company every Book, Volume, or Print so to be delivered as aforesaid, and within One Calendar Month after receiving such Book, Volume, or Print shall deposit the same in the Library of the *British Museum*.

XII. Provided always, and be it enacted, That it shall not be requisite to deliver to the said Officer 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.

XIII. 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 in respect of Works to be first published in Foreign Countries may be different for Works first published in different Foreign Countries and for different Classes of such Works; and that the Times to be prescribed for the Entries to be made in the Register Book of the Stationers Company, and for the Deliveries of the Books and other Articles to the said Officer of the Stationers Company, as hereinbefore is mentioned, may be different for different

Foreign Countries and for different Classes of Books or other Articles.

XIV. [*Repealed.*]

XV. 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.

XVI. 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.

XVII. [*Repealed.*]

XVIII. [*Repealed.*]

XIX. And be it enacted, That neither the Author of any Book, nor the Author or Composer of any Dramatic Piece or Musical Composition, nor the Inventor, Designer, or Engraver of any Print, nor the Maker of any Article of Sculpture, or of such other Work of Art as aforesaid, which shall after the passing of this Act be first published out of Her Majesty's Dominions, shall have any Copyright therein respectively, or any exclusive Right to the public Representation or Performance thereof, otherwise than such (if any) as he may become entitled to under this Act.

XX. 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 Expression "Articles of Sculpture" shall mean all such Sculptures, Models, Copies, and Casts as are described in the said Sculpture Copyright Acts, and in respect of which the Privileges of Copyright are thereby conferred; 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," "Order in Council," and "Order," shall respectively mean Order of Her Majesty acting by and with the Advice of Her Majesty's Most Honourable Privy Council; and the Expression "Officer of the Company of Stationers' shall mean the Officer appointed by the said Company of Stationers for the Purposes of the said Copyright Amendment Act.

COLONIAL COPYRIGHT.

10 & 11 VICT. C. 95.

An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.

[*22d July*, 1847.]

WHEREAS by an Act (5 & 6 Vict. c. 45) it is enacted, that 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 or published in any Part of the United Kingdom wherein there shall be Copyright, and reprinted in any Country or Place whatsoever out of the *British* Dominions: And whereas by an Act (8 & 9 Vict. c. 93) Books wherein the Copyright is subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other Country, are absolutely prohibited to be imported into the *British* Possessions abroad: And whereas by the said last-recited Act it is enacted, that all Laws, Bye Laws, Usages, or Customs in practice, or

endeavoured or pretended to be in force or practice in any of the *British* Possessions in *America*, which are in anywise repugnant to the said Act or to any Act of Parliament made or to be made in the United Kingdom, so far as such Act shall relate to and mention the said Possessions, are and shall be null and void to all Intents and Purposes whatsoever: Now 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 in case the Legislature or proper legislative Authorities in any *British* Possession shall be disposed to make due Provision for securing or protecting the Rights of *British* Authors in such Possession, and shall pass an Act or make an Ordinance for that Purpose, and shall transmit the same in the proper Manner to the Secretary of State, in order that it may be submitted to Her Majesty, and in case Her Majesty shall be of opinion that such Act or Ordinance is sufficient for the Purpose of securing to *British* Authors reasonable Protection within such Possession, it shall be lawful for Her Majesty, if She think fit so to do, to express Her Royal Approval of such Act or Ordinance, and thereupon to issue an Order in Council declaring that so long as the Provisions of such Act or Ordinance continue in force within such Colony the Prohibitions contained in the aforesaid Acts, and herein-before recited, and any Prohibitions contained in the said Acts or in any other Acts against the importing, selling, letting out

to hire, exposing for Sale or Hire, or possessing Foreign Reprints of Books first composed, written, printed, or published in the United Kingdom, and entitled to Copyright therein, shall be suspended so far as regards such Colony; and thereupon such Act or Ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council, any thing in the said last-recited Act or in any other Act to the contrary notwithstanding.

II. And be it enacted, That every such Order in Council shall, within One Week after the issuing thereof, be published in the *London Gazette*, and that a Copy thereof, and of every such Colonial Act or Ordinance so approved as aforesaid by Her Majesty, shall be laid before both Houses of Parliament within Six Weeks after the issuing of such Order, if Parliament be then sitting, or if Parliament be not then sitting, then within Six Weeks after the opening of the next Session of Parliament.

INTERNATIONAL COPYRIGHT AMENDMENT.

15 VICT. C. 12.

An Act to enable Her Majesty to carry into effect a Convention with France *on the subject of Copyright; to extend and explain the International Copyright Acts; and to explain the Acts relating to Copyright in Engravings.*

[28*th May*, 1852.]

WHEREAS an Act (7 & 8 Vict. c. 12) was passed, herein-after called "The International Copyright Act:" And whereas a Convention has lately been concluded between Her Majesty and the *French* Republic, for extending in each Country the Enjoyment of Copyright in Works of Literature and the Fine Arts first published in the other, and for certain Reductions of Duties now levied on Books, Prints, and Musical Works published in *France*: And whereas certain of the Stipulations on the Part of Her Majesty contained in the said Treaty require the Authority of Parliament: And whereas it is expedient that such Authority should be given, and that Her Majesty should be enabled to make similar Stipulations in any Treaty on the Subject of Copy-

right which may hereafter be concluded with any Foreign Power: Be it enacted as follows:

[*Sections* I. *to* V. *both inclusive repealed.*]

VI. Nothing herein contained shall be so construed as to prevent fair Imitations or Adaptations to the *English* stage of any Dramatic Piece or Musical Composition published in any Foreign Country.

VII. Notwithstanding anything in the said International Copyright Act or in this Act contained, any Article of political Discussion which has been published in any Newspaper or Periodical in a Foreign Country may, if the Source from which the same is taken be acknowledged, be republished or translated in any Newspaper or Periodical in this Country; and any Article relating to any other Subject which has been so published as aforesaid may, if the Source from which the same is taken be acknowledged, be republished or translated in like Manner, unless the Author has signified his Intention of preserving the Copyright therein, and the Right of translating the same, in some conspicuous Part of the Newspaper or Periodical in which the same was first published, in which Case, the same shall, without the Formalities required by the next following Section, receive the same Protection as is by virtue of the International Copyright Act or this Act extended to Books.

VIII. [*Repealed.*]

IX. All Copies of any Works of Literature or Art wherein there is any subsisting Copyright by virtue of the International Copyright Act and this Act, or

of any Order in Council made in pursuance of such Acts or either of them, and which are printed, reprinted, or made in any Foreign Country except that in which such Work shall be first published, and all unauthorized Translations of any Book or Dramatic Piece the Publication or public Representation in the *British* Dominions of Translations whereof not authorized as in this Act mentioned shall for the Time being be prevented under any Order in Council made in pursuance of this Act, are hereby absolutely prohibited to be imported into any Part of the *British* Dominions, except by or with the Consent of the registered Proprietor of the Copyright of such Work or of such Book or Piece, or his Agent authorized in Writing; and the Provision of the Act of the Sixth Year of Her Majesty "to amend the Law of Copyright," for the Forfeiture, Seizure, and Destruction of any printed Book first published in the United Kingdom wherein there shall be Copyright, and reprinted in any Country out of the *British* Dominions, and imported into any Part of the *British* Dominions by any Person not being the Proprietor of the Copyright, or a Person authorized by such Proprietor, shall extend and be applicable to all Copies of any Works of Literature and Art, and to all Translations the Importation whereof into any Part of the *British* Dominions is prohibited under this Act.

X. The Provisions herein-before contained shall be incorporated with the International Copyright Act, and shall be read and construed therewith as One Act.

XI. [*Repealed.*]

XII. *and* XIII. *refer to the Customs duties to be paid on imported books.*

XIV. And whereas by the Four several Acts of Parliament following; that is to say, 8 Geo. II. c. 13, 7 Geo. III. c. 38, 17 Geo. III. c. 57, 6 & 7 Will. IV. c. 59, Provision is made for securing to every Person who invents, or designs, engraves, etches, or works in Mezzotinto or Chiaro-oscuro, or, from his own Work, Design, or Invention, causes or procures to be designed, engraved, etched, or worked in Mezzotinto or Chiaro-oscuro, any Historical Print or Prints, or any Print or Prints of any Portrait, Conversation, Landscape, or Architecture, Map, Chart, or Plan, or any other Print or Prints whatsoever, and to every Person who engraves, etches, or works in Mezzotinto or Chiaro-oscuro, or causes to be engraved, etched, or worked any Print taken from any Picture, Drawing, Model, or Sculpture, notwithstanding such Print has not been graven or drawn from his own original Design, certain Copyrights therein defined: And whereas Doubts are entertained whether the Provisions of the said Acts extend to Lithographs and certain other Impressions, and it is expedient to remove such Doubts:

It is hereby declared, That the Provisions of the said Acts are intended to include Prints taken by Lithography, or any other mechanical Process by which Prints or Impressions of Drawings or Designs are capable of being multiplied indefinitely, and the said Acts shall be construed accordingly.

ARTISTIC COPYRIGHT.

25 & 26 VICT. C. 68.

An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

[*29th July*, 1862.]

BE it enacted:

Copyright in Works hereafter made or sold to vest in the Author for his Life and for Seven Years after his Death.

1. The Author, being a *British* Subject or resident within the Dominions of the Crown, of every original Painting, Drawing, and Photograph which shall be or shall have been made either in the *British* Dominions or elsewhere, and which shall not have been sold or disposed of before the Commencement of this Act, and his Assigns, shall have the sole and exclusive Right of copying, engraving, reproducing, and multiplying such Painting or Drawing, and the Design thereof, or such Photograph, and the Negative thereof, by any Means and of any Size, for the Term of the natural Life of such Author, and Seven Years after his Death; provided that when any Painting or Drawing, or the Negative of any Photograph, shall for the First Time after the passing of this Act be sold or disposed of, or shall be made

or executed for ·r on behalf of any other Person for a good or a val:.ble Consideration, the Person so selling or disposing of o: making or executing the same shall not retain the Copyright thereof, unless it be expressly reserved to him by Agreement in Writing, signed, at or before the Time of such Sale or Disposition, by the Vendee or Assignee of such Painting or Drawing, or of such Negative of a Photograph, or by the Person for or on whose Behalf the same shall be so made or executed, but the Copyright shall belong to the Vendee or Assignee of such Painting or Drawing, or of such Negative of a Photograph, or to the Person for or on whose Behalf the same shall have been made or executed; nor shall the Vendee or Assignee thereof be entitled to any such Copyright, unless, at or before the Time of such Sale or Disposition, an Agreement in Writing, signed by the Person so selling or disposing of the same, or by his Agent duly authorized, shall have been made to that Effect.

2. Nothing herein contained shall prejudice the Right of any Person to copy or use any Work in which there shall be no Copyright, or to represent any Scene or Object, notwithstanding that there may be Copyright in some Representation of such Scene or Object.

3. All Copyright under this Act shall be deemed Personal or Moveable Estate, and shall be assignable at Law, and every Assignment thereof, and every Licence to use or copy by any Means or Process the Design or Work which shall be the subject of such

Copyright, shall be made by some Note or Memorandum in Writing, to be signed by the Proprietor of the Copyright, or by his Agent appointed for that Purpose in Writing.

4. There shall be kept at the Hall of the Stationers Company by the Officer appointed by the said Company for the Purposes of the Act (5 & 6 Vict. c. 45), a Book or Books, entitled "The Register of Proprietors of Copyright in Paintings, Drawings, and Photographs," wherein shall be entered a Memorandum of every Copyright to which any Person shall be entitled under this Act, and also of every subsequent Assignment of any such Copyright; and such Memorandum shall contain a Statement of the Date of such Agreement or Assignment, and of the Names of the Parties thereto, and of the Name and Place of Abode of the Person in whom such Copyright shall be vested by virtue thereof, and of the Name and Place of Abode of the Author of the Work in which there shall be such Copyright, together with a short Description of the Nature and Subject of such Work, and in addition thereto, if the Person registering shall so desire, a Sketch, Outline, or Photograph of the said Work, and no Proprietor of any such Copyright shall be entitled to the Benefit of this Act until such Registration, and no Action shall be sustainable nor any Penalty be recoverable in respect of anything done before Registration.

5. The several Enactments in the said Act (5 & 6 Vict. c. 45) with relation to keeping the Register

Book thereby required, and the Inspection thereof, the Searches therein and the Delivery of certified and stamped Copies thereof, the Reception of such Copies in Evidence, the making of false Entries in the said Book, and the Production in Evidence of Papers falsely purporting to be Copies of Entries in the said Book, the Application to the Courts and Judges by Persons aggrieved by Entries in the said Book, and the expunging and varying such Entries shall apply to the Book or Books to be kept by virtue of this Act, and to the Entries and Assignments of Copyright and Proprietorship therein under this Act, in such and the same Manner as if such Enactments were here expressly enacted in relation thereto, save and except that the Forms of Entry prescribed by the said Act of the Sixth Year of Her present Majesty may be varied to meet the Circumstances of the Case, and that the Sum to be demanded by the Officer of the said Company of Stationers for making any Entry required by this Act shall be One Shilling only.

Penalties on Infringement of Copyright.

6. If the Author of any Painting, Drawing, or Photograph in which there shall be subsisting Copyright, after having sold or disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of Copyright in any Painting, Drawing, or Photograph, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply for Sale, Hire, Exhibition, or Distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for Sale,

Hire, Exhibition, or Distribution, any such Work or the Design thereof, or, knowing that any such Repetition, Copy, or other Imitation has been unlawfully made, shall import into any Part of the United Kingdom, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to be imported, sold, published, let to Hire, distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of the said Work, or of the Design thereof, made without such Consent as aforesaid, such Person for every such Offence shall forfeit to the Proprietor of the Copyright for the Time being a Sum not exceeding Ten Pounds; and all such Repetitions, Copies, and Imitations made without such Consent as aforesaid, and all Negatives of Photographs made for the Purpose of obtaining such Copies, shall be forfeited to the Proprietor of the Copyright.

7. No Person shall do or cause to be done any or either of the following Acts; that is to say,

First, no Person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any Painting, Drawing, or Photograph, or the Negative thereof, any Name, Initials, or Monogram:

Secondly, no Person shall fraudulently sell, publish, exhibit, or dispose of, or offer for Sale, Exhibition, or Distribution, any Painting, Drawing, or Photograph, or Negative of a Photograph, having thereon the Name, Initials, or Monogram of a

Person who did not execute or make such Work:

Thirdly, no Person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any Copy or colourable Imitation of any Painting, Drawing, or Photograph, or Negative of a Photograph, whether there shall be subsisting Copyright therein or not, as having been made or executed by the Author or Maker of the original Work from which such Copy or Imitation shall have been taken:

Fourthly, where the Author or Maker of any Painting, Drawing, or Photograph, or Negative of a Photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the Possession of such Work, if any Alteration shall afterwards be made therein by any other Person, by Addition or otherwise, no Person shall be at Liberty, during the Life of the Author or Maker of such Work, without his Consent, to make or knowingly to sell or publish, or offer for Sale, such Work or any Copies of such Work so altered as aforesaid, or of any Part thereof, as or for the unaltered Work of such Author or Maker:

Every Offender under this Section shall, upon Conviction, forfeit to the Person aggrieved a Sum not exceeding Ten Pounds, or not exceeding double the full Price, if any, at which all such Copies, Engravings, Imitations, or altered Works shall have been sold or offered for Sale; and all such Copies,

Engravings, Imitations, or altered Works shall be forfeited to the Person, or the Assigns or legal Representatives of the Person, whose Name, Initials, or Monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered Work shall be so fraudulently or falsely ascribed as aforesaid: Provided always, that the Penalties imposed by this Section shall not be incurred unless the Person whose Name, Initials, or Monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered Work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within Twenty Years next before the Time when the Offence may have been committed.

Recovery of pecuniary Penalties.

8. All pecuniary Penalties which shall be incurred, and all such unlawful Copies, Imitations, and all other Effects and Things as shall have been forfeited by Offenders, pursuant to this Act, and pursuant to any Act for the Protection of Copyright Engravings, may be recovered by the Person hereinbefore and in any such Act as aforesaid empowered to recover the same respectively, and herein-after called the Complainant or the Complainer, as follows:

In England and Ireland.

In *England* and *Ireland*, either by Action against the Party offending, or by summary Proceeding before any Two Justices having Jurisdiction where the Party offending resides:

In Scotland.

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 Confession of the Party offending, or by the Oath or Affirmation of One or more credible Witnesses, shall convict the Offender, and find him liable to the Penalty or Penalties aforesaid, as also in Expenses, 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 Expenses, 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.

9. In any Action in any of Her Majesty's Superior Courts of Record at *Westminster* and in *Dublin*, for the Infringement of any such Copyright as aforesaid, it shall be lawful for the Court in which such Action is pending, if the Court be then sitting, or if the Court be not sitting then for a Judge of such Court, on the Application of the Plaintiff or Defendant respectively, to make such Order for an Injunction, Inspection, or Account, and to give such Direction respecting such Action, Injunction, Inspection, and Account, and the Proceedings therein respectively, as to such Court or Judge may seem fit.

10. All Repetitions, Copies, or Imitations of Paintings, Drawings, or Photographs, wherein or in the Design whereof there shall be subsisting Copyright under this Act, and all Repetitions, Copies, and Imitations of the Design of any such Painting or Drawing, or of the Negative of any such Photograph, which, contrary to the Provisions of this Act, shall have been made in any Foreign State, or in any Part of the *British* Dominions, are hereby absolutely prohibited to be imported into any Part of the United Kingdom, except by or with the Consent of the Proprietor of the Copyright thereof, or his Agent authorised in Writing; and if the Proprietor of any such Copyright, or his Agent, shall declare that any Goods imported are Repetitions, Copies, or Imitations of any such Painting, Drawing, or Photograph, or of the Negative of any such Photograph, and so prohibited as aforesaid, then such Goods may be detained by the Officers of Her Majesty's Customs.

11. If the Author of any Painting, Drawing, or Photograph, in which there shall be subsisting Copyright, after having sold or otherwise disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of such Copyright, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or the Negative of any such Photo-

graph, or shall import or cause to be imported into any Part of the United Kingdom, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to be sold, published, let to Hire, exhibited, or distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation, of such Work, or the Design thereof, or the Negative of any such Photograph, made without such Consent as aforesaid, then every such Proprietor, in addition to the Remedies hereby given for the Recovery of any such Penalties, and Forfeiture of any such Things as aforesaid, may recover Damages by and in a Special Action on the Case, to be brought against the Person so offending, and may in such Action recover and enforce the Delivery to him of all unlawful Repetitions, Copies, and Imitations, and Negatives of Photographs, or may recover Damages for the Retention or Conversion thereof: Provided that nothing herein contained, nor any Proceeding, Conviction, or Judgment, for any Act hereby forbidden, shall affect any Remedy which any Person aggrieved by such Act may be entitled to either at Law or in Equity.

12. This Act shall be considered as including the Provisions of the Act passed in the Session of Parliament held in the Seventh and Eighth Years of Her present Majesty, intituled *An Act to amend the Law relating to International Copyright*, in the same Manner as if such Provisions were Part of this Act.

INTERNATIONAL COPYRIGHT.

38 VICT. C. 12.

An Act to amend the Law relating to International Copyright. [13*th May*, 1875.]

WHEREAS by an Act (15 Vict. c. 12) it is enacted, that "Her Majesty may, by Order "in Council, direct that authors of dramatic pieces "which are, after a future time, to be specified in "such order, first publicly represented in any foreign "country, to be named in such order, their executors, "administrators, and assigns, shall, subject to the "provisions therein-after mentioned or referred to, "be empowered to prevent the representation in "the British dominions of any translation of such "dramatic pieces not authorised by them, for such "time as may be specified in such order, not extend-"ing beyond the expiration of five years from the "time at which the authorised translations of such "dramatic pieces are first published and publicly "represented:"

And whereas by the same Act it is further enacted, "that, subject to any provisions or qualifications "contained in such order, and to the provisions in "the said Act contained or referred to, the laws and

"enactments for the time being in force for ensuring "to the author of any dramatic piece first publicly "represented in the British dominions the sole liberty "of representing the same shall be applied for the "purpose of preventing the representation of any "translations of the dramatic pieces to which such "order extends, which are not sanctioned by the "authors thereof:"

And whereas by the sixth section of the said Act it is provided, that "nothing in the said Act contained "shall be so construed as to prevent fair imitations "or adaptations to the English stage of any dramatic "piece or musical composition published in any "foreign country:"

And whereas it is expedient to alter or amend the last-mentioned provision under certain circumstances:

Be it enacted:

Section 6 of recited Act not to apply to dramatic pieces in certain cases.

1. In any case in which, by virtue of the enactments herein-before recited, any Order in Council has been or may hereafter be made for the purpose of extending protection to the translations of dramatic pieces first publicly represented in any foreign country, it shall be lawful for Her Majesty by Order in Council to direct that the sixth section of the said Act shall not apply to the dramatic pieces to which protection is so extended; and thereupon the said recited Act shall take effect with respect to such dramatic pieces and to the translations thereof as if the said sixth section of the said Act were hereby repealed.

CANADA COPYRIGHT.

38 & 39 Vict. c. 53.

An Act to give effect to an Act of the Parliament of the Dominion of Canada respecting Copyright. [*2d August*, 1875.]

WHEREAS by an Order in Council, July 7, 1868, it was ordered that all prohibitions contained in Acts of the Imperial Parliament against the importing into the Province of Canada, or against the selling, letting out to hire, exposing for sale or hire, or possessing therein foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, should be suspended so far as regarded Canada:

And whereas the Senate and House of Commons of Canada did, in the second session of the third Parliament of the Dominion of Canada, held in the thirty-eighth year of Her Majesty's reign, pass a Bill intituled "An Act respecting Copyrights," which Bill has been reserved by the Governor-General for the signification of Her Majesty's pleasure thereon:

And whereas by the said reserved Bill provision is

made, subject to such conditions as in the said Bill are mentioned, for securing in Canada the rights of authors in respect of matters of copyright, and for prohibiting the importation into Canada of any work for which copyright under the said reserved Bill has been secured; and whereas doubts have arisen whether the said reserved Bill may not be repugnant to the said Order in Council, and it is expedient to remove such doubts and to confirm the said Bill:

Be it enacted as follows:

1. This Act may be cited for all purposes as The Canada Copyright Act, 1875.

2. In the construction of this Act the words "book" and "copyright" shall have respectively the same meaning as in the Act (5 & 6 Vict. c. 45).

3. It shall be lawful for Her Majesty in Council to assent to the said reserved Bill, as contained in the schedule to this Act annexed, and if Her Majesty shall be pleased to signify Her assent thereto, the said Bill shall come into operation at such time and in such manner as Her Majesty may by Order in Council direct; anything in the Act (28 & 29 Vict. c. 93) or in any other Act to the contrary notwithstanding.

Colonial reprints not to be imported into United Kingdom.

4. Where any book in which, at the time when the said reserved Bill comes into operation, there is copyright in the United Kingdom, or any book in which thereafter there shall be such copyright, becomes entitled to copyright in Canada in pursuance of the provisions of the said reserved Bill, it shall be unlawful for any person, not being the owner, in the United

Kingdom, of the copyright in such book, or some person authorised by him, to import into the United Kingdom any copies of such book reprinted or republished in Canada; and for the purposes of such importation (5 & 6 Vict. c. 45, s. 17) shall apply to all such books in the same manner as if they had been reprinted out of the British dominions.

5. The said Order in Council, dated July 7, 1868, shall continue in force so far as relates to books which are not entitled to copyright for the time being, in pursuance of the said reserved Bill.

[The Schedule contains the full text of the Canadian Copyright Act.]

42. The goods enumerated and described in the following table of prohibitions and restrictions inwards are hereby prohibited to be imported or brought into the United Kingdom save as thereby excepted, and if any goods so enumerated and described shall be imported or brought into the United Kingdom contrary to the prohibitions or restrictions contained therein, such goods shall be forfeited, and may be destroyed or otherwise disposed of as the Commissioners of Customs may direct.

A TABLE OF PROHIBITIONS AND RESTRICTIONS INWARDS.

Goods prohibited to be imported.

Table of *prohibitions and restrictions.*

Books wherein the Copyright shall be first subsisting, first composed, or written and printed, or reprinted in any other Country, as to which the proprietor of such Copyright or his agent shall have given to the Commissioners of Customs a notice in writing, duly declared, that such Copyright subsists, such notice also stating when such Copyright will expire.

* * * * *

44. The Commissioners of Customs shall cause to be made, and to be publicly exposed at the Custom Houses in the several ports in the United Kingdom, lists of all books wherein the Copyright shall be subsisting, and as to which the proprietor of such Copyright, or his agent, shall have given notice in writing to the said Commissioners that such Copyright exists, stating in such notice when such Copyright expires, accompanied by a declaration made and subscribed before a Collector of Customs or a Justice of the Peace, that the Contents of such notice are true.

Persons complaining of prohibitions of books in Copyright lists may appeal to a Judge in Chambers.

45. If any person shall have cause to complain of the insertion of any book in such lists, it shall be lawful for any Judge at Chambers, on the application of the person so complaining, to issue a Summons calling upon the person upon whose notice such book shall have been so inserted to appear before any such Judge, at a time to be appointed in such summons, to show cause why such book shall not be expunged from such lists, and any such judge shall at the time so appointed proceed to hear and determine upon the matter of such summons, and make his order thereon in writing; and upon service of such order, or a certified copy thereof, upon the Commissioners of Customs or their Secretary for the time being, the said Commissioners shall expunge such book from the list, or retain the same therein, according to the tenor of such order; and in case such book shall be expunged from such lists, the importation thereof shall not be deemed to be prohibited. If at the time appointed in any such Summons the

person so summoned shall not appear before such Judge, then upon proof by affidavit that such summons, or a true Copy thereof, has been personally served upon the person so summoned, or sent to him by post to or left at his last known place of abode or business, any such Judge may proceed ex parte to hear and determine the matter; but if either party be dissatisfied with such order, he may apply to a Superior Court to review such decision and to make such further order thereon as the Court may see fit: Provided always, that nothing herein contained shall affect any proceeding at law or equity which any person aggrieved by reason of the insertion of any book pursuant to any such order or by reason of any false declaration under this Act, might or would otherwise have against any party giving such notice, or obtaining such order or making such false declaration.

* * * * *

Foreign reprints of books under Copyright prohibited.

152. Any books wherein the Copyright shall be subsisting first composed or written or printed in the United Kingdom, and printed or reprinted in any other Country, shall be and are hereby absolutely prohibited to be imported into the British possessions abroad: Provided always, that no such books shall be prohibited to be imported aforesaid unless the proprietor of such Copyright, or his agent, shall have given notice in writing to the Commissioners of Customs that such Copyright subsists, and in such notice shall have stated when the Copyright will

expire; and the said Commissioners shall cause to be made and transmitted to the several ports in the British possessions abroad, from time to time to be publicly exposed there lists of books respecting which such notice shall have been duly given, and all books imported contrary thereto shall be forfeited; but nothing herein contained shall be taken to prevent Her Majesty from exercising the powers vested in her by the Colonial Copyright Act, 1847, to suspend in certain cases such prohibition.

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MUSICAL COPYRIGHT.

45 & 46 VICT. C. 40.

An Act to amend the law of Copyright relating to Musical Compositions.

[10*th August*, 1882.]

WHEREAS it is expedient to amend the law relating to copyright in musical compositions, and to protect the public from vexatious proceedings for the recovery of penalties for the unauthorised performance of the same:

Be it enacted as follows:

Printed notice restraining public performance.

1. On and after the passing of this Act the proprietor of the copyright in any musical composition first published after the passing of this Act, or his assignee, who shall be entitled to and be desirous of retaining in his own hands exclusively the right of public representation or performance of the same, shall print or cause to be printed upon the title-page of every published copy of such musical composition a notice to the effect that the right of public representation or performance is reserved.

2. In case, after the passing of this Act, the right of public representation or performance of, and the copyright in, any musical composition shall be or

become vested before publication of any copy thereof in different owners, then, if the owner of the right of public representation or performance shall desire to retain the same, he shall, before any such publication of any copy of such musical composition, give to the owner of the copyright therein notice in writing requiring him to print upon every copy of such musical composition a notice to the effect that the right of public representation or performance is reserved; but in case the right of public representation or performance of, and the copyright in, any musical composition shall, after publication of any copy thereof subsequently to the passing of this Act, first become vested in different owners, and such notice as aforesaid shall have been duly printed on all copies published after the passing of this Act previously to such vesting, then, if the owner of the right of performance and representation shall desire to retain the same, he shall, before the publication of any further copies of such musical composition, give notice in writing to the person in whom the copyright shall be then vested, requiring him to print such notice as aforesaid on every copy of such musical composition to be thereafter published.

Penalty on owner of copyright for non-compliance with notice from owner of right of performance.

3. If the owner for the time being of the copyright in any musical composition shall, after due notice being given to him or his predecessor in title at the time, and generally in accordance with the last preceding section, neglect or fail to print legibly and conspicuously upon every copy of such composition published by him or by his authority, or by any

person lawfully entitled to publish the same, and claiming through or under him, a note or memorandum stating that the right of public representation or performance is reserved, then and in such case the owner of the copyright at the time of the happening of such neglect or default, shall forfeit and pay to the owner of the right of public representation or performance of such composition the sum of twenty pounds, to be recovered in any court of competent jurisdiction.

4. [*Repealed.*]

INTERNATIONAL COPYRIGHT.

49 & 50 VICT. C. 33.

An Act to amend the Law respecting International and Colonial Copyright.

[*25th June*, 1886.]

WHEREAS by the International Copyright Acts Her Majesty is authorised by Order in Council to direct that as regards literary and artistic works first published in a foreign country the author shall have copyright therein during the period specified in the order, not exceeding the period during which authors of the like works first published in the United Kingdom have copyright:

And whereas at an international conference held at Berne in the month of September one thousand eight hundred and eighty-five a draft of a convention was agreed to for giving to authors of literary and artistic works first published in one of the countries parties to the convention copyright in such works throughout the other countries parties to the convention:

And whereas, without the authority of Parliament, such convention cannot be carried into effect in Her Majesty's dominions and consequently Her Majesty

cannot become a party thereto, and it is expedient to enable Her Majesty to accede to the convention:

Be it therefore enacted as follows:

1.—(1.) This Act may be cited as the International Copyright Act, 1886.

(2.) The Acts specified in the first part of the First Schedule to this Act are in this Act referred to and may be cited by the short titles in that schedule mentioned, and those Acts, together with the enactment specified in the second part of the said schedule, are in this Act collectively referred to as the International Copyright Acts.

The Acts specified in the Second Schedule to this Act may be cited by the short titles in that schedule mentioned, and those Acts are in this Act referred to, and may be cited collectively as the Copyright Acts.

(3.) This Act and the International Copyright Acts shall be construed together, and may be cited together as the International Copyright Acts, 1844 to 1886.

2. The following provisions shall apply to an Order in Council under the International Copyright Acts:—

(1.) The order may extend to all the several foreign countries named or described therein:

(2.) The order may exclude or limit the rights conferred by the International Copyright Acts in the case of authors who are not subjects or citizens of the foreign countries named or described in that or any other order, and if the order contains such limitation and the author

of a literary or artistic work first produced in one of those foreign countries is not a British subject, nor a subject or citizen of any of the foreign countries so named or described, the publisher of such work, unless the order otherwise provides, shall for the purpose of any legal proceedings in the United Kingdom for protecting any copyright in such work be deemed to be entitled to such copyright as if he were the author, but this enactment shall not prejudice the rights of such author and publisher as between themselves:

(3.) The International Copyright Acts and an order made thereunder shall not confer on any person any greater right or longer term of copyright in any work than that enjoyed in the foreign country in which such work was first produced.

Simultaneous publication.

3.—(1.) An Order in Council under the International Copyright Acts may provide for determining the country in which a literary or artistic work first produced simultaneously in two or more countries, is to be deemed, for the purpose of copyright, to have been first produced, and for the purposes of this section "country" means the United Kingdom and a country to which an order under the said Acts applies.

(2.) Where a work produced simultaneously in the United Kingdom and in some foreign country or countries is by virtue of an Order in Council under the International Copyright Acts deemed for the purpose of copyright to be first produced in one of

the said foreign countries, and not in the United Kingdom, the copyright in the United Kingdom shall be such only as exists by virtue of production in the said foreign country, and shall not be such as would have been acquired if the work had been first produced in the United Kingdom.

4.—(1.) Where an order respecting any foreign country is made under the International Copyright Acts the provisions of those Acts with respect to the registry and delivery of copies of works shall not apply to works produced in such country except so far as provided by the order.

(2.) Before making an Order in Council under the International Copyright Acts in respect of any foreign country, Her Majesty in Council shall be satisfied that that foreign country has made such provisions (if any) as it appears to Her Majesty expedient to require for the protection of authors of works first produced in the United Kingdom.

Restriction on translation.

5.—(1.) Where a work being a book or dramatic piece is first produced in a foreign country to which an Order in Council under the International Copyright Acts applies, the author or publisher, as the case may be, shall, unless otherwise directed by the order, have the same right of preventing the production in and importation into the United Kingdom of any translation not authorised by him of the said work as he has of preventing the production and importation of the original work.

(2.) Provided that if after the expiration of ten years, or any other term prescribed by the order,

next after the end of the year in which the work, or in the case of a book published in numbers each number of the book, was first produced, an authorised translation in the English language of such work or number has not been produced, the said right to prevent the production in and importation into the United Kingdom of an unauthorised translation of such work shall cease.

(3.) The law relating to Copyright, including this Act, shall apply to a lawfully produced translation of a work in like manner as if it were an original work.

(4.) Such of the provisions of the International Copyright Act, 1852, relating to translations as are unrepealed by this Act shall apply in like manner as if they were re-enacted in this section.

6. Where an Order in Council is made under the International Copyright Acts with respect to any foreign country, the author and publisher of any literary or artistic work first produced before the date at which such order comes into operation shall be entitled to the same rights and remedies as if the said Acts and this Act and the said order had applied to the said foreign country at the date of the said production: Provided that where any person has before the date of the publication of an Order in Council lawfully produced any work in the United Kingdom, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such production which are subsisting and valuable at the said date.

Evidence of foreign copyright.

7. Where it is necessary to prove the existence or proprietorship of the copyright of any work first produced in a foreign country to which an Order in Council under the International Copyright Acts applies, an extract from a register, or a certificate, or other document stating the existence of the copyright, or the person who is the proprietor of such copyright, or is for the purpose of any legal proceedings in the United Kingdom deemed to be entitled to such copyright, if authenticated by the official seal of a Minister of State of the said foreign country, or by the official seal or the signature of a British diplomatic or consular officer acting in such country, shall be admissible as evidence of the facts named therein, and all courts shall take judicial notice of every such official seal and signature as is in this section mentioned, and shall admit in evidence, without proof, the documents authenticated by it.

Application of Copyright Acts to colonies.

8.—(1.) The Copyright Acts shall, subject to the provisions of this Act, apply to a literary or artistic work first produced in a British possession in like manner as they apply to a work first produced in the United Kingdom:

Provided that—

(*a*) the enactments respecting the registry of the copyright in such work shall not apply if the law of such possession provides for the registration of such copyright; and

(*b*) where such work is a book the delivery to any persons or body of persons of a copy of any such work shall not be required.

(2) Where a register of copyright in books is kept under the authority of the government of a British possession, an extract from that register purporting to be certified as a true copy by the officer keeping it, and authenticated by the public seal of the British possession, or by the official seal or the signature of the governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession, shall be admissible in evidence of the contents of that register, and all courts shall take judicial notice of every such seal and signature, and shall admit in evidence, without further proof, all documents authenticated by it.

(3.) Where before the passing of this Act an Act or ordinance has been passed in any British possession respecting copyright in any literary or artistic works, Her Majesty in Council may make an Order modifying the Copyright Acts and this Act, so far as they apply to such British possession, and to literary and artistic works first produced therein, in such manner as to Her Majesty in Council seems expedient.

(4.) Nothing in the Copyright Acts or this Act shall prevent the passing in a British possession of any Act or ordinance respecting the copyright within the limits of such possession of works first produced in that possession.

9. Where it appears to Her Majesty expedient that an Order in Council under the International Copyright Acts made after the passing of this Act as

respects any foreign country, should not apply to any British possession, it shall be lawful for Her Majesty by the same or any other Order in Council to declare that such Order and the International Copyright Acts and this Act shall not, and the same shall not, apply to such British possession, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order; and the expressions in the said Acts relating to Her Majesty's dominions shall be construed accordingly; but save as provided by such declaration the said Acts and this Act shall apply to every British possession as if it were part of the United Kingdom.

10.—(1.) It shall be lawful for Her Majesty from time to time to make Orders in Council for the purposes of the International Copyright Acts and this Act, for revoking or altering any Order in Council previously made in pursuance of the said Acts, or any of them.

(2.) Any such Order in Council shall not affect prejudicially any rights acquired or accrued at the date of such Order coming into operation, and shall provide for the protection of such rights.

11. In this Act, unless the context otherwise requires—

The expression "literary and artistic work" means every book, print, lithograph, article of sculpture, dramatic piece, musical composition, painting, drawing, photograph, and other work of literature and art to which the Copyright Acts or the International Copyright Acts, as the case requires, extend.

The expression "author" means the author, inventor, designer, engraver, or maker of any literary or artistic work, and includes any person claiming through the author; and in the case of a posthumous work means the proprietor of the manuscript of such work and any person claiming through him; and in the case of an encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, includes the proprietor, projector, publisher, or conductor.

The expressions "performed" and "performance" and similar words include representation and similar words.

The expression "produced" means, as the case requires, published or made, or, performed or represented, and the expression "production" is to be construed accordingly.

The expression "book published in numbers" includes any review, magazine, periodical work, work published in a series of books or parts, transactions of a society or body, and other books of which different volumes or parts are published at different times.

The expression "treaty" includes any convention or arrangement.

The expression "British possession" includes any part of Her Majesty's dominions exclusive of the United Kingdom; and where parts of such dominions are under both a central and a local legislature, all parts under one central legislature are for the purposes of this definition deemed to be one British possession.

12. The Acts specified in the Third Schedule to this Act are hereby repealed as from the passing of this Act to the extent in the third column of that schedule mentioned:

Provided as follows:

(*a.*) Where an Order in Council has been made before the passing of this Act under the said Acts as respects any foreign country the enactments hereby repealed shall continue in full force as respects that country until the said Order is revoked.

(*b.*) The said repeal and revocation shall not prejudice any rights acquired previously to such repeal or revocation, and such rights shall continue and may be enforced in like manner as if the said repeal or revocation had not been enacted or made.

SCHEDULES.

FIRST SCHEDULE.

International Copyright Acts.

Part I.

Session and Chapter.	Title.	Short Title.
7 & 8 Vict. c. 12.	An Act to amend the law relating to International Copyright.	The International Copyright Act, 1844.
15 & 16 Vict. c. 12.	An Act to enable Her Majesty to carry into effect a convention with France on the subject of copyright, to extend and explain the International Copyright Acts, and to explain the Acts relating to copyright in engravings.	The International Copyright Act, 1852.
38 & 39 Vict. c. 12.	An Act to amend the law relating to International Copyright.	The International Copyright Act, 1875.

Part II.

Session and Chapter.	Title.	Enactment referred to.
25 & 26 Vict. c. 68.	An Act for amending the law relating to copyright in works of the fine arts, and for repressing the commission of fraud in the production and sale of such works.	Section twelve.

SECOND SCHEDULE.

COPYRIGHT ACTS.

Session and Chapter.	Title.	Short Title.
8 Geo. 2. c. 13.	An Act for the encouragement of the arts of designing, engraving, and etching historical and other prints, by vesting the properties thereof in the inventors and engravers during the time therein mentioned.	The Engraving Copyright Act, 1734.
7 Geo. 3. c. 38.	An Act to amend and render more effectual an Act made in the eighth year of the reign of King George the Second, for encouragement of the arts of designing, engraving, and etching, historical and other prints, and for vesting in and securing to Jane Hogarth, widow, the property in certain prints.	The Engraving Copyright Act, 1766.
15 Geo. 3. c. 53.	An Act for enabling the two Universities in England, the four Universities in Scotland, and the several Colleges of Eton, Westminster, and Winchester, to hold in perpetuity their copyright in books given or bequeathed to the	The Copyright Act, 1775.

Session and Chapter.	Title.	Short Title.
	said universities and colleges for the advancement of useful learning and other purposes of education; and for amending so much of an Act of the eighth year of the reign of Queen Anne, as relates to the delivery of books to the warehouse keeper of the Stationers' Company for the use of the several libraries thereinmentioned.	
17 Geo. 3. c. 57.	An Act for more effectually securing the property of prints to inventors and engravers, by enabling them to sue for and recover penalties in certain cases.	The Prints Copyright Act, 1777.
54 Geo. 3. c. 56.	An Act to amend and render more effectual an Act of His present Majesty 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.	The Sculpture Copyright Act, 1814.
3 Will. 4. c. 15.	An Act to amend the laws relating to Dramatic Literary Property.	The Dramatic Copyright Act, 1833.

Session and Chapter.	Title.	Short Title.
5 & 6 Will. 4. c. 65.	An Act for preventing the publication of Lectures without consent.	The Lectures Copyright Act, 1835.
6 & 7 Will. 4. c. 69.	An Act to extend the protection of copyright in prints and engravings to Ireland.	The Prints and Engravings Copyright Act, 1836.
6 & 7 Will. 4. c. 110.	An Act to repeal so much of an Act of the fifty-fourth year of King George the Third, respecting copyrights, as requires the delivery of a copy of every published book to the libraries of Sion College, the four Universities of Scotland, and of the King's Inns in Dublin.	The Copyright Act, 1836.
5 & 6 Vict. c. 45.	An Act to amend the law of copyright.	The Copyright Act, 1842.
10 & 11 Vict. c. 95.	An Act to amend the law relating to the protection in the Colonies of works entitled to copyright in the United Kingdom.	The Colonial Copyright Act, 1847.
25 & 26 Vict. c. 68.	An Act for amending the law relating to copyright in works of the fine arts, and for repressing the commission of fraud in the production and sale of such works.	The Fine Arts Copyright Act, 1862.

THIRD SCHEDULE.

ACTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
7 & 8 Vict. c. 12.	An Act to amend the law relating to international copyright.	Sections fourteen, seventeen, and eighteen.
15 & 16 Vict. c. 12.	An Act to enable Her Majesty to carry into effect a convention with France on the subject of copyright, to extend and explain the International Copyright Acts, and to explain the Acts relating to copyright engravings.	Sections one to five both inclusive, and sections eight and eleven.
25 & 26 Vict. c. 68.	An Act for amending the law relating to copyright in works of the fine arts, and for repressing the commission of fraud in the production and sale of such works.	So much of section twelve as incorporates any enactment repealed by this Act.

MUSICAL COPYRIGHT.

51 & 52 VICT. C. 17.

An Act to amend the Law relating to the Recovery of Penalties for the unauthorised Performance of Copyright Musical Compositions.

[5*th July*, 1888.]

BE it enacted as follows:

1. Notwithstanding the provisions of the Act (3 & 4 Will. IV. c. 15, s. 2) to amend the laws relating to dramatic literary property, or any other Act in which those provisions are incorporated, the penalty or damages to be awarded upon any action or proceedings in respect of each and every unauthorised representation or performance of any musical composition, whether published before or after the passing of this Act, shall be such a sum or sums as shall, in the discretion of the court or judge before whom such action or proceedings shall be tried, be reasonable, and the court or judge before whom such action or proceedings shall be tried may award a less sum than forty shillings in respect of each and every such unauthorised representation or performance as aforesaid, or a nominal penalty or nominal damages as the justice of the case may require.

2. The costs of all such actions or proceedings as aforesaid shall be in the absolute discretion of the judge before whom such actions and proceedings shall be tried, and section four of the Copyright (Musical Compositions) Act, 1882, is hereby repealed.

3. The proprietor, tenant, or occupier of any place of dramatic entertainment, or other place at which any unauthorised representation or performance of any musical composition, whether published before or after the passing of this Act, shall take place, shall not by reason of such representation or performance be liable to any penalty or damages in respect thereof, unless he shall wilfully cause or permit such unauthorised representation or performance, knowing it to be unauthorised.

4. The provisions of this Act shall not apply to any action or proceedings in respect of a representation or performance of any opera or stage play in any theatre or other place of public entertainment duly licensed in that respect.

5. This Act may be cited as the Copyright (Musical Compositions) Act, 1888.

MUSICAL COPYRIGHT.

SUMMARY PROCEEDINGS, 1902. 2 EDW. VII. c. 15.

An Act to amend the Law relating to Musical Copyright. [*22nd July*, 1902.]

BE it 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 of the same, as follows:

Seizure, &c. of pirated copies.

1. A court of summary jurisdiction, upon the application of the owner of the copyright in any musical work, may act as follows: If satisfied by evidence that there is reasonable ground for believing that pirated copies of such musical work are being hawked, carried about, sold, or offered for sale, may, by order, authorise a constable to seize such copies without warrant and to bring them before the court, and the court, on proof that the copies are pirated, may order them to be destroyed or to be delivered up to the owner of the copyright if he makes application for that delivery.

Power to seize copies on hawkers.

2. If any person shall hawk, carry about, sell, or offer for sale any pirated copy of any musical work, every such pirated copy may be seized by any constable without warrant, on the request in writing of the apparent owner of the copyright in such work,

or of his agent thereto authorised in writing, and at the risk of such owner.

On seizure of any such copies, they shall be conveyed by such constable before a court of summary jurisdiction, and, on proof that they are infringements of copyright, shall be forfeited or destroyed, or otherwise dealt with as the court may think fit.

3. "Musical copyright" means the exclusive right of the owner of such copyright under the Copyright Acts in force for the time being to do or to authorise another person to do all or any of the following things in respect of a musical work :—

(1) To make copies by writing or otherwise of such musical work.

(2) To abridge such musical work.

(3) To make any new adaptation, arrangement, or setting of such musical work, or of the melody thereof, in any notation or system.

"Musical work" means any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced.

"Pirated musical work" means any musical work written, printed, or otherwise reproduced, without the consent lawfully given by the owner of the copyright in such musical work.

4. This Act may be cited as the Musical (Summary Proceedings) Copyright Act, 1902, and shall come into operation on the first day of October one thousand nine hundred and two, and shall apply only to the United Kingdom.

THE BERNE CONVENTION, 1886.

AS AMENDED BY THE PARIS CONVENTION, 1896.

ARTICLE I.

The Contracting States [*which are Great Britain, Germany, Belgium, Spain, France, Italy, Luxemburg, Monaco, Montenegro, Norway, Japan, Denmark, Haiti, Switzerland, and Tunis*] are constituted into an Union for the protection of the rights of authors over their literary and artistic works.

ARTICLE II.

Authors of any countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works either not published or published for the first time in one of those countries the rights which the respective laws do now or shall hereafter grant to natives.

The enjoyment of these rights is subject to the accomplishment of the conditions and formalities prescribed by law in the country of origin of the work, and cannot exceed in the other countries the term of protection granted in the said country of origin.

The country of origin of the work is that in which the work is first published, or if such publication

takes place simultaneously in several countries of the Union, that one of them in which the shortest term of protection is granted by law.

For unpublished works the country to which the author belongs is considered the country of origin of the work.

Posthumous works are included amongst protected works.

ARTICLE III.

Authors, not subjects of one of the countries of the Union, but who shall have published or caused to be published for the first time their literary or artistic works in one of those countries, shall enjoy for those works the protection accorded by the Berne Convention and by the present additional Act.

ARTICLE IV.

The expression "literary and artistic works" comprehends books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions with or without words; works of design, painting, sculpture, and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

ARTICLE V.

Authors of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorizing the translation of their works during the whole duration of the right in the original work. But the exclusive right of translation shall cease to exist where the author shall not have made use of it within ten years from the first publication of the original work, by publishing or causing to be published in one of the countries of the Union a translation in the language for which protection shall be claimed.

For works published in incomplete parts ("livraisons") the period of ten years commences from the date of publication of the last part of the original work.

For works composed of several volumes published at intervals, as well as for bulletins or collections ("cahiers") published by literary or scientific Societies, or by private persons, each volume, bulletin, or collection is, with regard to the period of ten years, considered as a separate work.

In the cases provided for by the present Article, and for the calculation of the period of protection, the 31st December of the year in which the work was published is admitted as the date of publication.

ARTICLE VI.

Authorized translations are protected as original works. They consequently enjoy the protection

stipulated in Articles II. and III. as regards their unauthorized reproduction in the countries of the Union.

It is understood that, in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

ARTICLE VII.

Serial novels ("Romans-feuilletons"), including novels published in newspapers or periodicals of one of the countries of the Union, cannot be reproduced, in original or in translation, in the other countries without the authorization of their authors or of their lawful representatives.

This applies equally to other articles in newspapers or periodicals, whenever the authors or publishers shall have expressly declared in the paper or periodical in which they may have published them, that they forbid their reproduction.

For periodicals it is sufficient if the prohibition is made in a general way at the beginning of each number.

In the absence of prohibition, reproduction will be permitted on condition of indicating the source.

This prohibition cannot in any case apply to articles of political discussion, to the news of the day, or to current topics.

ARTICLE VIII.

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies, the matter is to be decided by the legislation of the different countries of the Union, or by special arrangements existing or to be concluded between them.

ARTICLE IX.

The stipulations of Article II. apply to the public representation of dramatic or dramatico-musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works, or their lawful representatives, are, during the existence of their exclusive right of translation, equally protected against the unauthorized public representation of translations of their works.

The stipulations of Article II. apply equally to the public *performance of unpublished* musical works, or of published works in which the author has expressly declared on the title-page or commencement of the work that he forbids the public performance.

ARTICLE X.

Unauthorized indirect appropriations of a literary or artistic work, of various kinds, such as *adaptations, arrangements of music*, &c., are specially included amongst the illicit reproductions to which the present Convention applies, when they are only the reproduc-

tion of a particular work, in the same form, or in another form, with non-essential alterations, additions, or abridgments, so made as not to confer the character of a new original work.

It is agreed that, in the application of the present Article, the Tribunals of the various countries of the Union will, if there is occasion, conform themselves to the provisions of their respective laws.

ARTICLE XI.

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the Courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work is entitled to protect the rights belonging to the author. He is, without other proof, reputed the lawful representative of the anonymous or pseudonymous author.

It is, nevertheless, agreed that the Tribunals may, if necessary, require the production of a certificate from the competent authority to the effect that the formalities prescribed by law in the country of origin have been accomplished, as contemplated in Article II.

ARTICLE XII.

Pirated works may be seized by the competent authorities of the countries of the Union where the original work has a right to legal protection.

The seizure will take place conformably to the domestic legislation of each country.

ARTICLE XIII.

It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

ARTICLE XIV.

Under the reserves and conditions to be determined by common agreement,* the present Convention applies to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin.

ARTICLE XV.

It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into separate and particular arrangements between each other, provided

* See paragraph 4 of Final Protocol, p. 233.

always that such arrangements confer upon authors or their lawful representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

ARTICLE XVI.

An international office is established, under the name of "Office of the International Union for the Protection of Literary and Artistic Works."

This Office, of which the expenses will be borne by the Administrations of all the countries of the Union, is placed under the high authority of the Superior Administration of the Swiss Confederation, and works under its direction. The functions of this Office are determined by common accord between the countries of the Union.

ARTICLE XVII.

The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, will be considered in Conferences to be held successively in the countries of the Union by Delegates of the said countries.

It is understood that no alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

ARTICLE XVIII.

Countries which have not become parties to the present Convention, and which grant by their domestic law the protection of rights secured by this Convention, shall be admitted to accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention.

ARTICLE XIX.

Countries acceding to the present Convention shall also have the right to accede thereto at any time for their Colonies or foreign possessions.

They may do this either by a general declaration comprehending all their Colonies or possessions within the accession, or by specially naming those comprised therein, or by simply indicating those which are excluded.

ARTICLE XX.

The present Convention shall be put in force three months after the exchange of the ratifications, and shall remain in effect for an indefinite period until the termination of a year from the day on which it may have been denounced.

This denunciation shall be addressed to the Government of the Swiss Confederation. It shall only take effect in respect of the country which shall have made it, the Convention remaining operative for the other countries of the Union.

ARTICLE XXI.

The present Convention shall be ratified, and the ratifications exchanged at Berne, within the space of one year at the latest.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Berne, the 9th day of September, 1886.

Additional Article.

The Plenipotentiaries assembled to sign the Convention concerning the creation of an International Union for the protection of literary and artistic works have agreed upon the following Additional Article, which shall be ratified together with the Convention to which it relates :—

The Convention concluded this day in no wise affects the maintenance of existing Conventions between the Contracting States, provided always that such Conventions confer on authors, or their lawful representatives, rights more extended than those secured by the Union, or contain other stipulations which are not contrary to the said Convention.

In witness whereof, the respective Plenipotentiaries have signed the present Additional Article.

Done at Berne, the 9th day of September, 1886.

Final Protocol.

1. As regards Article IV. it is agreed as follows: In the countries of the Union in which protection is accorded not only to architectural designs but to the actual works of architecture, those works are admitted to the benefit of the provisions of the Convention of Berne and of the present additional Act.

Photographic works, and those obtained by similar processes, are admitted to the benefit of the provisions of those Acts, in so far as the domestic legislation allows this to be done and according to the measure of protection which it gives to similar national works.

It is understood that the authorized photograph of a protected work of art enjoys legal protection in all the countries of the Union within the meaning of the Convention of Berne and the present Additional Act, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private Conventions between those who have legal rights.

2. As regards Article IX. it is agreed that those countries of the Union whose legislation implicitly includes choregraphic works amongst dramatico-musical works, expressly admit the former works to the benefits of the Convention concluded this day.

It is, however, understood that questions which may arise on the application of this clause shall rest within the competence of the respective Tribunals to decide.

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright, shall not be considered as constituting an infringement of musical copyright.

4. The common agreement provided for in Article XIV. of the Convention is determined as follows:—

The application of the Convention of Berne and of the additional Act to works which had not fallen into the public domain in the country of origin when these Acts came into force, shall take effect according to the stipulations relative to this point which are contained in special Conventions either existing or to be concluded to this effect.

In the absence of such stipulations between countries of the Union, the respective countries shall regulate, each for itself, by its domestic legislation, the manner in which the principle contained in Article XIV. is to be applied.

The stipulations of Article XIV. of the Convention of Berne and of the present number of the "Protocol de Clôture" apply equally to the exclusive right of translation, as granted by the present additional Act.

The above-mentioned temporary provisions are applicable in case of new accessions to the Union.

5. The organization of the International Office established in virtue of Article XVI. of the Convention shall be fixed by a Regulation which shall be drawn up by the Government of the Swiss Confederation.

The official language of the International Office will be French.

The International Office will collect all kinds of information relative to the protection of the rights of authors over their literary and artistic works. It will arrange and publish such information. It will study questions of general utility likely to be of interest to the Union, and, by the aid of documents placed at its disposal by the different Administrations, will edit a periodical publication in the French language treating questions which concern the Union. The Governments of the countries of the Union reserve to themselves the faculty of authorizing, by common accord, the publication by the Office of an edition in one or more other languages if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union, with the view to furnish them with any special information they may require relative to the protection of literary and artistic works.

The Administration of the country where a Conference is about to be held will prepare the programme of the Conference, with the assistance of the International Office.

THE AMERICAN COPYRIGHT ACT, 1891.

An Act to amend title sixty, chapter three, of the Revised Statutes of the United States, relating to Copyrights.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4952 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4952. The author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and, in the case of dramatic composition, of publicly performing or representing it or causing it to be performed or represented by others; and authors or their assigns shall have exclusive right to dramatise and translate any of their works for which copyright shall have been obtained under the laws of the United States."

SEC. 2. That section 4954 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4954. The author, inventor, or designer, if he be still living, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term; and such persons shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers printed in the United States for the space of four weeks."

SEC. 3. That section 4956 of the Revised Statutes of the United States be, and the same is hereby, amended so that it shall read as follows:

"SEC. 4956. No person shall be entitled to a copyright unless he shall, on or before the day of publication in this or any foreign country, deliver at the office of the Librarian of Congress, or deposit in the mail within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, a printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, photograph, or chromo, or a description of the painting, drawing, statue, statuary, or a model or design for a work of the fine arts for which he desires a copyright, nor unless he shall also, not later than the day of the publication thereof

in this or any foreign country, deliver at the office of the Librarian of Congress, at Washington, District of Columbia, or deposit in the mail within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, two copies of such copyright book, map, chart, dramatic or musical composition, engraving, chromo, cut, print, or photograph, or in case of a painting, drawing, statue, statuary, model, or design for a work of the fine arts, a photograph of same: *Provided*, That in the case of a book the two copies of the same required to be delivered or deposited as above shall be printed from type set within the limits of the United States, or from plates made therefrom. During the existence of such copyright the importation into the United States of any book so copyrighted, or any edition or editions thereof, or any plates of the same not made from type set within the limits of the United States, shall be, and it is hereby, prohibited, except in the cases specified in section twenty-five hundred and five of the Revised Statutes of the United States,* and except in the case of persons purchasing for use and not for sale, who import not more than two copies of such book at any one time, in each of which cases the written consent of the proprietor of the copyright, signed in the presence of two witnesses, shall be furnished with each importation: *And provided*, That any publisher of a newspaper or magazine may, without such consent, import for his own use but not for sale not

* By sec. 2505 the importation of (amongst others) books "which shall have been printed and manufactured more than 20 years from [*i.e.* prior to] the date of importation" is exempt from duty.

more than two copies of any newspaper or magazine published in a foreign country: *Provided, nevertheless,* That in the case of books in foreign languages, of which only translations in English are copyrighted, the prohibition of importation shall apply only to the translations of the same, and the importation of the books in the original language shall be permitted."

SEC. 4. [*Refers to the Fees payable to the Librarian of Congress.*]

SEC. 5. That section 4959 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4959. The proprietor of every copyright book or other article shall deliver at the office of the Librarian of Congress, or deposit in the mail, addressed to the Librarian of Congress, at Washington, District of Columbia, a copy of every subsequent edition wherein any substantial changes shall be made: *Provided, however,* That the alterations, revisions, and additions made to books by foreign authors, heretofore published, of which new editions shall appear subsequently to the taking effect of this Act, shall be held and deemed capable of being copyrighted as above provided for in this Act, unless they form a part of the series in course of publication at the time this Act shall take effect."

"SEC. 4962. No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, in the title-page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving,

photograph, painting, drawing, chromo, statue, statuary or model, or design intended to be perfected or completed as a work of the fine arts, by inscribing upon some portion of the face or front thereof, or on the face of the substance on which the same shall be mounted, the following words: 'Entered according to Act of Congress, in the year —— by A. B. in the office of the Librarian of Congress at Washington.'"

SEC. 6. That section 4963 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4963. Every person who shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, or other article, for which he has not obtained a copyright, shall be liable to a penalty of one hundred dollars, recoverable one-half for the person who shall sue for such penalty and one-half to the use of the United States."

SEC. 7. That section 4964 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4964. Every person who, after the recording of the title of any book and the depositing of two copies of such book, as provided by this Act, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, dramatise, translate, or import, or knowing the same to be so printed,

published, dramatised translated, or imported, shall sell or expose to sale any copy of such book, shall forfeit every copy thereof to such proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction."

SEC. 8. That section 4965 of the Revised Statutes be, and the same is hereby, so amended as to read as follows:

"SEC. 4965. If any person, after the recording of the title of any map, chart, dramatic or musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as provided by this Act, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, dramatise, translate, or import, either in whole or in part, or by varying the main design with intent to evade the law, or, knowing the same to be so printed, published, dramatised, translated, or imported, shall sell or expose to sale any copy of such map or other article as aforesaid, he shall forfeit to the proprietor all the plates on which the same shall be copied and every sheet thereof, either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale, and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy

of the same in his possession, or by him sold or exposed for sale; one-half thereof to the proprietor and the other half to the use of the United States."

SEC. 9. That section 4967 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4967. Every person who shall print or publish any manuscript whatever without the consent of the author or proprietor first obtained, shall be liable to the author or proprietor for all damages occasioned by such injury."

SEC. 10. That section 4971 of the Revised Statutes be, and the same is hereby, repealed.

SEC. 11. That for the purpose of this Act each volume of a book in two or more volumes, when such volumes are published separately and the first one shall not have been issued before this Act shall take effect, and each number of a periodical shall be considered an independent publication, subject to the form of copyrighting as above.

SEC. 12. That this Act shall go into effect July 1st, 1891.

SEC. 13. That this Act shall only apply to a citizen of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens; or when such foreign state or nation permits to citizens of the United States of America copyright privileges substantially similar to those provided for in this Act; or when

such foreign state or nation is a party to an international agreement which provides for reciprocity in the grant of copyright, by the terms of which agreement the United States of America may at its pleasure become a party to such agreement. The existence of either of these conditions shall be determined by the opinion of the Attorney-General of the United States, whenever an occasion for such a determination arises.

(On July 1st, 1891, the President issued a proclamation, reciting section 3 above and declaring that satisfactory official assurances had been given in Belgium, France, Great Britain, the British possessions, and Switzerland that the law of those countries allowed citizens of the United States the same benefit of copyright as to their own citizens, and proclaimed that the first condition specified in section 3 was fulfilled in regard to the citizens and subjects of Belgium, France, Great Britain, and Switzerland.) Like proclamations have been issued as follows:

German Empire . .	April 15, 1892.
Italy . . .	Oct. 31, 1892.
Denmark . . .	May 8, 1893.
Portugal . . .	July 20, 1893.
Spain . . .	July 10, 1895.
Mexico . . .	Feb. 27, 1896.
Chili . . .	May 25, 1896.
Costa Rica . . .	Oct. 21, 1899.
Netherlands . .	Nov. 20, 1899.

Act of Congress, March 2, 1895.

Be it enacted that section 4965 of the Revised Statutes be amended so as to read as follows:

"Sec. 4965. If any person after the recording of the title of any map, chart, dramatic or musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as provided by this Act, shall, within the term limited, contrary to the provisions of this Act, and without the consent of the proprietor first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, dramatize, translate, or import, either in whole or in part, or by varying the main design, with intent to evade the law, or knowing the same to be so printed, published, dramatized, translated, or imported, shall sell or expose to sale any copy of such map or other article as aforesaid, he shall forfeit to the proprietor all the plates on which the same shall be copied, and every sheet thereof either copied or printed, and shall forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or by him sold or exposed for sale: *Provided, however*, That in case of any such infringement of the copyright of a photograph made from any object not a work of fine arts, the sum to be recovered in any action brought under the provisions of this section shall be not less

than 100 dollars, nor more than 5,000 dollars: *and Provided further*, That in case of any such infringement of the copyright of the painting, drawing, statue, engraving, etching, print, or model or design for a work of the fine arts, or of a photograph of a work of the fine arts, the sum to be recovered in any action brought through the provisions of this section shall not be less than 250 dollars, and not more than 10,000 dollars. One half of all the foregoing penalties shall go to the proprietors of the copyright and the other half to the use of the United States."

Act of Congress, January 6, 1897.

Be it enacted that section 4966 of the Revised Statutes be amended so as to read as follows:

"Sec. 4966. Any person publicly performing or representing any dramatic or musical composition for which a copyright has been obtained without the consent of the proprietor of the said dramatic or musical composition, or his heirs or assigns, shall be liable for damages therefor, such damages in all cases to be assessed at such sum, not less than 100 dollars for the first and 50 dollars for every subsequent performance, as to the Court shall appear to be just. If the unlawful representation be wilful and for profit, such person or persons shall be guilty of a misdemeanour, and upon conviction be imprisoned for a period not exceeding one year. Any injunction that may be granted upon hearing after notice to the defendant by any Circuit Court of the United States, or by a Judge thereof, restraining and enjoining the performance or representation of any such dramatic

or musical composition may be served on the parties against whom such injunction may be granted anywhere in the United States, and shall be operative and may be enforced by proceedings to punish for contempt or otherwise by any other Circuit Court or Judge in the United States: but the defendants in said Action, or any or either of them, may make a motion in any other circuit in which he or they may be engaged in performing or representing said dramatic or musical composition to dissolve or set aside the said injunction upon such reasonable notice to the plaintiff as the Circuit Court or the Judge before whom said motion shall be made shall deem proper; service of said motion to be made on the plaintiff in person or on his attorneys in the Action. The Circuit Courts or Judges thereof shall have jurisdiction to enforce said injunction and to hear and determine a motion to dissolve the same, as herein provided, as fully as if the Action were pending or brought in the circuit in which said motion is made.

"The Clerk of the Court, or Judge granting the injunction, shall, when required so to do by the Court hearing the application to dissolve or enforce said injunction, transmit without delay to said Court a certified copy of all the papers on which the said injunction was granted that are on file in his office."

ACT OF CONGRESS, MARCH 3, 1897.

Be it enacted that section 4963 be amended so as to read as follows:

"SEC. 4963. Every person who shall insert or impress such notice or words of the same purport,

in or upon any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, or other article, whether such article be subject to copyright or otherwise, for which he has not obtained a copyright, or shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country: or shall import any book, photograph, chromo, or lithograph, or other article bearing such notice of copyright or words of the same purport, which is not copyrighted in this country, shall be liable to a penalty of 100 dollars, recoverable one half for the person who shall sue for such penalty and one half to the use of the United States; and the importation into the United States of any book, chromo, lithograph, or photograph, or any article bearing such notice of copyright, when there is no existing copyright thereon in the United States, is prohibited, and the Circuit Courts of the United States sitting in equity are hereby authorized to enjoin the issuing, publishing, or selling of any article marked or imported in violation of the United States copyright laws, at the suit of any person complaining of such violation: *Provided*, That this Act shall not apply to any importation of or sale of such goods or articles brought into the United States prior to the passage hereof."

SEC. 2. That all laws and parts of laws inconsistent with the foregoing provision be repealed.

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