

CAP. XIV. the Copyright (Works of Art) Act, 1862, were in the nature of a punishment, and consequently were not released by the composition deed which had been executed between Prince and his creditors. On the contrary, it was argued for the respondent that, inasmuch as under the Copyright (Works of Art) Act the penalties were payable to Mr. Graves, they amounted in the aggregate to nothing more than a debt, which would have been provable under bankruptcy, and was therefore released by the deed. But Lord Justice Page Wood, held that what Prince had done in selling the photographic copies was throughout the Copyright (Works of Art) Act treated as an offence, as a *fraudulent* act, for which a punishment was to be inflicted. The penalty provided by the Act was not meant to be the measure of damage sustained by the proprietor of the copyright work which had been pirated, because he was expressly permitted to recover damages by action (in addition to the penalties) under the 11th section of the Act (a). The object of the Small Penalties Act was merely to provide a simple method of enforcing the payment of penalties not exceeding 5*l.* The penalty given by the Copyright (Works of Art) Act was, in His Lordship's opinion, a punishment for what was in the nature of a criminal offence, and the debtor was therefore not entitled to his discharge from custody unless the penalties were paid. The Lord Justice Selwyn was also of opinion that whether the words or the spirit of the Copyright (Works of Art) Act, under which the penalties had been incurred, were looked at, the order in bankruptcy was wrong, and must therefore be dismissed with costs.

(a) App. xciii.

## CHAPTER XV.

## COPYRIGHT IN DESIGNS.

CALICO-PRINTING, the art of dyeing woven fabrics of cotton with variegated figures and colours more or less permanent, has been practised from time immemorial in India. The art was known to the ancient Hindus and Egyptians. Pliny describes it with sufficient precision. "Robes and white veils are painted in Egypt," says he, "in a wonderful way; being first imbued, not with dyes, but with dye-absorbing drugs, by which they appear to be unaltered, but when plunged for a little in a cauldron of the boiling dye-stuff they are found to be painted. Since there is only one colour in the cauldron, it is marvellous to see many colours imparted to the robe in consequence of the modifying agency of the excipient drug. Nor can the dye be washed out. Thus the cauldron, which would of itself undoubtedly confuse the colours of cloths previously dyed, is made to impart several dyes from a single one, painting while it boils" (a). Copyright in designs.

Anderson, in his 'History of Commerce,' places the origin of English calico-printing as far back as the year 1676; but Mr. Thomson, a better authority, assigns the year 1696 as the date of the commencement of the practice of this art in England, when a small print-ground was established on the banks of the Thames, at Richmond, by a Frenchman.

Linen was long ago, and silks and woollen fabrics also have recently been, made the subject of topical dyeing, upon principles analogous to those of calico-printing, but

(a) Pliny, 'Natural History,' lib. xxxv. c. 2.

CAP. XV.

with certain peculiarities arising from the nature of their textile materials.

The first Act granting protection to the inventor of designs was passed in 1787 (the 27 Geo. 3, c. 38). This Act was followed by the 29 Geo. 3, c. 19, and the 34 Geo. 3, c. 23. But these Acts did not extend to Ireland, nor to fabrics other than linen and cotton, and did not afford any protection to designs on fabrics composed of animal products, as wool, silk, or hair, or mixtures of those materials with flax and cotton. The printing on fabrics of animal and vegetable substances, and on mixed fabrics, having subsequently grown up into an important branch of manufacture, an Act of Parliament was introduced in 1839 (2 Vict. c. 13), by which the same protection was given to designs printed on fabrics of animal substances, or a mixture of animal and vegetable substances, as was afforded to designs printed on fabrics of vegetable substances; and the provisions of the existing Acts were extended to Ireland.

We followed the French in establishing any design rights at all; and it would be well if we adopted their simple, sensible arrangement for securing them.

In the early part of the last century the French entertained more correct notions of the rights of property in design than the British, and so convinced were they that great benefits would flow from rejecting the claim of the copyist to reap the original designer's profits, that, in 1737 and 1744, laws established a property in designs for the manufacturers of Lyons, and in 1787 the benefits of legal protection were fully established. The basis of the pre-eminence of the French, and the means by which they have attained their unrivalled position in *taste*, is *efficient protection*, and it is certainly singular that this fundamental element and primary cause of superiority should have been so long overlooked in this country.

Division of the right.

We have in England two distinct rights, founded upon different Acts of Parliament, in the application of designs—copyright in the application of designs for ornamental

purposes, and copyright in the application of designs for CAP. XV.  
the shape and configuration of articles of utility.

The former, of which we shall first treat, is regulated by the 5 & 6 Vict. c. 100, amended by 6 & 7 Vict. c. 65, 13 & 14 Vict. c. 104, 21 & 22 Vict. c. 70, and 24 & 25 Vict. c. 73.

The 5 & 6 Vict. c. 100 repeals all the previous Designs Acts, and enacts that the proprietor of every new and original design not previously published (a), whether such design be applicable to the ornamenting of any article of manufacture, or of any substance, artificial or natural, or partly artificial and partly natural, and whether such design be so applicable for the pattern or for the shape or configuration, or for the ornament, or for any two or more of such purposes, or by whatever means such design may be so applicable, whether by printing, or by painting, or by embroidery, or by weaving, or by sewing, or by modelling, or by casting, or by embossing, or by engraving, or by staining, or by any other means whatsoever, natural, mechanical, or chemical, separate or combined, shall have the sole right of applying the same to any article of manufacture or to any such substance as aforesaid during the respective terms thereafter mentioned (b).

The terms are to be computed from the time of the design being registered.

Copyright in designs for ornamental purposes.

Duration of the right.

Class

- |  |   |   |
|--|---|---|
| <p>I. Articles of manufacture composed wholly or chiefly of any metal or mixed metals.</p> <p>II. Articles of manufacture composed wholly or chiefly of wood.</p> <p>III. Articles of manufacture composed wholly or chiefly of glass.</p> <p>IV. Articles of manufacture composed wholly or chiefly of earthenware, bone, papier-mache, and other solid substances.</p> | } | <p>Five years.</p><br><br><br><br><p>The period of three years.</p> |
|--|---|---|

(a) As to what amounts to publication, see *Cornish v. Keene*, Webst. Pat. Ca. 501, 508. See *Anon.* 1 Chitt. 24; *Carpenter v. Smith*, 9 M. & W. 300; *S.C. Webst. Pat. Ca.* 530, 536; *Jones v. Berger*, *ibid.* 550; *The Househill Company v. Neilson*, *ibid.* 718, n.; *Stead v. Williams*, 7 Man. & Gran. 818. See *Prince Albert v. Strange*, 1 H. & Tw. 1; *Dalglish v. Jurvie*, 14 Jur. 945; *S.C. 2 Mac. & G.* 231.

(b) App. xxxvi.

CAP. XV.

Class		
IV.	Articles of ivory not comprised above (a).	
V.	Paper-hangings.	
VI.	Carpets.	
	Oil-cloths (b).	
VIII.	Shawls to which the design is not applied solely by printing, or by any other process by which colours are or may be produced upon tissue or textile fabrics (c).	
XI.	Woven fabrics composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which the colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics being or coming within the description technically called furnitures, and the repeat of the design whereof shall be more than twelve inches by eight inches.	The period of three years.
VII.	Shawls, if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics.	
IX.	Yarn, thread, or warp, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced.	The period of nine months.
X.	Woven fabrics composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, excepting the woven fabrics enumerated above (d).	
XII.	Woven fabrics not comprised above (e).	The period of three years.
XIII.	Lace, and any article of manufacture or substance not comprised above.	
		The period of twelve calendar months.

The Board of Trade empowered to extend time.

By the 13 & 14 Vict. c. 104, s. 9 (f), the Board of Trade is empowered from time to time to order that the copyright of any class of designs or any particular design registered or which may be registered under the Designs Act, 1842, shall be extended for such term, not exceeding the additional term of three years, as the said board may think fit; and the said board has power to revoke or alter any order as may from time to time appear necessary. When-

(a) By the 13 & 14 Vict. c. 104, s. 8. (b) By the 6 & 7 Vict. c. 65, s. 5.

(c) *Norton v. Nicholls*, 5 Jur. (N.S.) 120; 7 W. R. 420.

(d) *Vide Lowndes v. Browne*, 12 Ir. Law Rep. 293; time of protection extended by 7 & 8 Vict. c. 12, s. 3.

(e) *Harrison v. Taylor*, 4 H. & N. 815; 5 Jur. (N.S.) 1219; 29 L. J. (Ex.) 3. Copyright in designs for damasks after the 5th of November, 1850, under the power conferred on the Board of Trade by the 9th section, for the period of two years, in addition to the term of one year given by the Act.

(f) App. lxxi.

ever any order is made by the said board under this provision it must be registered in the office for the registration of designs; and during the extended term the protection and benefits conferred by the said Designs Acts are to continue as fully as if the original term had not expired.

No person is entitled to the benefit of the Act unless the design in respect of which he seeks protection has, previous to publication, been registered in accordance with the Act, and unless at the time of such registration such design has been registered in respect of the application thereof to some or one of the articles of manufacture or substances comprised in the above-mentioned classes, by specifying the number of the class in respect of which such registration is made, and unless the name of such person shall be registered according to this Act as a proprietor of such design (a), and unless after publication of such design every such article or substance to which the design is applied has thereon, at the end or edge thereof (b) or other convenient place, the letters "Rd.," together with such number or letter, and in such form as shall correspond with the date of the registration of such design according to the registry in that behalf; and such marks may be put on any such article or substance, either by making the same in or on the material itself, or by attaching thereto a label containing such marks.

Registration  
of designs for  
ornamental  
purposes.

When a piece of manufacture with a design impressed upon it is registered without any explanation or addition in writing, and that design consists of several parts not

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

(b) *Heywood v. Potter*, 1 E. & B. 439; 22 L. J. (N.S.) Q.B. 133. And see 21 & 22 Vict. c. 70, s. 4.

CAP. XV.

necessarily united in configuration, but capable of being severed into independent integral parts, then the design registered is the entire thing, exactly as it is described in the pattern furnished to the registrar; and such registration is therefore not open to the objection of uncertainty, but is valid according to the 21 & 22 Vict. c. 70, s. 5 (a).

It is not sufficient registration, however, under the 17th section, of an article comprised in class 8 of section 3, to leave with the registrar an article manufactured according to the combinations relied upon, with an intimation that it is to be applied to class 8, though it might be sufficient as regards articles comprised in class 5.

Thus, in a case where the plaintiff had registered a shawl, the component parts of the composition of which were all old, but the combination itself new, by leaving with the registrar one of his shawls, Lord Campbell said, "Take the example of paper hangings, class 5. A section of the paper having the design impressed upon it would clearly disclose the claim of the inventor, and would fully put the registrar in possession of all the information he ought to have to enable him to perform the duties imposed upon him. But the plaintiff, by leaving one of his shawls with the registrar, gives no information of the nature of his claim, and cannot, we think, be said to have registered his 'design'" (b).

Copies of a registered design published in a book for sale need no registration mark, nor is such publication a licence to the purchaser of the book to apply the designs to articles for sale (c).

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

(a) *Holdsworth v. McCrac*, 16 W. R. 225; L. R. 2 H. L. 380; 36 L. J. (Q.B.) 297; App. lxxxv.

(b) *Norton v. Nicholls*, 28 L. J. (Q.B.) 225, 227; 5 Jur. (N.S.) 1203; 7 W. R. 420. But see 21 & 22 Vict. c. 70, s. 5.

(c) *Riego de la Branchardière v. Elvery*, 18 L. J. (Ex.) 381; 4 Ex. 380.

The periods and prices of the classes vary, and it is the ultimate result that is looked to in selecting among them; thus in *Lowndes v. Browne* (a), a pattern first *printed* on the ground and then *worked* with a needle, was held to be well registered under class 10.

In *West's Case* a Mr. Barfourd had registered a design under class 2, for the application of an ornamental border of the Brazilian pine leaf to straw hats, which the defendant having, as the plaintiff alleged, pirated, he laid an information before justices against him, whereupon the defendant was convicted. It was subsequently contended that the conviction was bad, inasmuch as there had been no legal registration of the design, it being registered under a wrong class, namely, under class 2, and not 13, and there being a much shorter term of protection for the latter than for the former. The question, however, was not decided.

It might sometimes be worth while to register an ornamental design in more than one class to prevent vulgarization, such as the printing on calico a design registered for silks (b); but as publication in one class would be so in all, this must be done before any form of the pattern be in circulation.

By the 14th section of the 5 & 6 Vict. c. 100, for the purpose of registering designs under that Act, the Board of Trade was empowered to appoint a registrar, and if necessary a deputy-registrar, clerks, and other officers and servants, and, subject to the provision of the Act, was authorized to make rules for regulating the execution of the duties of the office (c).

Accordingly, the Board of Trade has issued directions for registering and for facilitating searches.

Persons proposing to register a design for ornamenting an article of manufacture must deliver at the Designs Office: two exactly similar copies, drawings (or tracings),

Mode of  
registration.

(a) 12 Ir. L. R. 293.

(b) A registered pattern for a paper-hanging it will be competent for a carpet manufacturer to apply to carpets, unless the paper-stainer register for class 6, as well as class 5.

(c) App. xlv.

CAP. XV. photographs, or prints thereof, with the proper fees; the name and address of the proprietor or proprietors, or the title of the firm under which he or they may be trading, together with their place of abode or place of carrying on business, distinctly written or printed; and the number of the class in respect of which such registration is intended to be made, except it be for sculpture.

By the 21 & 22 Vict. c. 70 (a) it was declared that the registration of any *pattern* or *portion* of any article of manufacture to which a design is applied, instead or in lieu of a copy, drawing, print, specification, or description in writing, should be as valid and effectual to all intents and purposes as if such copy, drawing, print, specification, or description in writing had been furnished to the registrar under "The Copyright of Designs Acts."

The appointment and duties of the registrar.

The appointment and duties of the registrar are set forth in the 5 & 6 Vict. c. 100, ss. 14, 15, and the 6 & 7 Vict. c. 65, ss. 7-9 (b). Under this last section a discretionary power is conferred upon him of refusing to register under the latter Act if it should appear to him that the design brought to him for that purpose would more properly be registered under the former; and further, he is at liberty to exercise his discretion in refusing to register any design which is not intended to be applied to any article of manufacture, but only to some label, wrapper, or other covering in which such article might be exposed for sale, or any design which is contrary to public morality or order; subject, however, to an appeal to the Privy Council.

After the design has been registered, one of the two copies, drawings (or tracings), or prints, will be filed at the office, and the other returned to the proprietor with a certificate annexed, on which will appear the *mark to be placed* on each article of manufacture to which the design shall have been applied (c).

Certificate of registration.

This certificate, in the absence of evidence to the contrary, shall be sufficient proof of the design, and of the

(a) App. lxxxiv.

(b) See App. xlv. xlvi. and lii. liii.

(c) 5 & 6 Vict. c. 100, ss. 15, 16.









the pirated goods for sale, knowing that the proprietor had not given his consent; and the proof by the proprietor of this knowledge on the part of the offending party was more than the proprietor could, in general, adduce. The objectionable words are omitted in the above clause, and in their stead are substituted the words relative to notice.

A notice under this section is not sufficient unless it expressly state that the proprietor of the design has not given his consent to the application of the design; and whether he intends to sue either for the application of the design to an article of manufacture or for the sale of such article with the design applied. It should also specify the real claim intended to be made.

In order to establish a case of piracy under these provisions, the plaintiff must prove that the alleged piracy is an application or a fraudulent imitation of his registered design.

Ignorance of the registration of the design does not excuse the piracy (*a*).

The above section is extended by 6 & 7 Vict. c. 65, s. 2 (*b*), to designs for articles of manufacture having reference to some purposes of utility, so far as the design shall be for the shape and configuration of such article.

Where the design was of a new ventilator, consisting of an oblong pane of glass fixed in a frame, which was inserted into an ordinary window-frame, and was hinged at the top, so as to open and admit the air, by means of a screw acted upon by cords passing over its head, and having a half-pane of glass fixed in the lower portion of the frame in which the ventilating frame ended, so as to prevent a downward draught, the claim of the inventor was said to be for the general configuration and combination of the parts, some of which were not original. This was held not to be a design for the shape and configuration of an article of manufacture within the 6 & 7 Vict. c. 65, and therefore not the subject of registration; and a conviction for the infringement of such a registered design was

As to what is a subject proper for registration under the Designs Act.

(*a*) *McRae v. Holdsworth*, 2 De G. & Sm. 497; 12 Jur. 820.      (*b*) App. 1.

CAP. XV.

quashed for want of jurisdiction (a). Erle, J., in giving his opinion that the invention was not within the meaning of the statute, said: "It is a combination of means for the purpose of easily admitting air and avoiding a downward draught, and there is a skilful combination of means to produce this result. But the particular shape or configuration is accidental and wholly unimportant, and unconnected with the purpose to be attained. An oblique pane is of no particular use; a square or circular pane, and a straight or curved screen, would produce the same result. If the prosecutor relies on the shape or configuration as producing a useful result, he fails in making out that the defendant has infringed his right, because there is no doubt that the shape of the defendant's invention varies materially from that registered by the prosecutor: in the one the pane being nearly square and in the other oblong, and the screw being straight in the one, and crooked in the other. The prosecutor intended to protect a combination of means producing a useful result, and that is within the law relating to patents, and not within statute 6 & 7 Vict. c. 65." (b)

Again, the design of a "protector label," which consisted in making in the label an eyelet-hole, and lining it with a ring of metallic substance, through which a string attaching the label to packages passed, was held not to be within the protection of this statute (c). But the design of a newly-invented brick, the utility of which consisted in its being so shaped that when several bricks were laid together in building a series of apertures were left in the wall through which the air might circulate, and a saving in the

(a) *Reg. v. Bessell*, 15 Jur. 773; 20 L. J. M. C. 177; 16 Q. B. 810.

(b) The contrary was held in *Heywood v. Potter*, 1 E. & B. 439; 17 Jur. 528; 22 L. J. (Q.B.) 133; but subsequently the 21 & 22 Vict. c. 70, s. 4, enacted that nothing in the 4th section of the 5 & 6 Vict. c. 100 should extend, or be construed to extend, to deprive the proprietor of any new and original design applied to ornamenting any article of manufacture contained in the said 10th class of the benefits of the Copyright of Designs Act or of this Act; provided there shall have been printed on such articles at each end of the original piece thereof the name and address of such proprietor, and the word "Registered," together with the year for which such design was registered.

(c) *Margetson v. Wright*, 2 De G. & Sm. 420.









drawing, print, specification, or description in writing, shall be valid and effectual to all intents and purposes as if such copy, drawing, print, specification, or description in writing had been furnished to the registrar under the above Act.

As this Act affords protection only to the shape or configuration of articles of utility, and not to any mechanical action, principle, contrivance, application, or adaptation (except in so far as these may be dependent upon and inseparable from the shape or configuration), or to the material of which the article may be composed; no design will be registered the description of or statement respecting which shall contain any expressions suggestive of the registration being for any such mechanical action, principle, contrivance, application, or adaptation, or for the material of which the article may be composed (*a*).

A discretionary power is vested in the registrar, either to register any design under the 5 & 6 Vict. c. 100 or the 6 & 7 Vict. c. 65; and a further power is given him to reject such designs as are simply labels, wrappers, or other coverings in which any article of manufacture may be exposed for sale, or such designs as may appear to him to be contrary to public morality or order. From the exercise of this latter power there is an appeal to the Privy Council.

All the clauses and provisions contained in the 5 & 6 Vict. c. 100, with reference to the transfer of designs, to their piracy, to the mode of recovering penalties, to actions for damages, to cancelling and amending registrations, to the limitation of actions, to the awarding of costs, to the certificate of registration, to the fixing and application of fees for registration, and to the penalty for extortion, are extended and applied to this Act (*b*).

In addition to the penalties imposed by virtue of the incorporation of the penal clauses of the 5 & 6 Vict. c. 100, is imposed a penalty of not more than £5 nor less than £1,

(a) See *Millingen v. Picken*, 1 C. B. 799; 14 L. J. (N.S.) (C.P.) 251; 9 Jur. 714.

(b) Sect. 6; App. II.















in this country. Provision, moreover, was made for the entry of proper particulars of the subjects for which copyrights should be granted in the register book of the Stationers' Company in London, within a time to be prescribed in each such order in council. And all copies of books wherein there should be any subsisting copyright by virtue of the 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, were absolutely prohibited to be imported into any part of the British dominions, except with the consent of the registered proprietor of the copyright thereof, or his agent, authorized in writing. But it was provided that no such order in council should have any effect unless it should be therein stated as the ground for issuing the same, that due protection had been secured by the foreign power named in such order for the benefit of parties interested in works first published in the dominions of Her Majesty, similar to those comprised in such order. And that every such order should be published in the *London Gazette* as soon as might be after the making thereof, and from the time of such publication should have the same effect as if every part thereof were included in the Act. And that no copyright could be acquired in any book, dramatic piece, musical composition, print, article of sculpture, or other work of art, first published abroad, otherwise than under the said Act.

This Act was followed by a convention between this country and France, which was concluded at Paris the 3rd of November, 1851, and subsequently ratified by Act of Parliament (a). Convention  
between  
England and  
France.

The convention provides that the authors of works of literature and art published in England shall have the same protection in France as French authors have there, and *vice versâ*. Works of literature and art are understood to comprehend books, dramatic works, musical compositions, drawings, paintings, sculptures, engravings,

(a) 15 & 16 Vict. c. 12; App. lxxv.

CAP. XVII. lithographs, and any other production whatsoever of literature or the fine arts.

The protection granted to original works is extended to translations; it being, however, clearly understood that protection is afforded simply to a translator in respect of his own translation, and not to confer the exclusive right of translating upon the first translator of any work.

If the author of any work published in either country wishes to reserve to himself the exclusive right of translating his work in the other country, he may do so for five years from the first publication of the translation authorized by him, on complying with the following conditions:—

- 1st. The original work must be registered and deposited in the one country within three months after the publication in the other.
- 2nd. The author must notify on the title-page of his work his intention to reserve the right of translation.
- 3rd. At least a part of the authorized translation must appear within a year after the registration and deposit of the original, and the whole must be published within three years after the date of such deposit.
- 4th. The authorized translation must appear in one of the two countries, and be registered and deposited in the same way and within the same time as an original book.

With reference to works published in parts: each part is to be treated as a separate work, and registered and deposited in the one country within the three months after its first publication in the other, and a declaration by the author to the effect that he reserves the right of translation in the first part will be sufficient. Dramatic works and musical compositions are protected in France to the same extent as in England. The translation of a dramatic work, however, must appear within

three months after the registration and deposit of the CAP. XVII. original.

This protection is not intended to prohibit fair imitations or adaptations of dramatic works to the stage in England and France respectively, but is only designed to prevent piratical translations. And the question what is an imitation or a piracy is in all cases to be decided by the courts of justice of the respective countries, according to the laws in force in each.

Extracts from newspapers and periodicals may be freely taken from either country, and republished or translated in the other, if the source whence they are taken be acknowledged; unless the authors of the articles shall have notified in a conspicuous manner in the journal or periodical in which such articles have appeared that they interdicted the republication thereof.

Importation of pirated copies is prohibited, and in the event of an infraction of this prohibition the pirated works may be seized and destroyed.

In order to obtain protection in either country the work Registration. must be registered in the following manner:—

If the work first appear in France it must be registered at Stationers' Hall, London.

If it appear first in England, at the Bureau de la Librairie of the Ministry of the Interior at Paris, within three months after the first publication in England. As to works published in parts, they must be registered within three months after the publication of the last part; but in order to preserve the right of translation each part must be registered within three months after its publication. A copy of the work must also be deposited within the same time as registration is to be made either at the British Museum in London, or in the National Library at Paris, as the case may be.

The charge for registration is in France one franc twenty-five centimes, and in England one shilling; and the further Fees for registration.

CAP. XVII. charge for a certificate of such registration must not exceed the sum of five shillings in England nor six francs twenty-five centimes in France; and the certified copy of the entry in either case is evidence of the exclusive right of publication in both countries, until the contrary is proved.

With regard to articles other than books, maps, prints, and musical compositions, in which protection may be claimed, any other mode of registration which may be applicable by law in one of the two countries to any work or article first published in such country for the purpose of affording protection to copyright in such article, is extended on equal terms to any similar article first published in the other country.

The convention ratified by the 7 & 8 Vict. c. 12 (a).

By an Act of Parliament passed in the following May, the French Treaty became law in this country, so far as it did not clash with anything in the Act that made it law. Little difference is discernible between the treaty and the Act, with the exception that the latter explains clearly one or two passages in the former that might otherwise have been disputed. It further empowered Her Majesty to make similar stipulations in any treaty on the subject of copyright with other foreign powers.

Authors of works in France claiming copyright in this country are not exempt from the conditions affecting authors of works in this country (b).

By analogy it follows that to obtain the benefit of the International Copyright Act, the proprietor of a foreign print must comply with the provisions of the Engraving Acts and the proprietor's name must be printed on it (c).

The 19th clause of the 7 & 8 Vict. c. 12 (d), which enacts that no author of any book or dramatic piece, which shall be first published out of Her Majesty's dominions, shall have copyright therein, otherwise than under the provisions of that Act, applies to British subjects first publish-

(a) App. liv.

(b) *Cassell v. Stiff*, 2 K & J. 279.

(c) *Aranzo v. Mudie*, 10 Ex. 203.

(d) App. lxiv.





















sole property in his works. A commission was appointed in 1826, with M. le Vicomte de la Rochefoucauld at its head, to examine and report upon the question. They submitted a report proposing to give to authors and artists of works of all kinds property in their works for life, and to their legal representatives for fifty years from their deaths. In 1837 a commission was again appointed under the presidency of M. le Comte de Ségur, but no report has yet passed into law.

### *Prussia.*

Copyright endures for the author's life, and his heirs have a term of thirty years from his decease. In this country when an author assigns a copyright to a publisher without any special stipulation, the publisher is entitled to issue only one edition, the extent of which he may determine. This principle is adopted both in Saxony and Bavaria, the edition in the latter country, in the absence of stipulation, being limited to 1000 copies. But a distinction is made in Prussia between reprints or new issues (*aufLAGEN*) and new editions (*ausgaben*). In the case of the former, the publisher is left free, on condition that he shall pay to the author, on the occasion of each new issue, half the sum which he paid him for the first. New editions, on the contrary, can be published only with the permission of the author, which must be given in writing. This privilege is limited to the author's life, though his children have a claim for an *honorarium* for each edition issued after his death.

Copyright in  
Prussia.

### *Austria,*

By treaty with Sardinia, Tuscany, and the Papal States, gives a copyright to the heirs for thirty years after the author's decease, in the Italian States of the empire. It also allows forty years for posthumous publications.

Copyright in  
Austria.































In the case of *Sweet v. Cater* (a) the agreement, after reciting that the author had prepared a tenth edition of his work, which the publisher was desirous of *purchasing*, and that it had been agreed that a certain printer should print a given number of copies, and the publisher should pay to the author *for the said tenth edition* a certain sum, went on to direct that the work should be in a given number of volumes, and should *be sold* to the public for a given price. It was objected that the plaintiff, the publisher, was not under this agreement the *proprietor of the copyright* within the meaning of the statute (54 Geo. 3, c. 156, s. 4), but a mere licensee to sell a given number of copies. The court overruled the objection, holding that the copyright was equitably vested in the publisher, on the ground that the contract was obligatory on both parties, that the plaintiff was bound to sell, and therefore the author was bound to abstain from doing anything which would interfere with the sale. The court, moreover, were of opinion that the equitable right to the copyright endured until the number of copies fixed by the terms of the agreement had been exhausted. It is to be regretted that the court did not advert to the question whether the words of purchase of the agreement—viz., that the publisher was to pay for *the edition*—gave him, independently of the implied contract on the part of the author not to do any act which might interfere with the sale, an equitable copyright in the work.

Where there was an agreement in writing between an author and certain publishers, that they should print, reprint, and publish his book, upon condition that the author should prepare it all before a certain day, and should correct the press, and that the publishers should direct the mode of printing, and pay all the expenses and take all risk of publishing, and out of the produce should first repay such expenses, and then divide the profits between themselves and the author equally; and that if all copies should be sold and a new edition should be

Agreements for division of profits, personal.

(a) 5 Jur. 68; 11 Sim. 572.

CAP. XIX. required, the author should prepare the same, and the publishers should print and publish it on the same conditions; and that, if all the copies of any edition should not be sold in five years from the time of publication, the publishers might sell the remaining copies by auction or otherwise, in order to close the account; it was held to be a personal contract by the author, and not a contract for an assignment of the copyright; and, consequently, the benefit thereof could not be assigned by the publishers (a).

Agreement  
for division of  
profits a joint  
adventure.

An agreement similar to this, and without specifying a particular edition, constitutes a joint adventure between the parties (b), which either party is at liberty to terminate upon notice after the publication of a given edition, if at the date of such notice no fresh expense has been incurred by the party to whom such notice be given.

By a memorandum of agreement made in November, 1852, between the plaintiff and the defendant, it was agreed that the latter should publish, at his own expense and risk, a work entitled 'Peg Woffington,' of which the former was the author; and after deducting from the produce of the sale thereof the charges for printing, paper, advertisements, embellishments (if any), and other incidental expenses, including the allowance of 10 per cent. on the gross amount of the sale for commission and risk of bad debts, the profits remaining of every edition that should be printed of the work were to be divided into two equal parts, one moiety to be paid to the plaintiff, and the other to the defendant.

Subsequently the same parties entered into a similar agreement relative to the publication of another work entitled 'Christie Johnstone,' of which the plaintiff was also the author; and they signed for that purpose a memorandum of agreement, which, except as to the date and the title of the work, was in the same words as the former.

(a) *Stevens v. Benning*, 1 K. & J. 168, affirmed, 6 D. M. & G. 223. See *Pulte v. Derby*, 5 McLean (Amer.) 332.

(b) Joint owners of a copyright may make a contract between themselves as to the printing and publishing of the work, and neither will be permitted to set up against the other his original rights as a joint owner in violation of such contract: *Gould v. Banks*, 8 Wend. (Amer.) 568.

Two editions of the former work and four of the latter having been published by the defendant, and no fresh expenditure having been incurred by him since the publication of those editions, the plaintiff claimed a right to terminate the joint adventure between them, and to prevent the defendant from publishing any further edition of either work.

The main question to determine was, what was the effect of the agreement which had been entered into between the plaintiff and the defendant?

It was contended by the plaintiff that the case was one of simple agency; that by the effect of the agreement the defendant became a mere agent of the plaintiff. "But," observed the Vice-Chancellor, "it is clear that he became more than that. A mere agent may be paid, as the defendant was to be paid, by a share of the profits; but a mere agent never embarks in the risk of the undertaking; and here the defendant took upon himself the whole expense and risk of bringing out the work. Clearly, therefore, the case is something more than simple agency."

Sir W. Page Wood, in passing judgment, made the following observations: "Agreements between authors and publishers assume a variety of forms. Some are so clear and explicit that no doubt can arise upon them. Thus, where an author assigns his copyright, the transaction is one which every person understands, and which leaves no room for uncertainty as to the rights of the parties. Again, where, as in *Sweet v. Cater (a)*, the author assigns a particular edition, the rights of himself and the publisher are equally clear; and although in that case the point did not require determination, the court observed, and justly observed, that, where an author has sold an edition of a given number of copies to one publisher, he is not at liberty, before they are sold, to publish the same work himself or through another publisher, in such a manner as to compete with the edition he has sold, but is bound to afford to the purchaser a full opportunity of realizing the benefit of his

(a) 5 Jur. 68; 11 Sim. 572.

CAP. XIX. contract. The case before me, like that of *Stevens v. Benning* (a), is of an intermediate description. Here, as there, the author does not sell, or purport to sell, any interest whatever in the copyright. It was contended, and very strongly, in *Stevens v. Benning*, that the author had done so; but I held that he had not, and my view was affirmed by the lords justices. Here also, as there, the publisher was to publish at his own risk. Nevertheless, in *Stevens v. Benning*, the agreement contained other provisions, considerably more definite than any in this case. It pointed to a series of editions to be published for the author by the same publisher, as to every one of which the author himself stipulated, as part of the contract, that he would assist in the publication. Here the agreement is simply that the publisher shall publish the work at his own expense and risk, and, after deducting all the expenses specified in the memorandum, and an allowance of £10 per cent., the profits remaining of every edition that shall be printed of the work are to be divided into two equal parts, one of which is to be paid to the author, and the other to the publisher.

“It was contended for the defendant that if the effect of the agreement was not an assignment of the copyright (which it is now clearly decided that it could not be), it resulted in a joint adventure, in which the defendant was to have a licence to publish the work; and that, from the nature of the case, and by the terms of the agreement, that licence was irrevocable. In *Stevens v. Benning* I considered the agreement must be regarded as creating, to a certain extent, a joint adventure, and Lord Justice Knight Bruce adopted the same view. He says, it must be observed, that such interest, if any, in the copyright of the author's work as the other parties to the agreement acquired under it, they acquired, not exclusively of the author, ‘but by way of joint adventure with him, or of partnership with him, in respect and for the objects of which he undertook the fulfilment by himself personally

(a) 1 K. & J. 168; 6 D. M. & G. 223.

of certain duties to him' (a). Community of risk did not appear to him to be by our law, any more than it was by the civil law, essential to constitute a partnership, one partner being at liberty to contract with another that he will take all the losses of the concern upon himself. Lord Justice Turner looked upon the agreement in *Stevens v. Benning* in the double light of a licence and a partnership; speaking, however, less decidedly as to its being a partnership. He says: 'Next, if there was a partnership, then, if the agreement does not affect the copyright, the partnership was not in the copyright, but in the copies printed under the licence contained in the agreement' (b)—viewing it, therefore, as a licence for the publication of the work, and then a joint adventure between the author and publisher in the copies so to be published. If that were the effect of the agreement in the present case, the question would still remain, whether the licence be irrevocable.

"The plaintiff does not attempt to interfere with the publication of an edition which the defendant had commenced, and incurred expense in preparing for publication, before he exercised the option of determining the agreement. His claim is limited to editions about which no such expense had been incurred by the defendant; and his argument is, that, unless he has a right to determine the agreement as to all such editions, the consequence will be, that, during the whole of the defendant's life, he may be under an obligation to the defendant, while the defendant will be under no reciprocal obligation to him. It is true that, according to *Stevens v. Benning*, a licence like the present would, I apprehend, be restricted to the defendant personally, and would not extend to his executors, or to any future partner or assignee; but if the defendant's construction be correct, it follows, that, so long as he lives and is willing to continue publishing fresh editions of the work, so long, according to the doctrine in *Sweet v. Cater*, the plaintiff will be precluded from asserting a right to publish any competing edition. The

(a) 6 D. M. &amp; G. 223, 229.

(b) *Ibid.* 231.

CAP. XIX.

defendant could compel the plaintiff to abstain from publishing a single copy of the work, so long as he expressed his readiness to continue publishing. But the plaintiff has no reciprocal power. He could never compel the defendant to publish more than a single edition of the work. His powers are limited to what the contract gives him; and, according to the contract, when the defendant has published a single edition the contract on his part is fulfilled. That is a position of considerable hardship for an author, and one which ought to be clearly shewn, upon the face of a contract, to have been contemplated by the parties who entered into it . . . . In the present case, no new expense has been incurred by the defendant, either in printing, advertising, or otherwise, as regards 'Peg Woffington,' since the publication of the second edition, and, as regards 'Christie Johnstone,' since the publication of the fourth edition; and that being, as I have already intimated, the true test in construing the agreement, it appears to me, that, when these editions were published, the period had arrived at which the parties intended a division of profits to take place, and at which the plaintiff became entitled to terminate his agreement with the defendant. This is the only conclusion at which I can arrive, after a very careful consideration of the contracts. But it is much to be regretted that contracts should be framed with such uncertainty, when it would have been so easy to make them certain" (a).

In all agreements between authors and publishers the terms should be distinctly stated, and the respective rights of the parties clearly defined. The number of copies of which the edition is to consist should be declared, for otherwise a publisher might, if so disposed, print 20,000 as one edition (b).

Construction  
of the word  
"edition."

The meaning of the word "edition," and the construction to be placed upon it, were fully discussed in *Reade v.*

(a) *Per Wood, V.C., in Reade v. Bentley, 4 K. & J. 656, 669.*  
 (b) *Per Wood, V.C., in Reade v. Bentley, 4 K. & J. 656, 669; 27 L. J. (Ch.) 254; Sweet v. Cater, 11 Sim. 572; 5 Jur. 68; Stevens v. Benning, 1 K. & J. 168; 6 D. M. & G. 223; Benning v. Dove, 5 C. & P. 427.*















## A P P E N D I X (A).

---

8 ANNE, c. 19 (1709).

*An Act for the Encouragement of Learning, by vesting the Copies of printed Books in the Authors or Purchasers of such Copies during the Time therein mentioned.*

Repealed by 5 & 6 Viet. c. 45, § 1.

---

8 GEO. II. c. 13 (1735).

*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.*

WHEREAS divers persons have, by their own genius, industry, pains, and expense, invented and engraved, or worked in mezzotinto, or chiaro-oscuro, sets of historical and other prints, in hopes to have reaped the sole benefit of their labours: And whereas print-sellers and other persons have of late, without the consent of the inventors, designers, and proprietors of such prints, frequently taken the liberty of copying, engraving, and publishing, or causing to be copied, engraved, and published, base copies of such works, designs, and prints, to the very great prejudice and detriment of the inventors, designers, and proprietors thereof: For remedy thereof, and for preventing such practices for the future, may it please Your Majesty that it may be enacted; and 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, That from and after the twenty-fourth day of June which shall be



















































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. book of registry, a misdemeanor.

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

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

XV. And be it enacted, That if any person shall, in any part of the British dominions, after the passing of this Act, Remedy for the piracy of books

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

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

XVI. And be it enacted, That after the passing of this Act, in any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire, any such book, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright

therein; and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objection 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 authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions; and if any person, not being such proprietor or person authorized as aforesaid, shall import or bring, or cause to be imported or brought, for sale or hire, any such printed book, into any part of the British dominions, contrary to the true intent and meaning of this Act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire, any such book, then every such book shall be forfeited, and shall be seized by any officer of customs or excise, and the same shall be destroyed by such officer; and every person so offending, being duly convicted thereof before two justices of the peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale, or let to hire, or shall cause to be sold, published, or exposed to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this Act; five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book.

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

Books may be seized by officers of customs or excise.

XVIII. And be it enacted, That when any publisher or other person shall, before or at the time of the passing of this Act, have projected, conducted, and carried on, or shall hereafter

As to the copyright in encyclopedias, periodicals, and works

published in a series, reviews, or magazines.

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.

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

Proprietors of encyclopedias, periodicals, and works published

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 in a series, may enter at once at Stationers' Hall, and thereon have the benefit of the registration of the whole.

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 in the third year of the reign of His late Majesty, to amend the law relating to dramatic literary property, and it is expedient to extend the term of the sole liberty of representing dramatic pieces given by that Act to the full time by this Act provided for the continuance of copyright: And whereas it is expedient to extend to musical compositions the benefits of that Act, and also of this Act, be it therefore enacted, That the provisions of the said Act of His late Majesty, and of this Act, shall apply to musical compositions, and that the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this Act provided for the duration of copyright in books; and the provisions herein-before 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.

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

XXI. And be it enacted, That the person who shall at any Proprietors of

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

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

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

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

Proviso for dramatic pieces.

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

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 passed in the third year of the reign of His late Majesty King

William the Fourth, to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the book of registry aforesaid.

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 anything 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 hereinbefore mentioned. General issue. Limitation of actions; not to extend to actions, &c., in respect of the delivery of books.

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, anything to the contrary herein contained notwithstanding. Saving the rights of the universities, and the colleges of Eton, Westminster, and Winchester.

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 this Act, except as herein expressly Saving all subsisting rights, contracts, and engagements.

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, anything herein contained to the contrary notwithstanding.

Extent of the Act.

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

Act may be amended this Session.

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

### SCHEDULE to which the preceding Act refers.

#### No. 1.

FORM of MINUTE of CONSENT to be entered at Stationers Hall.

We, the undersigned, *A.B.* of                      the Author of a certain Book, intituled *Y.Z.* [or the personal Representative of the Author, as the Case may be], and *C.D.* of                      do hereby certify, That we have consented and agreed to accept the Benefits of the Act passed in the Fifth Year of the Reign of Her Majesty Queen Victoria, Cap.                      , for the Extension of the Term of Copyright therein provided by the said Act, and hereby declare that such extended Term of Copyright therein is the Property of the said *A.B.* or *C.D.*

Dated this                      day of                      18                      .

(Signed)                      *A.B.*

Witness

*C.D.*

To the Registering Officer appointed by the Stationers Company.

#### No. 2.

FORM of REQUIRING ENTRY of PROPRIETORSHIP.

I, *A.B.* of                      do hereby certify, That I am the Proprietor of the Copyright of a Book, intituled *Y.Z.*, and I hereby require you to make entry in the Register Book of the Stationers Company of my Proprietorship of such Copyright, according to the Particulars underwritten.

Title of Book.	Name of Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
<i>Y.Z.</i>		<i>A.B.</i>	

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.

5 &amp; 6 VICT. c. 47 (1842).

*An Act to amend the Laws relating to the Customs.*

Repealed by 7 &amp; 8 Vict. c. 73.

5 &amp; 6 VICT. c. 100.

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

[10th August, 1842.]

Commencement  
of Act and re-  
peal of former  
Acts.Proviso as to  
existing copy-  
rights.

WHEREAS by the several Acts mentioned in the Schedule (A.) to this Act annexed there was granted, in respect of the woven fabrics therein mentioned, the sole right to use any new and original pattern for printing the same during the period of three calendar months: And whereas by the Act mentioned in the Schedule (B.) to this Act annexed there was granted, in respect of all articles except lace, and except the articles within the meaning of the Acts hereinbefore referred to, the sole right of using any new and original design, for certain purposes, during the respective periods therein mentioned; but forasmuch as the protection afforded by the said Acts in respect of the application of designs to certain articles of manufacture is insufficient, it is expedient to extend the same, but upon the conditions hereinafter expressed: Now for that purpose, and for the purpose of consolidating the provisions of the said Acts, be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this Act shall come into operation on the first day of September one thousand eight hundred and forty-two, and that thereupon all the said Acts mentioned in the said Schedules (A.) and (B.) to this Act annexed shall be and they are hereby repealed.

II. Provided always, and be it enacted, That notwithstanding such repeal of the said Acts every copyright in force under the same shall continue in force till the expiration of such copyright; and with regard to all offences or injuries committed against any such copyright before this Act shall come into operation, every penalty imposed and every remedy given by the said Acts, in relation to any such offence or injury, shall be

applicable as if such Acts had not been repealed; but with regard to such offences or injuries committed against any such copyright after this Act shall come into operation, every penalty imposed and every remedy given by this Act in relation to any such offence or injury shall be applicable as if such copyright had been conferred by this Act.

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

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

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

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

Grant of copy-right.

- Class 1.—Articles of manufacture composed wholly or chiefly of any metal or mixed metals :
- Class 2.—Articles of manufacture composed wholly or chiefly of wood :
- Class 3.—Articles of manufacture composed wholly or chiefly of glass :
- Class 4.—Articles of manufacture composed wholly or chiefly of earthenware :
- Class 5.—Paper-hangings :
- Class 6.—Carpets :
- Class 7.—Shawls, if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics :
- Class 8.—Shawls not comprised in class 7 :
- Class 9.—Yarn, thread, or warp, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced :
- Class 10.—Woven fabrics composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics; excepting the articles included in class 11 :
- Class 11.—Woven fabrics composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics being or coming within the description technically called furniture, and the repeat of the design whereof shall be more than twelve inches by eight inches :
- Class 12.—Woven fabrics not comprised in any preceding class :
- Class 13.—Lace, and any article of manufacture or substance not comprised in any preceding class.

Conditions of copyright.

IV. Provided always, and be it enacted, That no person shall be entitled to the benefit of this Act, with regard to any design in respect of the application thereof to ornamenting any article

of manufacture, or any such substance, unless such design have before publication thereof been registered according to this Act, and unless at the time of such registration such design have Registration. been registered in respect of the application thereof to some or one of the articles of manufacture or substances comprised in the above-mentioned classes, by specifying the number of the class in respect of which such registration is made, and unless the name of such person shall be registered according to this Act as a proprietor of such design, and unless after publication of such design every such article of manufacture, or such substance to which the same shall be so applied, published by him, hath thereon, if the article of manufacture be a woven fabric for printing, at one end thereof, or if of any other kind or such substance as aforesaid, at the end or edge thereof, or other convenient place thereon, the letters "R<sup>d</sup>," together with such Marks denoting a registered design. number or letter, or number and letter, and in such form as shall correspond with the date of the registration of such design according to the registry of designs in that behalf; and such marks may be put on any such article of manufacture or such substance, either by making the same in or on the material itself of which such article or such substance shall consist, or by attaching thereto a label containing such marks.

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

VI. And be it enacted, That every person purchasing or otherwise acquiring the right to the entire or partial use of any such design may enter his title in the register hereby provided, and any writing purporting to be a transfer of such design, and Transfer of copyright, and register thereof.

signed by the proprietor thereof, shall operate as an effectual transfer; and the registrar shall, on request, and the production of such writing, or, in the case of acquiring such right by any other mode than that of purchase, on the production of any evidence to the satisfaction of the registrar, insert the name of the new proprietor in the register; and the following may be the form of such transfer, and of such request to the registrar:

*Form of Transfer, and Authority to register.*

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

*Form of Request to register.*

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

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

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

Piracy of designs.

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

or consent in writing of the registered proprietor thereof; (that is to say),

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

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

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

Recovery of penalties for piracy.

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

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

*Form of Information.*

“Be it remembered, that on the \_\_\_\_\_ at \_\_\_\_\_  
 in the county of \_\_\_\_\_ A.B. of \_\_\_\_\_ in  
 the county of \_\_\_\_\_ ] *or* C.D. of \_\_\_\_\_ in the  
 county of \_\_\_\_\_ at the instance and on the behalf of  
 A.B. of \_\_\_\_\_ in the county of \_\_\_\_\_ ] cometh  
 before us \_\_\_\_\_ and \_\_\_\_\_ two of Her  
 Majesty’s justices of the peace in and for the county of  
 \_\_\_\_\_, and giveth us to understand that the said A.B.  
 before and at the time when the offence hereinafter men-  
 tioned was committed, was the proprietor of a new and  
 original design for [*here describe the design*], and that within









original design, or on such copy thereof, and purporting to be signed by the registrar or deputy registrar, and purporting to have the seal of office of such registrar affixed thereto, shall, in the absence of evidence to the contrary, be sufficient proof, as follows :

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

Of the commencement of the period of registry ; and

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

Of the originality of the design ; and

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

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

XVII. And be it enacted, That every person shall be at liberty to inspect any design whereof the copyright shall have expired, paying only such fee as shall be appointed by virtue of this Act in that behalf ; but with regard to designs whereof the copyright shall not have expired, no such design shall be open to inspection, except by a proprietor of such design, or by any person authorized by him in writing, or by any person specially authorized by the registrar, and then only in the presence of such registrar or in the presence of some person holding an appointment under this Act, and not so as to take a copy of any such design or of any part thereof, nor without paying for every such inspection such fee as aforesaid : Provided always, that it shall be lawful for the said registrar to give to any person applying to him, and producing a particular design, together with the registration mark thereof, or producing such registration mark only, a certificate stating whether of such design there be any copyright existing, and if there be, in respect to what particular article of manufacture or substance such copyright exists, and the term of such copyright, and the date of registration, and also the name and address of the registered proprietor thereof.

Inspection of registered designs.

XVIII. And be it enacted, That the Commissioners of the Application of



time being, or any three or more of them; and the singular number shall include the plural as well as the singular number; and the masculine gender shall include the feminine gender as well as the masculine gender.

XXI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present session of Parliament.<sup>Act.</sup>

NOTE.—So much of this Act as relates to the appointment of a registrar of designs, and other officers, as well as the fixing of the salaries for the payment of the same, repealed by 6 & 7 Vict. c. 65, § 7.

SCHEDULES REFERRED TO BY THE FOREGOING ACT.

SCHEDULE (A).

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

SCHEDULE (B).

DATE OF ACT.	TITLE.
2 Viet. c. 17. (1839.)	An Act to secure to Proprietors of Designs for Articles of Manufacture the Copyright of such Designs for a limited Time.















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 and by virtue of an Act passed in the thirty-eighth year of the reign of His late Majesty King George the Third, intituled "An Act for encouraging the Art of making 38 G. 3, c. 71. new Models and Casts of Busts and other Things therein mentioned;" and of an Act passed in the fifty-fourth year of the reign of His late Majesty King George the Third, intituled "An Act to amend and render more effectual an Act of His 54 G. 3, c. 56. 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," (and which said Acts are, for the sake of perspicuity, hereinafter 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 hereinafter contained: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lord's 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.

Repeal of International Copyright Act.

Her Majesty, by Order in Council, may direct that authors, &c., of works first published in foreign countries shall have copyright therein within Her Majesty's dominions.

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.

If the order applies to books, the copyright law as to books first published in this country shall apply to the books to which the order relates, with certain exceptions.

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 hereinafter 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 hereinafter 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.

If the order applies to prints, sculptures, &c., the copyright law as to prints or sculptures first published in this country shall apply to the prints, sculptures, &c., to which such order relates.

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

Her Majesty may, by Order in Council, direct that authors and composers of dramatic pieces and musical compositions first publicly represented and performed in foreign countries shall have similar rights in the British dominions.

“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 hereinafter 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.

Particulars to be observed as to registry and to delivery of copies.

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 hereinafter 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

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

The provisions of the Copyright Amendment Act as

regards entries in the register book of the Company of Stationers, &c., to apply to entries under this Act.

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.

As to expunging or varying entry grounded in wrongful first publication.

IX. And be it enacted, That every entry made in pursuance of this Act of a first publication shall be *prima 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.

Copies of books wherein copyright is subsisting under this

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 authorized 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 authorized to be brought by proprietors of copyright against persons importing or selling books unlawfully printed in the British dominions.

Act printed in foreign countries other than those wherein the book was first published prohibited to be imported.

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.

Officer of Stationers' Company to deposit books, &c., in 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.

Second or subsequent editions.

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

Orders in Council may specify different periods for different





















































































































































Penalties (*continued*)—

- Actions for, under Sculpture Acts, 186
- „    „    Literary Copyright Act, 111
- For not delivering copies at the various libraries, 74
- „    omission to print name and abode of printer, 115
- „    fraudulent sales, &c., 197, 198
- „    wrongfully using registration mark, 209
- „    infringing copyright in designs, 216, 219
- Correct entry of work, necessary in order to recover, 68
- Formerly very severe in France, 238
- In Holland and Belgium, 242
- „    Russia, 243
- „    the United States, 245, 246
- Separate, for each offence, 111, 195, 196

## Periodical publications—

- Copyright in, 41
- Registration of, 71
- Letters written to, 32
- Editors of, may destroy letters, 32
- „    may not insert if requested not to previous to publica-  
        tion, 32
- Registration of the title of intended, 40
- Titles of, properly registered, 41

## Perpetuity—

- In copyright, 57
- „    the Emperor Napoleon's opinion of a, 57

## Personal—

- Contract, an agreement for division of profits a, 258
- Copyright, property, 77

“Persons aggrieved,” who, 71, *note (b)*

## Petitions—

- To parliament to protect copyright, 14

## Photographs—

- Copyright in, 190
- „    term of, 190
- „    by whom it may be claimed, 191
- „    assignment and registration of, 192
- „    registration by assignee of, 194
- „    infringement of, 194
- „    „    penalties for, 195

## Photography—

- Engravings may be infringed by, 175

## Phrase—

- Three or four bars may form a, 107

## Pianoforte—

- Score of an opera copyright in, 164

## Picture—

- Exhibition of, not a publication, 9







Registration (*continued*)—

- Of paintings and photographs, 192
- „ paintings and photographs, description sometimes necessary on, 192
- „ designs for ornamental purposes, 205, 219
- „ „ Board of Trade to issue regulations for, 205
- „ „ „ have issued regulation for, 207
- „ „ for purposes of utility, 217, 219
- „ „ fees for, 219
- „ copyright in the United States, 245
- A condition precedent to sue, 72
- By assignee, 70, 193
- Until, no copyright in works of art, 193
- Mode of, 68, 192, 207
- Effect of, 72, 111, 193
- Certificate of, 208
- Mark of, 209
  - „ penalty for wrongfully using, 209
- Provisional, 209, 220
- Book of, open to inspection, 67, 209
- Of transfer, 210: see *Assignment*
- What a proper subject of, under Designs Act, 213, 214
- Original combination a proper subject of, 211
- What not a proper subject for, 212, *note (a)*, 213, 214
- An article of manufacture, not a subject for, 215
- Cancelling and amending registration, 70, 71, 219
- Under International Copyright Act, 228, 229
  - „ „ fees for, 229

## Registry, Book of—

- Open to inspection, 67, 209
- Varying or expunging entry in, 70, 219

## Remedy for infringement of copyright—

- By action on the case, 110
  - „ injunction, 116
- Omission to register, will not affect, 149
- In musical and dramatic compositions, 164
- Under the Copyright (Works of Art) Act, 179, 194, 195
  - „ Sculpture Acts, 186
  - „ Designs Acts, 212
- In France, 240
  - „ Holland and Belgium, 242
  - „ Russia, 243
  - „ the United States, 245

## Reports—

- Passages may be selected from, 38
- Head-notes of, 37
- Publication of, in courts of justice, 138, 139



- Sales—  
 Of copyright by the universities, 145  
 Fraudulent, 196, 197
- Sardinia—  
 Convention between, and Austria, 237
- Saxony—  
 Joins the international convention, 237
- School books—  
 Copyright in, 27, *note (a)*
- Score—  
 Copyright in a pianoforte, 164
- Scotland—  
 Remedy in, under the Copyright (Works of Art) Act, 179
- Sculpture—  
 Construction of, acts, 183  
 Copyright in, 181  
 „ extent and duration of, 183, 184  
 „ what necessary to obtain, 185  
 „ assignment of, 185  
 „ registration of, 185  
 „ „ no mark required, 209  
 „ infringement of, 186  
 „ „ penalties for, 186
- Search—  
 For registered proprietors, 67, 192, 209
- Separate publication—  
 Of articles in reviews, 42, 256  
 In the Two Sicilies, 244  
 Of books of the Bible, 132
- Separate penalties—  
 For each offence, 195, 196
- Session, Court of (Scotland)  
 Principle on which an interdict is issued, 29, *note (c)*, 30  
 Remedy in the, under Copyright (Works of Art) Act, 179
- Shape—  
 Protection under Designs Acts only afforded to, 219
- Shawls—  
 Copyright in designs as applied to, 204  
 Registration of, 206, 217
- “Sheet of letter-press” —  
 Meaning of expression, 41  
 Engravings published with, 171
- Sicilies (the Two)—  
 Copyright in, 244  
 „ „ term of, 244  
 What a separate publication in, 244
- Side-notes of Reports : see *Head-notes*  
 Copyright in, 37







