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SWEDEN.

after his death. In a joint work, not consisting of several distinct articles, the fifty years begin to run from the death of the last surviving author.

The remainder of the year in which the author dies is not reckoned in the above fifty or five years (a).

Works published by learned societies or other associations, also works first published after the death of their author, are protected for fifty years from date of first publication; and the same with regard to anonymous and pseudonymous works, the authors of which, however, on making themselves known before the expiration of the fifty years, in the manner provided by the law, acquire the full author's term of protection. The period of fifty years in all the above cases dates from the 1st January following the first publication.

Registration.

There are no provisions as to registration in this law.

Alienation of copyright.

An author can transfer to others the rights given him by this law with or without conditions or restrictions. Failing such transfer, the right passes to his heirs at his death.

The person to whom an author grants the right to publish a work may not publish more than one edition of it, nor more than 1000 copies in that edition.

Piracy and infringement.

It is forbidden as piracy, but subject to any provisions to the contrary in this and in the law on the liberty of the press, to print any work, in whole or in part, before the expiration of the term of copyright, without the consent of the owner of such copyright. Changes, abbreviations, or additions of no importance to a work, do not legalize such piracy.

Piratical translations.

The publication of a translation of an unprinted work, without the consent of the author, or of a translation contrary to Arts. 2 and 3, is an act of piracy.

What is not piracy.

It is no piracy to reproduce passages from another work in a new and original work, whether in full or abridged, for purposes of proof or illustration, provided the source be acknowledged. Neither is it piracy to

(a) The reference to the period of 5 years is added by the law of 1883.

reproduce in a periodical publication extracts from another periodical, provided the source be acknowledged. But scientific articles and *ouvrages d'esprit* of considerable extent are excepted, if the reservation of copyright be expressed at the head.

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Whoever is guilty of the offence of piracy, is punishable by a fine of from 20 to 1000 crowns. Moreover, the pirated edition is confiscated for the benefit of the plaintiff, and the value of the copies parted with (if any) are to be paid for by the offender.

Penalties.

All objects exclusively destined for the illicit printing of a work may be seized, and, subject to any agreement between the parties to the contrary, may be made so that they cannot be used again. The penal provisions of this law are equally applicable to persons who expose for sale or import into Sweden for purposes of sale a work which they know to be pirated.

Actions for infringement of the provisions of this law can only be brought by the party injured.

The present law applies to the works of Swedish citizens. Every anonymous or pseudonymous work is considered as emanating from a Swedish author until proof to the contrary.

Nationality and reciprocity.

The provisions of this law can be extended, in whole or in part, and on condition of reciprocity, to the works of foreign authors.

No dramatic or musical dramatic work can be represented without the consent of the author or his representative. But the reading or public performance of a work is permitted if there be no scenic accompaniments.

Representation of dramatic and musical works.

The person authorized may give as many representations as he likes, but may not transfer his privilege to another.

The proprietor of such work may grant the same authorization to others if there be no agreement to the contrary. When a proprietor has granted the exclusive right of representation to another, and such grantee has failed to make use of his privilege for five consecutive years, the proprietor is again at liberty to grant the right of representation to others.

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Duration.

The above rights of the author or translator over representation last for his life and five years after his death, the remainder of the year in which he dies not being reckoned in the five years. If the author or translator has not made himself known the representation becomes free to every one at the end of five years from the first representation or the first publication.

Penalties.

Whoever represents a work in violation of this law is liable to a fine of from 20 to 1,000 crowns; moreover, he will be compelled to hand over by way of compensation to the injured party the whole of his receipts, without deducting anything for costs, or for that part of such receipts which might be considered as arising from any piece represented at the same time.

All copies of a work destined to be illegally performed may be seized.

General provisions.

When there are several proprietors of a work the consent of each is necessary for publication or representation. However, in the case of a musical dramatic work the consent of the author suffices if the text forms the principal part, and of the composer if the music forms the principal part.

In 1876 a change was made in the constitutional laws, as follows: all provisions relative to literary property were expunged and remodelled into an ordinary law, so as to make it possible to alter it, without recurring to the procedure necessary to alter the constitution. This remodelled law was replaced in 1877 by the law given above.

Law of 3rd May, 1867.

The law of the 3rd May, 1867, as to works of art, provides that no one can reproduce original works of art for purposes of sale during the author's life without his consent, when the process of reproduction belongs to the same branch of art as the original. Reproduction is not made lawful, by being in a different size, or in different materials, or with non-essential changes, so long as by its subject and contents it retains the character of a copy.

Artistic copy-right.

2. Every person has the exclusive right of causing the reproduction of original works executed by him, by

any mechanical process, photography, casting or other analogous means. This right can be assigned by the artist for life and ten years after; if he does not assign it, his lawful representatives can assign it during this last period.

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3. If a work of art is sold, the artist or his representative only loses the rights given to him in the preceding provisions, by express agreement.

4. It is lawful to reproduce works of art belonging to the State or Communes, or exposed in public places, or outside buildings, and to employ works of art as models for the manufacture or ornament of utensils.

5. Infringement is punishable by fine of 20 to 1,000 crowns. In addition, the injured party must be compensated. Pirated copies and implements of infringement shall be seized and made useless, but the injured party may obtain them on payment or in reduction of damages. The same penalties shall apply to the vendor of a pirated reproduction, or the importer for sale of a reproduction made in a foreign country, which reproduction is prohibited by this law, and known by him to be pirated.

6. The injured party can alone prosecute.

7. If infringement is denied, the opinion of the Academy of Fine Arts may be taken unless the parties consent to arbitration without appeal. In this case the judge shall settle the questions to be submitted to the arbitrators.

8. On condition of reciprocity, the king may extend this law to foreign works of art. Reciprocity.

An additional law on copyright of 10th August, 1877, is as follows: The provisions relating to literary copyright having been expunged from the constitutional law on the liberty of the press, piracy of works of art by means of printing will in future be subject to the general rules of the law of 3rd May, 1867, on artistic works. Attempts are now being made to procure the protection of photographs for five years. Additional law. Artistic copyright.

The modifications effected by the law of 1883 have been incorporated in the text.

The state of Sweden as regards the Berne Convention

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and treaties with other countries has been already previously indicated in the account of Norway, *ante*, p. 728.

DENMARK.

Literary
copyright.

The laws regulating literary copyright in Denmark are those of 29th December, 1857, 23rd February, 1866, 21st February, 1868, the 24th May, 1879, and the 12th April, 1889.

What pro-
tected.

Besides ordinary works of literature, protection is afforded to speeches, lectures, and sermons: but speeches at public political meetings are excepted.

By the law of the 24th May, 1879, it was provided that the translation of a work of literature, without the author's consent, from the original language into a dialect of it, or the reverse, or from one dialect into another, is considered as piracy. In this respect, Danish, Swedish, and Norwegian will be considered as dialects of one language.

An author's manuscripts were protected for thirty years after his death, but by the law of the 12th April, 1889, are now protected for a period of fifty years in every case where the period of thirty years has not yet expired.

On condition of giving the author's name, it is lawful to make quotations and extract detached passages from any work for insertion in other works, but it is forbidden to reproduce a work by the free use of extracts.

Duration.

Copyright lasts for the life of the author and fifty years after his death.

In case of intestacy the copyright passes to the widow first, and then to the children and other heirs according to the Danish law of succession. If the author has bequeathed the copyright and the legatee die before the expiration of thirty years from the death of the author, such copyright passes to the widow of the author or other legatees, unless the author have made provision to the contrary: the widow or such legatees are not allowed to alienate the copyright if there be any heirs of the author to whom it can descend.

Works out
of print.

If it has not been possible to procure a copy of the last

edition of any work during five successive years, the author loses his rights, but they may be recovered so long as a third person has not published or announced a new edition.

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For anonymous and pseudonymous works, copyright lasts for thirty years from the date of the last edition published within thirty years after the first edition, but the whole term from the date of the first edition cannot exceed fifty years.

The copyright of a work which consists of articles by different authors, belongs to the publishers, but any author, unless agreed to the contrary, may publish separately his article after the lapse of one year.

No registration or deposit of copies is required.

Registration.

All actions for piracy or infringement must be brought by the party injured within a year and a day from the commission of the offence.

Remedies.

Pirated copies may be confiscated, and if the injured party do not wish to have them, they are to be destroyed.

Penalties.

With regard to the publication of musical and dramatic works the rules are the same as for other works of literature.

Dramatic and musical works.

With regard to representation, the exclusive right to authorize it formerly belonged to the author and his representatives for thirty years, but the period has been now extended to fifty. But it is no infringement of an author's rights to represent a play without scenery, or to perform at a concert overtures or extracts from musical works.

Representa-
tion.

When an author gives permission for the representation of his work, it does not confer the exclusive right of representation, and he may therefore authorize a third person to give representations. Where he has granted the exclusive right the contract becomes void if no representation has been given for five years.

No one can without the consent of the author of a poem or his assign, within fifty years after the author's death, publish in print, or represent in public dramatic arrangements of all or part of the work, which consist essentially

- CAP. XVIII. in the reproduction of this work under a form adapted to
 DENMARK. the stage (*a*).
- Artistic copyright. Artistic copyright is regulated by the law of 31st March, 1864, and the 23rd February, 1866.
- What protected. The reproduction of a work of art by any process is forbidden, unless sanctioned by the artist. Architectural designs are the property of the architect, unless he publish them.
- Works of art in public galleries and places are considered public property; any one who reproduces such works enjoys the copyright of his work, but any other person is at liberty to make a copy of the original by the same process.
- Duration. The exclusive right of reproduction belongs to the artist for his life, and to his heirs or assigns for thirty years after his death, on the same conditions as the copyright of works of literature (*b*).
- Photographs. Photographs are protected by the law of the 24th March, 1865, for five years. All copies must bear the author's name and "exclusive property." A declaration must be made at the Department of the Interior, and a copy deposited. Where a photograph is executed to order, the consent of the person giving the order is necessary for the acquisition of copyright and sale of copies. Actions for infringement can only be brought by an injured party and within a year and a day. Persons infringing, or selling or importing pirated copies, are liable to fine, and to indemnify the injured person. Implements of infringement will be confiscated.
- Denmark has not yet joined the Berne Convention, and has no treaties with other nations, but by orders in Council dated respectively the 6th November, 1858, the 5th May, 1866, and the 5th December, 1879, the Danish laws have been made applicable to works published in France and Sweden and Norway.

(*a*) Law of 1889.

(*b*) Such is the law at present, but a draft of a new law has recently been adopted by the senate, though not yet passed by the Chamber of Deputies.

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Copyright in Spain has lately occupied the attention of the legislature, and is now regulated by the new law on intellectual property, the draft of which was reported on to the Cortes on 4th January, 1877, and finally promulgated on the 10th January, 1879, replacing previous laws of 1834 and 10th June, 1847. The term of copyright before the passing of the new law was for life of the author and fifty years after his death.

Literary
copyright.

The new law protects all scientific, literary and artistic works which are capable of being published by any means whatsoever (*a*).

What
protected.

The persons protected are authors, translators (*b*), persons who (with the permission of the author, if the work is Spanish), recast or copy original works, or make abridgments, epitomes, or reproductions of original works, publishers (*c*), musical composers, authors of scientific charts, plans or drawings, authors of works of art, and the legal representatives of all these people, also the state and its corporations, and also provincial and municipal corporations, scientific, literary, artistic, and other institutions.

Persons
protected.

The publishers of anonymous and pseudonymous works have the rights of authors and translators. But on proof of the identity of the real author or translator, such author or translator shall regain his rights of ownership.

Intellectual property will be governed by the common law, without other limitations than are fixed by that law.

Proprietors of newspapers may assimilate their publica- Newspapers.

(*a*) Under the Regulation of 3rd Sept., 1890, works protected include all those produced or published by process of writing, drawing, printing, painting, engraving, lithographing, stamping, autographing, photographing, or any kind of impression or reproducing known now or subsequently invented.

(*b*) Translators if the original work is foreign and no international treaties forbid, or if it is Spanish, if the work has become public property, or with the consent of the author.

(*c*) Publishers of unpublished works without known proprietor, or of an unpublished work, the author of which is known, become public property.

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Works
published in
periodicals.

tions to literary works, by annually presenting three complete files to the Registry of Intellectual Property.

The authors of works published in periodicals have the right to publish such writings in a collected shape either selected or complete, unless there be an agreement to the contrary. Writings and telegrams published in periodicals may be reproduced by all other publications of the same kind, if the original publication does not carry at the head or foot of the article that reproduction is forbidden: in every case the source must be indicated. And the author or translator of various literary works may publish all or some of them in a collected shape, even after he has sold one of them to a third party.

Lectures.

The author of lectures read in the royal academies or before any other corporation, may publish them in a collection or separately. Academicians have the same power in the case of other literary works brought out with the approbation or by the direction of such academies, except such works as belong indefinitely to any of these bodies as being intended for special and constant instruction at such academy (a).

Duration of
copyright.

Intellectual property belongs to authors for life, and is transmissible to their heirs-at-law or testamentary heirs for eighty years. It is also transferable by donation *inter vivos*, and belongs to the purchaser during the life of the author, and eighty years after his death, if he does not leave heirs of necessity. If he does leave such, the right of the purchaser expires in twenty-five years after the death of the author, and the property passes to such heirs for a period of twenty-five years.

Posthumous works are those which have not been published in the life of the author, or having been, have been left by the author at his death altered, enlarged, annotated, or corrected in such a manner that they deserve to be treated as new works. If this is disputed before the courts, the question shall be submitted to experts.

(a) This is said and seems to imply that such institutions possess perpetual copyright.

Laws, decrees, orders in council, rules and other provisions issuing from public authorities can be inserted in papers and other works, where it is proper, by reason of their character or object, to cite, comment on, criticise or copy them verbatim, but no one may publish them separately, or in a collected form, without the express permission of the Government.

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Laws, &c.

No person may reproduce another's works without permission, not even for purposes of annotation, augmentation or improvement, but any person may publish as his exclusive property commentaries, criticisms, and notes referring to the works of others, inserting only so much of the text as is necessary.

Criticisms.

In the case of a musical work this prohibition extends also to the total or partial publication of melodies, with or without accompaniment, transposed or arranged for other instruments, or with different words, or in short arranged in any other form than that published by the author.

The publication of works is not a necessary condition of legal protection. Consequently no one may without permission publish a scientific, literary or artistic production, which has been taken down in shorthand, noted or copied during the reading, performance or exposition, public or private, of such production. This applies to verbal explanations.

The alienation of a work of art, in the absence of agreement to the contrary, does not carry with it the right of reproduction, or the right of exhibiting the work publicly: these rights remain reserved to the author or his representative.

To be able to copy or reproduce, in the same or reduced dimensions, by any means, original works of art in public galleries during the life of the author, his consent must first be obtained.

The author is the owner of his parliamentary speeches, which cannot be reproduced without the permission of himself or his representative, except in the Annals of the

Parliamentary speeches.

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Chamber (*diario de la sesiones*) of which he is a member, and in political papers.

Translations.

If a translation is first published in a foreign country, with which there exists a treaty on intellectual property, the stipulations of the treaty shall be adhered to in solving questions which may arise in the case of any undetermined questions. This law shall apply.

Foreigners.

Art. 13. The owners of foreign works, the claim to protection of which is established in conformity with the laws of this country, shall also enjoy ownership in Spain; nevertheless they shall only enjoy the exclusive right of translation of these works as long as the right of translation of the original works is reserved to them in their own country by the laws thereof (*a*).

Art. 14. The translator of a work become public property, only enjoys the right of property in his translation and cannot oppose the work being translated afresh by others (*a*).

The rights conceded in Spain by Article 13 to the owners of foreign works shall only apply to nations who treat owners of Spanish works with complete reciprocity.

Legal papers.

Art. 16. All papers presented in legal proceedings shall belong to the parties in whose name they are presented; but they shall not be able to publish them without obtaining permission from the court which gives judgment. Permission may be given after the judgment has become effective, if in the opinion of the court, the publication in itself appears not to be objectionable, and is not prejudicial to either party.

Advocates who have drawn pleadings and documents, may make collections of them by leave of the court and of the parties interested.

Art. 17. In order to publish copies or extracts of judgments, it is necessary to obtain permission from the court, which shall grant or refuse it at discretion, without appeal.

(*a*) The translation of this section is taken from the French translation published in the Copyright International Magazine, Berne. It differs slightly from the translation published by M. Lyon-Caen.

Art. 18. If two or more persons ask such permission, the court may according to circumstances grant it to one and refuse it to others, and impose such conditions as it may think useful.

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Art. 33. A general register of intellectual property shall be kept at the Ministry of Agriculture, &c. (*Fomento*). Registration.

Registers are also to be opened in the provincial libraries, and in their absence in the libraries of the Establishments of Secondary Education in provincial capitals. In these, there shall be entered chronologically the scientific, literary, or artistic works presented to obtain the benefit of this law; also engravings, lithographs, architectural designs, geographical or geological maps, and all artistic or scientific designs.

Three signed copies of each work must be deposited. Half yearly lists of the entries made, and the subsequent alterations must be sent to the General Department of Education to form the general register.

There shall be no charge for registration. Duty on assignments shall be fixed by the law.

Registration is essential to protection except in the case of works of art, and must take place within a year, but protection dates from the day of publication. Date of protection.

Art. 38. If a work is not registered, it may be republished or reprinted by the State, scientific bodies or private persons, during a period of ten years from the failure to register. Forfeiture.

Art. 39. If at the end of this period, the author or his representative fails to register it within a year, the work becomes public property.

Art. 40. Works not republished by the owner for a period of twenty years become public property, and may be published by the State, scientific bodies and private persons without alterations, but no person can prevent others from publishing.

Art. 41. A work shall not become public property even after the lapse of twenty years in the following cases:—

(1) A musical dramatic or lyrical dramatic work not

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printed by the author after public performance and deposit at the register.

(2) When the proprietor shows that he has exposed copies for public sale during the twenty years.

Art. 42. For a work to become public property under Art. 40, notice must first be given at the register, and the government must then summon the owner to reprint it within one year.

In the case of works published in successive parts, the periods fixed by Arts. 38, 39 & 40, shall run from the completion of the work.

The provisions of Arts. 38, 39 & 40 are not operative, if the author, being still the proprietor, before the expiration of the periods mentioned, declares in solemn form his wish that the work should not be delivered up to publicity.

A like right is given to his heir, on condition that he acts in agreement with a family council to be held in manner prescribed.

Infringement. Art. 45. The responsibility for infringements of intellectual property, committed by publication of works subject to this law, shall in the first place fall on the person convicted of being the author, on his default on the publisher and printer successively, subject to proof to the contrary.

Art. 46. Infringers shall incur in addition to the penalties fixed by Art. 552, and the corresponding provisions of the Penal Code in force, the loss of all copies illegally published, which shall be handed over to the injured owner.

Art. 47. The preceding Art. shall be applicable :

To persons reproducing in Spain works which are private property, first printed in Spanish in a foreign country.

To persons who falsify the title or frontispiece of any work or print on it that it has been published in Spain, when really published in a foreign country.

To persons who imitate titles so as to produce in the

opinion of the court, confusion between an old and a new work.

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To persons who import from foreign countries pirated works, while at the same time defrauding the custom house ; the fiscal liability shall remain in addition.

To persons who by any of these means injure foreign authors, when there is reciprocity between Spain and their country of origin.

Art. 48. The following are considered aggravations of infringement.

Altering the title or text of a work, with a view to publication.

Reproduction in a foreign country, if followed by introduction into Spain, and still more if there is an alteration of the title or text.

Art. 49. The ordinary courts shall apply these provisions so far as in their jurisdiction. Jurisdiction.

Governors of provinces, or where there are none, alcades may on the request of the owner of a dramatic or musical work restrain the performance of the work, or order the deposit of the receipts, in cases where this is sufficient to protect the property in the work.

But if the receipts are not sufficient, the interested party may take proceedings before the courts with jurisdiction.

Art. 50. Persons within the jurisdiction of States which concede to Spaniards the right of intellectual property according to the terms of this law, shall enjoy in Spain the rights conferred by this law, without the necessity of any treaty or diplomatic interference, by means of private action before the proper tribunal. Reciprocity.

Art. 51. The government is within a month to determine the existing treaties on literary property with France, England, Belgium, Sardinia, Portugal and Holland, and try to conclude new treaties with as many nations as possible, in accordance with this law and on the following lines :

Complete reciprocity :

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Mutual obligation of the most favoured nation treatment.

An author properly entitled in the one country to have the same right in the other without any new formalities.

To be forbidden in either country the unauthorized printing, sale, importation, and exportation of works written in the language or dialects of the other country.

Art. 52. Without prejudice to rights acquired under former laws, this law shall apply (1) to works commenced to be published after the promulgation of the law; (2) to works not then become public property; (3) to works become public property, but regained by authors, translators, or their heirs, under the provisions of this law.

Art. 53. The extension of duration given by this law shall be enjoyed by authors of works of every kind and their heirs, and also by purchasers subject to the terms of Art. 6.

Art. 54. Author or their representatives who can regain property under this law, may enter their right in the register.

Art. 55. Successors to the 4th decree of authors of works become public property may regain the right for the unexpired period of the eighty years, on condition of complying with the provisions of the law, but they must pay to publishers in possession of printed copies of such works, the value, to be fixed by valuers, of all copies registered within two months of the passing of this law.

The government is to publish a regulation, and a competent commission is to be appointed for this purpose.

Art. 56. The law becomes effective in Cuba and Porto Rico in three months, and in the Phillipine Islands in six months from its date.

No dramatic or musical work can be represented in whole or in part in any public place whatsoever, without previous consent of the author or his legal representative. This article applies to representations given by societies receiving any pecuniary contributions whatever. The rate of remuneration must be fixed by the author at the

time of giving such consent, otherwise he must accept the scale fixed by government.

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No one may, without the author's permission, make a copy of an unprinted dramatic or musical work after representation in public, nor sell or hire out such copy. In a musical dramatic work half the profits belong to the author of the libretto, and the other half to the author of the music. The author of the libretto and the composer of the music, have each the right of publishing separately their part of the work. If the author of the libretto interdicts all representation, the composer may apply the music to a new dramatic work. Societies and private persons who give representations of such a work may not change its title in announcing it, or make changes or additions without consent of the author. The unauthorized representation of a dramatic or musical work in any public place, is independently of the penalties prescribed by the code, punished by the loss of the entire receipts, which must be handed over to the author of the work.

The duration of the right of representation is the same as that of copyright in works of literature. Duration.

When a work is represented without having been printed, registration and deposit of a single manuscript copy is sufficient. Registration.

The law of copyright in works of art is the same as for literary property, but no registration or deposit is necessary in general for works of painting, sculpture, and the plastic arts. Works of art.

By the Penal Code of 1870, it is provided that every punishment for an offence shall carry with it the loss of articles acquired by the offence, and of the instruments serving to commit it.

Penal Code
of 1870.

Both shall be confiscated unless they belong to an innocent third party.

The confiscated articles shall be sold, if they can be lawfully, and the receipts shall be applied in making good

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the liabilities incurred by the offender: if the articles cannot lawfully be sold, they shall be rendered useless.

Art. 552 provides that persons committing a fraud in the matter of literary and trade property shall incur the penalties indicated in Art. 550 (*a*).

Rules (*Règlement*) for the execution of this law were published on the 3rd September, 1880.

These rules gives further definitions of authors and owners, and contain provisions as to official documents, as to the particulars of registration, and particularly as to theatres and dramatic and musical work, at too great length (*b*) for insertion in the present work, but are of considerable importance. A royal decree of the 4th August, 1888, has modified Rule 101, and further royal decrees relating to this law were issued on the 11th June, 1886, and 14th July, 1888.

Important circulars in reference to the law of the 10th January, 1879, and the Rules of the 3rd September, 1880, were also addressed to the Provincial Governors on the 29th May, 1883, the 2nd January, 1889, the 13th January, 1891, and the 21st March, 1891.

Royal decrees relating to the execution of the law in the Spanish Indies were issued on the 27th April, 1887, the 5th May, 1887, and the 6th December, 1889 (*c*).

Spain in addition to having joined the Berne Convention, has existing treaties with France, 16th June, 1880; Belgium, 26th June, 1880; Italy, 28th June, 1880; Portugal, 9th August, 1880; Great Britain, 11th August, 1880; San Salvador, 23rd June, 1880; and the Republic of Colombia, 22nd November, 1885. Spain is also desirous of entering into more close relations with the other South American States.

(*a*) This includes fine and imprisonment.

(*b*) A full translation of these rules is to be found in *Lois françaises et étrangères*, par M. Lyon-Caen, and also in the *International Copyright Magazine* for 1890, pp. 44 & 58.

(*c*) These decrees and circulars are all to be found in the *Magazine* cited in note (*b*).

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Literary copyright in Portugal was formerly regulated by the law of the 8th July, 1851, the provisions of which were given in the last edition: this law was repealed by the law of the 1st July, 1867, which contains a number of provisions on this subject, Part II., Book I., Chapter II., Articles 570—612 (a).

Literary Work in general.

Art. 570. Anyone may publish in print, by lithography, scenic, or any analogous art, a literary work, of which he is the author, without previous censorship, giving of security, or other restriction hindering the free exercise of this right, but subject to his legal liabilities. Right to publish a literary work.

This Article is applicable to the right of translation.

Art. 571. Any person may publish laws, regulations, and other official decrees, if already published by the government, on condition of adhering accurately to the authorized text. Laws.

Art. 572. The preceding Article includes speeches made in *les chambres législatives* or any others delivered officially. But the collection of the speeches or a determinate part of the speeches of an orator cannot be made, except by him or his authority. Speeches.

Art. 573. The lectures of masters and public professors and sermons, cannot be reproduced in their entirety by any other than the author without his authority. This prohibition does not extend to simple extracts. Lectures and sermons.

Art. 574. A manuscript is the property of the author, and cannot in any case be reproduced without his consent. MSS.

Art. 575. Private letters cannot be reproduced without the consent of the author or his representative, except in connection with legal proceedings.

Art. 576. The Portuguese author of a work of literature Duration.

(a) Translation taken from the French translation published in *Lois françaises et étrangères*, par M. Lyon-Caen.

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published by printing, by lithography, or any other analogous process, on Portuguese territory, enjoys during his life the ownership of his work and the exclusive right of reproducing and disposing of it.

(1) Nevertheless authors may quote from one another and copy articles or passages which they think useful to reproduce, on condition that they indicate the author or the book or periodical from which the quotations or extracts are taken.

(2) Articles originally appearing in periodicals or forming part of a combined or collective work, can be reprinted by their authors if there is no agreement to the contrary.

Translation.

Art. 577. The right of translation is included in the rights mentioned in the preceding Article. But if the author is a foreigner, he shall only enjoy this right in Portugal for ten years from the publication of his work, and on condition that he commences to put this right in force within three years from such date.

(1) In case of transfer, all the author's rights pass to the translator, subject to any agreement to the contrary.

(2) The translator, Portuguese or foreigner, of a work become public property, enjoys for thirty years the exclusive right of reproducing his translation, without prejudice to the right of any other person to translate afresh the same work.

Reciprocity.

Art. 578. A foreign writer has the same rights as a Portuguese writer if in his country Portuguese writers enjoy the same rights as natives.

Heirs of author, copyright for 50 years.

Art. 579. After the death of an author his heirs, representatives, or assigns, enjoy the rights treated of in *Art. 576* for fifty years.

Art. 580. If the state or a public institution publishes a work at its expense, it shall enjoy such right for fifty years from the publication of the volume or part which completes the work.

If such work consists of a collection of writings or

memoirs on different subjects, the fifty years shall run from the publication of each volume. CAP. XVIII.

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Works in
collaboration.

Art. 581. Where there is more than one author of a work, and each of them shall have collaborated on the same terms and in his own name, the property in the work shall belong to all the co-authors, and the first period of the duration of this property shall extend to the death of the last surviving collaborator, the proceeds to be shared by him with the heirs of the deceased collaborator, and the second period shall commence from his death.

If a collective work, in which several have joined, has been undertaken, edited, and published by a single person, the second period referred to in this Article shall commence from the death of such person.

Art. 582. The provisions of the preceding Articles as to authors shall apply to publishers to whom the property in the works shall have been transferred, subject to any agreements.

However, in this case the period mentioned in Art. 579 counts from the death of the author.

Art. 583. The provisions relating to works published in the author's name apply both to anonymous and pseudonymous works as soon as the existence of the author, his heirs, or assigns, is known and proved.

Anonymous
works.

Art. 584. The addition given by Art. 576 to the period of copyright after the death of the author (which period was less under the previous Code) is for the benefit of the author's heirs, although the author may have alienated the copyright in whole or in part.

Art. 585. The publisher of a posthumous work of a known author enjoys copyright for fifty years from publication.

Art. 586. The publisher of an unpublished work, the proprietor of which is not yet known and has not obtained legal recognition, enjoys copyright during thirty years from the completion of publication.

Art. 587. Where the edition of a work already pub- Expropria-
tion.

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lished is exhausted, and the author or his heirs are unwilling to reprint it, the copyright may be expropriated although the work has not yet become public property.

The state alone can expropriate copyright, and on condition that it obtains a law authorizing the same, that it previously compensates the author, and further, that it adheres to the general principles of expropriation for reasons of public utility.

Publishers' rights and obligations.

Art. 588. The publisher of a work, whether unpublished or already published but not become public property, cannot alter or modify the text during the life of the author or his heirs; and he must keep on the work the title chosen by the author and the latter's name, in the absence of agreement to the contrary.

Art. 589. A publisher who has contracted to publish a work must, in the absence of agreement to the contrary, commence the publication in the year following the date of the contract and carry it on regularly, under penalty of paying damages to the person interested under the contract.

A publisher who has contracted for successive editions of a work cannot break off the publication, unless he shews that there exists some unsurmountable obstacle to a ready sale of the work.

General provisions.

Art. 590. Literary property is to be considered and regulated as all other personal property, subject to the modifications imposed by the law in consideration of its special characteristics.

Art. 591. On failure of heirs the state does not succeed to copyright; anyone may publish and reprint in such a case, subject to the rights of creditors on the inheritance.

Art. 592. Literary property cannot be prescribed.

Art. 593. There is no property in literary works forbidden by law and ordered to be withdrawn from circulation.

Dramatic Copyright.

Art. 594. Besides literary copyright in their works as established in the preceding Articles, dramatic authors enjoy the following rights. Dramatic works.

Art. 595. No dramatic work can be represented in a public theatre where admission is paid for, without the written consent of the author, his heirs, assigns, or representatives, as follows :—

- (1) If the work is printed this consent is only necessary after the death of the author, during the period for which his heirs, assigns, or representatives enjoy copyright.
- (2) If the work is posthumous, the work cannot be represented without the consent of the heir or the owner of the manuscript.
- (3) Permission for the representation of a dramatic work may be unlimited, or limited to a certain period, to certain countries, or to a certain number of theatres.

Art. 596. Where a limited permission has been granted, if the work is represented at an unauthorized theatre, the net profits shall belong to the person whose permission was necessary.

Art. 597. The author's share of receipts cannot be seized by a creditor of the theatre manager.

Art. 598. A dramatic author who has agreed for the representation of his work enjoys the following rights, unless he expressly renounces them :

To make such changes and corrections in his work as he may judge necessary, provided he does not alter any essential part without the consent of the manager of the theatre.

To require that the work, if in manuscript, should not be communicated to any person outside the theatre.

Art. 599. An author who has agreed with a manager for the representation of his work cannot, during the existence of the agreement, grant in the same locality to

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PORTUGAL.

another manager the right of representing either the work itself or an imitation of it.

Art. 600. If the piece has not been represented within the time agreed, or if no agreement in this respect is come to within a year, the author may withdraw his work.

Art. 601. All disputes between authors and managers shall be brought before the civil courts.

Artistic Property.

Artistic
property.

Art. 602. The author of a musical work, a drawing, a painting, of a sculpture or engraving, has the exclusive right of reproduction of his work by engraving, lithography, moulding, or any other process in conformity with the regulations laid down as to literary property.

The provisions in favour of dramatic authors in the preceding section contained are wholly applicable to the authors of musical works, in respect to the performance of their works in theatres or other places where the public is admitted on payment.

Some Obligations common to Authors of literary, dramatic, and artistic Works.

General
provisions.

Art. 603. In order to enjoy the benefits given in this chapter, the author or proprietor of a work reproduced by typography, lithography, engraving, moulding, or any other process, must observe the following provisions.

Registration.

Art. 604. Before the publication of a literary work is effected by the circulation of copies, two copies must be deposited at the Public Library of Lisbon. The librarian shall give a receipt for this deposit, which shall be entered on the register without payment.

If the work is dramatic or musical, or if it relates to dramatic literature or musical art, the deposit and registration shall be made as aforesaid in the Conservatoire Royal of Lisbon.

If the work is a lithograph, an engraving, or a casting, or if it treats of any of these arts, the deposit and regis-

tration shall be made as aforesaid in the Academy of Fine Arts at Lisbon. But the author may deposit the original drawings instead of the two copies.

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Art. 605. The Public Library and the other institutions named in the last article, must publish monthly the registrations respectively made in the official journal.

Art. 606. Certificates from these registers shall be *primâ facie* evidence of title to the work with the results flowing therefrom, subject to proof to the contrary.

Liability of Pirates or Infringers of Literary and Artistic Property.

Art. 607. Infringers of the rights recognised and secured in this chapter are liable, within the following limits, for the infringements committed by them.

Piracy,
punishments
for.

Art. 608. Any person who publishes an unpublished work, or reproduces a work already published or in course of publication belonging to a third party without his authority or consent, shall forfeit to the author or proprietor of the work all copies of the fraudulent reproduction which are seized, and shall pay in addition the value of the whole edition less such copies at the sale price of lawfully issued copies, or at their estimated value.

If the number of copies fraudulently printed and circulated is unknown, the pirate shall pay the value of 1000 copies in addition to those seized.

Art. 609. Any person who sells or exposes for sale a fraudulently printed work, shall be jointly and severally liable with the publisher, within the limits indicated in the preceding article: if the work has been printed out of the kingdom, the vendor shall be responsible as if he was the publisher.

Art. 610. Any person who publishes a manuscript in which there are private letters, without the permission of their author, during his life or during the life of his heirs or representatives, shall be liable in damages.

This provision is without prejudice to the power granted by Art. 575 in reference to private letters.

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Criminal
proceedings.

Art. 611. The author or proprietor of a work fraudulently reproduced may, as soon as he becomes aware of the fact, demand the seizure of the reproduced copies, without prejudice to his action for damages which he is entitled to bring even if not a single copy has been found.

Art. 612. The provisions of this section relating to civil amends are without prejudice to criminal proceedings, which may be instituted by the author or proprietor against the pirate or infringer.

The provisions of the Criminal Code on Piracy are contained in the Penal Code of 1886, Arts. 457—460, of which Art. 459 relates to infringement of patent rights.

Art. 457. Any person who commits the offence of piracy by reproducing fraudulently and in violation of the law relating to copyright, in whole or in part, a work of literature or music, of drawing, painting or sculpture, or any other production, shall be punishable by a fine of 30 to 300 milreis (*a*) and forfeiture of the copies of the pirated work and all the implements which have been used in the piracy.

The same fine with the loss of copies shall be applicable in the case of any person who introduces on Portuguese territory a work produced in Portugal which shall have been pirated in a foreign country.

Any person who sells or exposes for sale a work thus pirated, shall be condemned to a fine of 10 to 100 milreis and the loss of pirated copies.

Art. 458. Any theatre proprietor or manager, or any society of artists representing in his or their theatre a dramatic work, or performing a musical composition in violation of the law of copyright, shall be punishable with a fine of 10 to 100 milreis and the loss of the receipts.

Art. 460. In the cases provided for by the preceding articles the proprietor injured by the offence shall receive by way of compensation the confiscated articles and receipts; and if he is further injured he may recover by the ordinary means.

(*a*) Milreis—about 4s.

The law of copyright and the Penal Code are both in force in the Portuguese colonies. CAP. XVIII.
PORTUGAL.

Portugal has not joined the Berne Convention, but has entered into treaties with the following nations:—France, 11th July, 1866, replacing an older treaty of 1851; Belgium, 11th October, 1886; Spain, 9th August, 1880; and Brazil, 9th September, 1889.

ITALY.

Previously to 1865, the different states of which the present kingdom of Italy is composed had each their own legislation on copyright, but in that year the Italian government passed the law of the 25th June, which still forms the basis of the law of Italy on this subject. The law was extended to Venetia on the 30th June, 1867, and to Rome on the 30th November, 1870. ITALY.

On the 16th August, 1875, the law relating to dramatic works was passed, which considerably modified the preceding laws by extending the duration of copyright in such works.

However, inconveniences were felt from this double legislation, and by a law of the 18th May, 1882, the government was authorized to unite and codify the two laws of 1865 and 1875, with some modifications. This was accordingly done by a royal decree of the 19th September, 1882, and on the same day a regulation was issued for the due execution of the law (a).

Under the present law, which came into force on the 1st August, 1885, the authors of works of the intellect (*œuvres de l'esprit*) have the exclusive right of publishing and reproducing them, and of selling their reproductions (b). Definition of
copyright.

(a) It is understood that photographs will be protected under this law. See a letter from the Italian Minister on this subject to the Chamber of Commerce at Florence, in which he states that photographs will be registered. Official Magazine of Copyright of the Berne Convention, 1889, p. 19.

(b) The translation, &c., is chiefly taken from the French translation of M. Theurault, published in *Lois françaises et étrangères*, par M. Lyon-Caen.

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ITALY.

Art. 2. The following are equivalent to the publication reserved to the author :—

The printing or any other similar method of publication of (1) extempore addresses, lectures or verbal instruction, although delivered in public and reproduced by shorthand or otherwise ; (2) of works or compositions suitable for public representation.

The representation or performance of a work suitable for public representation, *d'une action chorégraphique* or any musical composition whether published or unpublished.

The composition of a work of art from an author's sketches.

Speeches delivered in public meetings on subjects of political or administrative interest, and especially those delivered in Parliament, can be freely published and reproduced in the reports of the sittings and in the newspapers. But they cannot be reproduced either as a special publication of one or several speeches of an individual, or as part of a collection of his works.

Art. 3. The following are equivalent to the reproduction reserved to the author :—

The repetition of the representation or performance, in whole or in part, of a work suitable for public representation, *d'une action chorégraphique*, and of any musical composition, already publicly represented or performed from the manuscript.

The adaptation for different instruments, extracts from and adaptations of musical works or parts of such works, except where a motif of an original work has been used as the theme or occasion of a musical composition which is in itself a new work.

Change of proportion in the parts or forms of a work of the draughting arts.

Change of material or process in copying a design or picture, a statue or any other work of the same kind.

Art. 4. The exclusive right of selling a work includes the right of stopping, in the kingdom, the sale of reproductions made in a foreign country without the consent of the author.

Art. 5. When the exclusive right of publishing, reproducing, or selling a work belongs jointly to several persons, it is presumed till the contrary is proved that they each have an equal share, and each can exercise the entire right with power to the others to obtain compensation for their share.

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Joint works.

In case of alienation, the assignor and the assignee are jointly and severally liable to pay this compensation, if the assignee knew that the right granted belonged jointly to several persons.

Art. 6. The author of a libretto or any composition set to music cannot deal with the right of reproduction and sale of the music, but the composer of the music can reproduce that and sell it with the words to which the music is written. In such case, the author of the words has a right to the compensation given in Art. 5 to a joint author.

Art. 7. The publication of a work composed of distinct parts, but arranged together in such a way as to form a single work, or a collection with a special purpose, confers on the person who has conceived it, the exclusive right of sale and reproduction.

Collective
works.

Nevertheless, each of the authors of one of the parts composing publications of this kind possesses his rights over his own work, and can reproduce it separately on condition of indicating the work or collection from which it is extracted.

Art. 8. The first publication of a work marks the commencement of the copyright of reproduction and sale.

Duration.

It lasts for the life of the author, and forty years after his death, or eighty years in conformity with the provisions of Art. 9.

Successive editions of a work, although increased or modified, do not form a new work.

And the right of reproducing the added or modified parts terminates at the same time as that of reproduction of the entire work.

Art. 9. The right of reproduction and sale belongs

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exclusively to the author during his life. If the author die before the lapse of forty years from the first publication of the work, his heirs or representatives enjoy the copyright for the remainder of that period: then begins a second period of forty years, during which the same work may, subject to certain regulations, be reproduced and sold without the consent of the proprietors, but on condition of paying to them 5 per cent. on the published price of each copy, which price must be plainly printed on each, and declared according to the form prescribed in Act. 30.

The debt hereby created has preference over all others on the copies reproduced.

Translations.

By Article 12 of the same law the author has the exclusive right of authorizing translations of his works for ten years from the date of their first publication. A translator has the same rights as an author.

The translation of literary and scientific works consists in putting them into another language.

By Article 11, the state, the provinces and communes have copyright in works published at their expense and on their behalf. The right lasts for twenty years from publication. It does not apply to laws and official documents, saving such rights as may belong to the administration on grounds of public interest.

Works of academies and public bodies.

A like right in collections of their proceedings and other publications belongs to academies or other analogous scientific, literary, or artistic societies, and the author of any separate articles published in such works has the rights specified in Art. 7 (2).

Time.

The periods commencing from publication run from the year when the publication of the last part of the work has taken place.

In the case of works published in several volumes, the periods are reckoned for each volume, if the volumes are not all published in the same year.

No account is taken of fractions of years.

Assignment.

An author may alienate his rights, but a mere authori-

zation to publish a work does not transfer the copyright. In such case the judge shall fix a period during which any new reproduction shall be forbidden (*Art.* 19).

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Execution cannot be made on copyright while it belongs to the author.

Execution and expropriation.

But if the copyright is vested in one or more authors, and a third person not an author, expropriation may take place as against each of the owners, saving the right of the others to receive such part of the price as corresponds to their rights.

Art. 17. Copyright in an unpublished work cannot be taken in execution except in the cases where according to the terms of the preceding article expropriation may take place, and on condition that the author has expressed his determination to publish.

This determination may be proved by writing or by implication from acts of the author himself, but not by witnesses.

Art. 18. The assignment of a mould, engraving plate, or any other article forming an ordinary means of publication or reproduction of a work of art is considered to include the right of publication or reproduction unless the contrary is stipulated, and if this right belongs to the possessor of the article assigned.

Assignment of plates, &c., for reproducing works of art.

The assignment of one or more copies of any other work does not carry with it the copyright in the absence of express agreement.

Art. 20. Copyright may with the exception of the right of publication during the life of the author be acquired by the state or any province or commune by expropriation on public grounds.

Expropriation.

The declaration that it is desirable for public grounds is to be made at the instance of the Minister of Public Education, with the consent of the Council of State.

The compensation to be paid is to be fixed by agreement. But in default of agreement, the court shall name three valuers to fix the price; the valuation shall proceed as ordinary judicial valuations.

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Registration.

Method of recording Publication.

Art. 21. Any person wishing to avail himself of the rights secured by this law, must deposit not more than three copies of his work (*a*), or an equal number of copies made by photography or some other process sufficient to identify the work. The author must append a declaration in which after precisely specifying the work, and the year of publication, he shall state his desire to reserve his rights as author or publisher.

Art. 24. The separate volumes of works published in several volumes shall be deposited, if they are not all published in one year.

In the case of periodical works, the publication of which is continued without fixed limit, and in the case of magazines which are published in a course of years, a deposit shall be made every year of the part published in that year.

Art. 25. The obligation of declaring and depositing a work published in parts, or each one of the volumes composing a work, commences at the date of publication of the last part or volume to be deposited.

Art. 26. Any person who publishes a work either all at once or in successive articles, in a paper or any other periodical publication, must declare, at the head of the work, or of the first article, that he intends to preserve the copyright.

In the absence of declaration, other papers or periodical publications may reproduce the work, on condition of indicating the source and name of the author, but no person can publish it separately.

When the author or other person entitled to copyright means to publish his work separately, he must make the deposit and declaration prescribed by Art. 21, giving accurately the date of the commencement and the end of the publication made first in a paper or in any other

(*a*) One copy at least under the Regulation of the 19th Sept. 1882.

periodical. If the work so published is in several volumes, he shall state the year in which was terminated the first publication of the part contained in each volume separately printed, as he makes the successive deposits.

Art. 27. The declaration and deposit must be made within three months of the publication of the work or its different parts, or from the first representation of works intended for public representation, *des actions chorégraphiques*, and musical compositions.

A declaration and deposit made after this time shall be equally valid, unless, in the period elapsed between the expiration of the said three months and the actual date of deposit, a third party has reproduced the work or introduced copies from a foreign country for the purpose of sale.

In such case the author cannot prevent the sale of copies already printed or imported.

The courts shall determine any questions arising on this provision.

Art. 28. If the declaration and deposit are not made within ten years, the copyright is considered as abandoned.

Art. 29. Extracts of the declarations made, whether within the prescribed time or not, shall be published monthly in the Official Gazette.

Art. 30. A person wishing to exercise the power given by Art. 9 (2) must deliver to the prefect a written declaration stating his name and address, the work he wishes to reproduce, the mode of reproduction, the number of copies and the price to be marked on each ; he must add a clear offer to pay to the persons who prove themselves entitled a royalty equal to $\frac{1}{20}$ of the price multiplied by the number of copies.

Conditions of
sale by third
parties.

These declarations must be inserted at least twice, at an interval of fifteen days, in a paper appointed for judicial announcements in the place where reproduction is to be made, and in the Official Gazette.

At the end of every three months, a list shall be made

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of the declarations made during that period, which shall be published at the end of those mentioned in the preceding article.

Art. 31. In the case of disputes between the persons interested as to the annulment, alteration or transfer of declarations already made, the court shall decide in a summary way agreeably to recognised rights, and to the regulations established by this law.

The government, at the request and expense of the persons interested, shall publish in an appendix to the last publication of declarations, all annulments, alterations or transfers ordered by the court, as well as those agreed to.

Piracy.

Art. 32. Any person who publishes a work without the consent of the author, is guilty of illegal publication.

It is accounted piracy (1) to reproduce any work over which the author's rights shall still extend, or to sell such reproduction without his consent; (2) to omit the declaration prescribed by Art. 30; (3) when any person produces and sells a greater number of copies than his agreement with the author allows; (4) to translate without consent any work during the time reserved to the author.

Art. 33. Unlawful publication or piracy in any of the ways indicated is punishable by fine up to 5000 francs, without prejudice to damages; and further penalties may be inflicted in cases of theft or fraud according to the penal law.

Art. 34. Unlawful representation or performance, in whole or in part, or with additions, diminutions, or variations, shall be punishable with a fine up to 500 francs, without prejudice to damages, and further penalties in case of fraud or theft.

Art. 35. Criminal proceedings in relation to copyright shall be taken officially.

Art. 36. Pirated copies and implements for producing the same which may serve for the reproduction of other works shall be destroyed, if the injured party does not demand their delivery up to him at a fixed price in

reduction of damages, or if the infringer does not require that they should be kept in sequestration until the expiration of the copyright.

The judge shall always listen to this last demand and give it the preference.

The judge shall order delivery up at the price fixed by the person requiring it, if the price is not objected to by the adverse party; but if it is, a valuation shall be made and the judge shall fix the price himself, leaving the demandant to accept the price or withdraw his demand.

Art. 37. In the last year of copyright the destruction of pirated works and implements for producing the same shall never be ordered, and on the application of an infringer the execution of a previous order for destruction may be suspended.

In these cases sequestration at the expense of the infringer shall be substituted as of right.

Art. 38. At any period of the existence of copyright a judge may order pirated works or implements, if they are works of art of considerable value, to be deposited in a museum, if the parties acquiesce.

Art. 39. When copyright is reduced to a mere right of receiving a fixed royalty (under Art. 9), no order can be made for the destruction of pirated copies or implements, or for their sequestration, unless these measures will ensure payment of the price.

If the royalty is not fixed and there are no materials for fixing it offhand, it can be settled by the judge, by valuation or as in other cases.

Art. 40. The reproduction of a generic title is not an offence of piracy, nor the reproduction of one or more fragments of a work, when it is not made with the evident intention of reproducing part of the work of another for profit. Not piracy.

Articles of political argument when reproduced for the purposes of discussion, or to justify or rectify opinions already expressed on the subject, and articles of news inserted in the papers or other periodicals, can be reproduced if

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the source is indicated. But the reproduction of the insertions mentioned in Art. 26 constitutes the offence of piracy when it is prohibited.

Art. 41. The omission of the declaration prescribed by Art. 30, or the marking a higher price on the copies than that declared, if not rectified by a supplementary declaration before sale shall be punishable with a fine up to 1000 francs.

In both cases this is without prejudice to the civil actions for damages and payment of the royalty.

Art. 42. Incorrect and false information in the declarations prescribed by Arts. 21, 23, 26 and 30 is punishable with a fine up to 1000 francs.

Art. 43. Every other violation of this law or the regulations on copyright shall be punishable by fine up to 500 francs.

Art. 44. This law applies to authors of works published in foreign countries with which there is no treaty, provided that that country has laws giving authors copyright to a greater or less extent, and that these laws are reciprocally applicable to works published in Italy.

If reciprocity is promised by any foreign country to other countries on condition that they assure to authors of works published in the first country the same rights and securities as those recognised by its laws, the government is authorized to accord both by royal decree on condition of reciprocity, provided they should be limited in time and not differing essentially from the rights and securities given by this law.

If deposit and declaration at the time of publication is prescribed by law in a foreign country, proof that either of them has been made according to such law shall be sufficient to obtain for the work there published copyright in Italy.

If no formality is prescribed, the deposit and declaration prescribed by this law may be effected either in Italy or with Italian consuls in a foreign country.

Works published in foreign countries.

Art. 45. Government expenses may be defrayed by royalties not to exceed 10 francs. CAP. XVIII.

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Art. 46. This law is retrospective.

Art. 47. Copyright entirely extinguished at the coming into operation of this law (1st August, 1885), cannot be revived.

But if copyright still exists in any province the author, if he has not assigned, or his representative by succession, may claim the benefit of the new law and its extension to the whole kingdom, after deducting the period elapsed since publication, for the residue of the period.

If the copyright has been assigned for a fixed time, and with the duration given by this law it has not yet expired, the author or his representatives may resume their right for the remainder of the duration.

The purchaser shall, on the contrary, take the benefit, if the assignment was for an indefinite time or he was expressly given the benefit of any prolongation.

To obtain the benefits of this provision, an express declaration must be made within three months of the coming into force of this law that it is desired to take the benefit of it, the declaration to be in the form prescribed by Art. 21.

Dramatic and Musical Works.

Art. 14. No one may represent or perform a work intended for public representation, a choregraphical action or a musical composition of which the copyright is secured under Art. 2, without the consent of the author or his representatives. Proof of the consent in writing duly witnessed must be presented and left with the prefect of the province who, in default of this proof and on demand of the party, shall prohibit representation or performance.

Dramatic
and musical
works.

Art. 23. The declarations in respect of works suitable for public representation, choregraphical actions, and musical compositions, not published, the exclusive right to the publication or representation of which is desired to be retained, must be accompanied by a manuscript of the

Deposit of
MSS. in case
of dramatic
and musical
works.

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work, which will be returned after the presentation has been duly signed.

Copies of musical works must also be deposited, and in all cases it is necessary to state whether the work has been publicly represented before publication, and to give the date and place of such representation.

Duration of right of representation.

The duration of the right of representation and performance of works suitable for public representation, of a choregraphical action, and a musical composition, is not, as in the case of publication, divided into two periods of forty years after the death of the author, but is simply limited to eighty years from the date of the first publication or representation, and is enjoyed by the author and his heirs or legal representatives. At the end of this period the work becomes public property, as far as concerns representation and performance.

The composer of a musical work can prohibit any extracts from or arrangements or variations of his work.

Artistic copyright.

In works of art the duration of the copyright is the same as in works of literature, and the other provisions relating to works of literature apply.

Art. 13. The translator of a work of art has the same right as the translator of a literary work when the translation constitutes a new work of art, according to the provisions of Art. 12.

Under Art. 12, the translation of works of drawing, of painting and sculpture, engraving and analogous productions, consist in reproducing the forms or figures by some process not simply chemical or mechanical, but constituting another work of art differing in its nature from the original, as the engraving of a painting, the drawing of a statue.

By the regulations of the 19th September, 1882, further details as to registration are prescribed and forms of application are given. A circular of the 3rd March, 1891 (*a*), issued by the Minister of Agriculture, &c., calls the atten-

(*a*) Official Copyright Magazine of the Berne Convention for 1891.

tion of the prefects to infringements of copyright in works suitable for representation and musical compositions, and reminds them that charitable representations require the author's consent.

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Italy was one of the signatories to the Berne Convention. In addition she has treaties with Germany, 20th June, 1884; Austria, 8th July, 1890; Belgium, 24th November, 1859, terminated on the 4th July, 1889, by mutual agreement; Spain, 28th June, 1880; Great Britain, 30th November, 1860; Sweden and Norway, 9th October, 1884; Switzerland, 5th May, 1869; France, 9th July, 1884.

REPUBLIC OF SAN MARINO.

There is no law on copyright in this country, but in the treaty concluded on the 27th of March, 1872, between the Republic of San Marino and the kingdom of Italy, Art. 35 provides that the Republic, fully adhering to the principles sanctioned in Italy respecting literary property, binds itself to prevent within its dominions any reproduction of works of literature or art published in the kingdom of Italy (*a*).

SWITZERLAND.

Up to the law of the 23rd April, 1883, the law of copyright in Switzerland was laid down by a concordat entered into by fourteen separate cantons and approved 3rd December, 1856, by the Federal Council. Its provisions are as follows: authors and artists have the exclusive right of publishing or authorizing publication of their works. This right extends to all works of literature or art printed or published in any canton. Swiss citizens who publish works abroad may acquire the rights of an author in Switzerland, by sending a copy of the work to their government, and by declaring themselves as the authors (Art. 1).

Copyright in Switzerland.

Former law.

(*a*) Official Copyright Magazine of the Berne Convention for 1891.

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LAND.
Duration.

Copyright lasts for the life of the author, and if he die before the end of thirty years from the date of publication, then for the remainder of this period the copyright vests in his heirs or assigns. If no publication of the work took place during the life of the author, his heirs or legal representatives have the exclusive right of publishing the work during the ten years immediately following his death: if they avail themselves of this right the work is protected for thirty years dating from the death of the author (Art. 2).

Piracy and
infringement.

Reproductions which require intellectual work are not considered infringements of an author's rights: they are, on the contrary, equally protected with the original (Art. 3).

It is not an infringement of copyright

- (1.) To print the transactions and acts of government and public authorities, unless they have previously been entrusted for publication to some person.
- (2.) To print speeches made in public.
- (3.) To reproduce newspaper articles.
- (4.) To insert extracts from a work in a collection of passages from different authors (Art. 4).

Penalties.

The penalty for illegal publication of a work of literature or art, or for knowingly selling a pirated work is, by fine up to 1000 francs, and the confiscation of the unsold copies for the benefit of the author (Art. 5). The author is also entitled to damages (Art. 6). Cases of piracy are tried in the courts of the canton in which such piracy takes place (Art. 7).

Reciprocity.

The protection afforded to literary and artistic property may be extended by treaty to the productions of foreign states who exercise reciprocity, and who by moderate duties on the productions of Swiss literature and art facilitate their sale; but such treaties will only bind the separate cantons in so far as they agree to them (Art. 8).

On the 23rd April, 1883, a uniform law for all Switzerland was promulgated, repealing all contrary provisions of

the laws and cantonal orders, and in particular the concordat of the 3rd December, 1856 ; its provisions are as follows :

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Art. 1. Literary and artistic property consists in the exclusive right of reproduction or performance of literary or artistic works. The right belongs to the author and his representatives.

A writer or artist who works on behalf of another writer or artist is considered to have ceded to the latter his copyright, in the absence of contrary agreement.

Literary property includes the right of translation.

Art. 2. Literary and artistic copyright lasts for the life of the author and thirty years after.

Duration.

In the case of a posthumous work or a work published by the confederation, by a canton, by a corporation or society, the duration is thirty years.

Posthumous
works.

The right of translation can only be claimed by the author or his representatives, if he exercises it within five years.

Translations enjoy by the same title as original works the protection of this law.

Art. 3. Posthumous works and those mentioned in Art. 2, par. 2, must be entered in a duplicate register kept at the Federal Department of Commerce within three months.

Registration.

No formalities are necessary in the case of other works, but authors may register at their convenience.

The payment for registration shall not exceed two francs.

The federal council shall issue rules for the due execution of this article (*a*).

Art. 4. The federal law on obligations governs questions relating to agreements between authors and publishers of literary and artistic works (*b*).

Art. 5. In the absence of stipulation, the purchaser of a work of the fine arts cannot reproduce the work till the copyright is expired.

Work of art,
right of pur-
chaser of.

(*a*) Regulation issued 28 Dec. 1883.

(*b*) Code Fédéral of 1882.

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Portrait.

But in the case of a portrait or half-length portrait to order, the right of reproduction passes with the work.

The author or his representatives cannot disturb the possession of the proprietor of the work in order to exercise their right of reproduction.

Architecture.

Art. 6. In the absence of agreement to the contrary, the purchaser of architectural plans can have them carried out.

Musical and
dramatic.

Art. 7. The alienation of the right of publication of dramatic, musical, or dramatic-musical works, does not carry with it the right of performance, and *vice versa*.

The author of a work of this kind can make the right of public representation or performance depend on special conditions, which in such case should be published at the head of the work.

But the percentage must not exceed 2 per cent. on the gross receipts. When the payment of a percentage is assured, the representation or performance of a work already published cannot be refused.

Art. 8. The provisions of this law apply to geographical, topographical, natural history, architectural, technical, and other analogous drawings.

Photographs.

Art. 9. Photographic and other analogous works are admitted to the benefits of this law on the conditions following :

(a.) The work must be registered according to Art. 3, par. 1.

(b.) The duration of copyright is five years from registration. If it is a question of the reproduction of an artistic work not become public property, the duration shall be according to the agreement between the photographer and artist; in the absence of stipulation, five years, after which the artist and his representative shall resume all their rights.

(c.) When a photograph has been executed to order, the photographer cannot reproduce it in the absence of agreement.

The fact of taking a photograph directly from an original which has been previously photographed is not piracy.

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Art. 10. The provisions of this law are applicable to all works the authors of which are domiciled in Switzerland, no matter where the work has appeared or been published; also to works which have appeared or been published in Switzerland, the authors of which are foreigners.

Reciprocity.

A foreign author of a work published in a foreign country enjoys the same rights as the author of a work appearing in Switzerland, if this last has, in such foreign country, the same rights as the author of a work appearing in that country.

Art. 11. The following are not infringements of copyright :—

Not infringe-
ments.

The reproduction of extracts or entire small pieces from literary or scientific works in critical notices, in works on the history of literature, or in collections intended for scholastic instruction, on condition that the source is indicated.

The reproduction, of laws, decisions or deliberations of the authorities and the public reports of an administrative body.

The publication of reports of public meetings.

The reproduction, with an indication of the source, of articles extracted from newspapers or periodical collections, unless reproduction is formally forbidden by the author in the newspaper or collection; the reproduction of articles on political discussions appearing in the public newspapers cannot be forbidden.

The reproduction of news of the day, even although the source is not indicated.

The partial reproduction of a work belonging to the draughting arts, in a work of scholastic instruction.

The reproduction of works of art standing in the streets or public squares, provided that the reproduction is not in the artistic form of the original.

The reproduction or carrying out of plans or drawings

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of buildings or parts of buildings already built, in so far as these buildings have not an artistic character.

The insertion in a special collection intended for school or church, of small musical compositions already published, with or without the original words, on condition that the source be indicated.

The performance or representation of dramatic, musical, or dramatic-musical works, organized without a pecuniary aim, even when admission is by payment to cover expenses or for a work of charity.

The reproduction of musical works by musical boxes and other analogous instruments (*a*).

Penalties of
piracy.

Art. 12. Any person who knowingly or by gross negligence unlawfully reproduces, represents, or performs any literary or artistic work, or imports or sells pirated works, must compensate the author or his representatives, on their complaint.

The amount of damages is in the discretion of the judge.

If a person causes an unlawful representation, circulates a pirated work, or organizes an unlawful performance, without gross negligence, proceedings can only be taken against him to restrain the acts disturbing the possession of the rightful owner, and if damage is caused, to obtain compensation from the unauthorized profit.

Art. 13. Any person who knowingly or with gross negligence infringes copyright, may in addition be condemned on the complaint of the injured party, and in proportion to the gravity of the infringement, to a fine of 10 to 2000 francs.

When the firm, the name, or the mark of the author or publisher, has been imitated, up to a year's imprisonment may be inflicted; or a fine and imprisonment within the limits mentioned.

Participation in the offence, and an attempt to commit, are punished less severely.

An old offender may have double punishment.

(*a*) Berne Convention, Art. 3 of the Protocol; and see the French law of the 16th May, 1866.

Art. 14. Fines go to the cantonal chests; when the judge fixes the fine, he should also fix an equivalent imprisonment in case the fine is not paid.

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Art. 15. Criminal proceedings shall take place according to the procedure of the canton in which the complaint is made, which may be either the domicile of the accused, or the place where the offence was committed; only one criminal prosecution can be commenced for the same offence.

Art. 16. As soon as proceedings are commenced, the judge may order any necessary provisional measures (provisional seizure, security, an injunction, &c.).

Art. 17. Neither civil nor criminal proceedings can be taken after the lapse of a year from the time when the author or his representatives knew of the piracy or reproduction and the name of the offender, and not in any case after five years from the day of the publication, representation, or putting on the market of the pirated work. Prescription.

Art. 18. The judge may at his discretion, order confiscation of pirated works both against the infringer, the importer and the retailer, and also of implements specially intended for piratical purposes.

In the case of the performance or representation of a musical, dramatic, or dramatic-musical work, the judge may order confiscation of the receipts.

The products of these confiscations, or the confiscated receipts, may be applied in payment of the civil compensation adjudged to the proprietor.

Art. 19. This law applies to all writings, works of art, dramatic, musical, or dramatic-musical compositions published or appeared before the coming into force of this law, even when such works have not by cantonal law enjoyed any protection against piracy, reproduction, or public representation. Retrospective action.

The time already elapsed since publication shall be taken into account in calculating the period of protection.

But no proceedings, whether criminal or civil, under the

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present law can be founded on reproduction made before the coming into operation of this law ; on the other hand, the sale of these reproductions after such date is not permitted, except under agreement with the author, or unless in default of agreement, the proprietor of these reproductions shall pay the compensation fixed by the federal courts.

Art. 20. The prolonged period of protection given by Art. 2, over the protection formerly given, is granted in favour of the author or his heirs ; but not in favour of the publisher or any other assign. But if the period of protection provided by this law is on the contrary shorter than that provided by legal provisions previously existing, the rights acquired under such provisions still remain in force.

Art. 21. This law comes into operation on the 1st of January, 1884.

A regulation for the execution of this law was issued on the 28th of December, 1883.

This provides for the keeping of two registers at Berne ; one for works which must be registered, *i.e.*, posthumous works, works published by a canton, a corporation or society, and also works of photography.

Secondly, a register for other works of which the registration is optional.

The formalities to be exercised on registration, &c., are carefully provided for.

Foreigners may register if domiciled in Switzerland or if their works have appeared there, or if their country treats on the same footing, works published in Switzerland. The Swiss Federal Code on obligations of 1882 contains special provisions relating to publication agreements : Arts. 372 to 391. A regulation has recently been published, 21st April, 1891, in relation to works of art belonging to the Confederation, and containing provisions as to the copying of such works.

Switzerland was the chief originator of the Berne Convention. She has treaties with France, 23rd February,

1882 (a), and Germany, 13th May, 1869, and 23rd May, 1881; Italy, 22nd July, 1878, which are still subsisting, though of little value since the Convention; she had also a treaty with Belgium, which has been terminated since the Berne Convention.

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MONACO (PRINCIPALITY OF).

Monaco joined the Berne Convention on the 30th of May, 1889, and by an ordinance of the 27th September, 1889, the Convention was ordered to be registered in the Superior Court, to the end that it might be fully carried into operation in the Principality. The English Order in Council of the 28th November, 1887, was on the 15th October, 1889, extended to Monaco.

Previously to the accession, namely, on the 27th February, 1889, a sovereign ordinance was issued for the protection of artistic and literary works (b). It provides that :—

Art. 1. Literary and artistic copyright is placed under the protection of the law, and regulated as follows :

Art. 2. Literary and artistic works include books, pamphlets, and writings of all kinds, dramatic or dramatic-musical works, musical compositions with or without words; works of drawing, painting, sculpture, and engraving; lithographs, photographs, illustrations, and geographical charts; plans, sketches, and plastic works relating to geography, topography, architecture, and sciences in general; in short, every production of the domains of literature, science, and art, which can be published by any method of printing or reproduction.

Definition
clause.*Title I.—Copyright in literary and artistic works.*

Art. 3. The author of a literary or artistic work has alone, during his life, the right of publishing or repro- Duration.

(a) Terminated by Switzerland from the 1st Feb. 1892.

(b) *Lois françaises et étrangères*, par M. Lyon Caen, from which work this translation is taken.

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ducing it, or authorizing publication or reproduction in any manner or form.

Art. 4. The author of a literary work has further the exclusive right of translation.

Art. 5. A duly authorized translator has the same rights respecting his translation as the author of an original work. But in the case of a work, the right of translation of which has become public property, he cannot oppose the same work being translated by others.

Dramatic
works.

Art. 6. No dramatic or dramatic-musical work can be publicly performed or represented without the consent of the author. This rule applies equally to unpublished musical works and to those which have been published with an express reservation of copyright on the title-page or head of the work.

Works of
collaboration.

Art. 7. In the case of literary and artistic works created in collaboration and forming an indivisible whole, the exercise of the copyright shall be regulated by agreement. In default, no one of the collaborators can exercise his rights separately, power being reserved to the Superior Court to decide in case of disagreement, and to order such measures as it may think useful for securing the rights of each author.

A work composed of words and music is not to be reckoned indivisible. The author and composer each as to his own part can turn them to account separately by publication, translation, or public performance, but neither can enter into an agreement with a new collaborator.

Assignment.

Art. 8. Copyright can be transferred voluntarily or for value, and is transmissible by will or on intestacy, in whole or in part, in conformity with the Civil Code.

Right of heirs.

But in the case of assigns, heirs, irregular successors, and legatees, the duration is limited to fifty years from the death of the author.

In the case of a work of collaboration, the commencement of this period, for the benefit of all persons entitled, is deferred to the death of the last survivor of the collaborators.

Art. 9. The proprietors, by succession or otherwise, of

a posthumous work enjoy copyright for fifty years from the day of publication. But if they include the work in a new edition of works already become public property, they incur forfeiture.

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Posthumous works.

Art. 10. The publisher of an anonymous or pseudonymous work is considered, as regards third parties, to be the author. If the author discloses his identity and proves his title, he resumes all his rights.

Anonymous works.

Art. 11. The rights recognised to authors and their representatives by the preceding articles are subject to the following modifications :

What are not an infringement.

(1.) Articles in newspapers or periodical magazines can be reproduced in the original or in translation, on condition that the source is indicated, unless this is expressly prohibited by the authors or publishers. In the case of magazines the prohibition may be made in a general way at the head of each number. Reproduction of articles of political discussion, and of news of the day and sundries, cannot be prohibited.

(2.) Literary and artistic works may be borrowed from and the part taken published, when the publication is for purposes of instruction, or has a scientific character or forms a chrestomathy (*a*).

(3.) Art. 6 does not apply to musical performances occurring in civil and religious solemnities, or in the open air gratuitously to the public, nor to performances or representations for charitable purposes and duly authorized in this behalf by government.

Art. 12. Literary and artistic works, as personal property, are subject to the general lien of creditors, and can be taken in execution, according to the rules of common law, if they are published.

Title II.—Conditions of the enjoyment of copyright.

Art. 13. To enjoy the benefits conferred by this law, an Registration.

(*a*) Collection of choice pieces from certain classical authors.

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author or his representatives must make at the secretary's department a declaration, which shall be registered, and of which a certificate shall be given bearing the date.

Art. 14. The declaration must contain: the title of a literary work or the circumstantial description of an artistic work; the name of the author and publisher, or of the last only in the case of an anonymous or pseudonymous work; their nationality; place and date of first publication; if the author is dead, the date of his death.

Art. 15. No proceedings, civil or criminal, can be taken in respect of acts previous to registration.

Further, if registration is not made in the year following publication, the copyright is lost.

Art. 16. The printer must also obey the special obligations imposed on him by Art. 267 of the Penal Code (*a*).

Title III.—Offences against copyright. Their repression and prosecution.

Piracy.

Art. 17. Every publication or reproduction, in whole or in part, of a literary or artistic work produced in bad faith in defiance of copyright, constitutes the offence of piracy.

In particular the following acts are prohibited under this head:

The publication of works known as adaptations, musical arrangements, and generally of passages taken from literary or artistic works, with variations, additions, or curtailments, which retain the characteristic features without presenting the character of a new original work.

But the fabrication and sale of instruments mechanically reproducing musical airs which are private property, do not constitute the offence of piracy (*b*).

Art. 18. The fraudulent application on a work of literature or music, or an object of art, of the name of an author, or any distinctive sign adopted by him to denote his work, is equivalent to piracy.

(*a*) See p. 782.

(*b*) Art. 3 of the Protocol to the Berne Convention.

Art. 19. Piracy shall be punishable with a minimum fine of 100 francs, a maximum fine of 2000 francs.

Art. 20. The same penalty is applicable to the sale, exposure, importation, and exportation of pirated works.

Art. 21. In the cases provided for by the preceding articles, confiscation of pirated works, moulds, or matrices used for the piracy, will be decreed against persons convicted.

Art. 22. Every public performance or representation of dramatic, musical, or dramatic-musical works, made in defiance of the provisions of Art. 6, shall be punishable by a fine of 50 to 500 francs, with confiscation of the proceeds.

Art. 23. When confiscation is decreed, the articles shall be delivered to the author or his representatives by way of indemnity, without prejudice to further damages if there is ground for them.

Art. 24. Proceedings against violation of this law can only be taken by the author or his representatives.

Art. 25. Violations of the law shall be ascertained at the request of authors, by officers of the judicial police.

Art. 26. Except as provided by the special rules hereinbefore prescribed, the rules of the Code of Criminal Procedure (*a*) and the Penal Code (*b*), notably Arts. 259 to 273 and 471 of this last Code, apply in matters to which they relate.

Title IV.—Civil actions flowing from copyright.

Art. 27. Every infringement of copyright gives a right of civil action for damages, which action may be instituted and decided in the ordinary way without prejudice to the power of the owner of copyright to proceed criminally, according to the ordinary law, if the act is a piracy. Civil actions.

Art. 28. Persons entitled to copyright may also, apart from all criminal proceedings, with the leave of the President of the Superior Court, take proceedings for a precise description of all pirated articles, with or without seizure. Discovery.

(*a*) Code of 1874.

(*b*) Code of 1875.

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Art. 29. The order of permission shall be given on simple request and on the production of a certificate from the proper authority, stating the performance of all the conditions prescribed for the exercise of the rights claimed.

Art. 30. The President aforesaid may require the claimant to give security. In such case the order shall not be granted till proof that the security has been given is shown.

Foreigners must always give security.

Art. 31. A copy of the order shall be left with the possessor of the article described or seized, on penalty of damages and nullity of the proceedings.

Art. 32. If the claimant does not appear before the Superior Court within fifteen days from the report of the description or seizure, that shall be absolutely void, without prejudice to damages which may be claimed if there is ground for them.

Title V.—Rights of foreigners.

Foreigners.

Art. 33. The provisions of this law shall be applicable to the foreign author of a literary or artistic work, whether published in the Principality or not, and his representatives, according to the rights which are or are not granted to subjects of Monaco by the laws and treaties, either of the country of origin of the foreign author, or the country of first publication, when that takes place out of the country of the author.

In this last case, if the first publication is made simultaneously in several countries, the foreigner's rights shall be measured by the laws which gives the shortest period of protection.

Art. 34. A foreigner shall not be allowed to claim in Monaco more extended rights than those secured to subjects of Monaco by the laws of Monaco.

Art. 35. He shall be free from the formalities set out in Art. 2, if by the legislation of the country of first publication the enjoyment of copyright is absolutely subject to the registration of a declaration, or a deposit to be made

within a fixed period, and if he proves that he has done what is so prescribed.

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Art. 36. This law comes into force on the 1st July, 1889.

Art. 37. It shall apply to all literary or artistic works not then become public property in the same measure as if it had been promulgated at the moment of their publication.

But the commencement of the period fixed for registration on penalty of forfeiture is deferred to the said 1st of July, 1889.

A decree of the Governor-General shall prescribe the necessary regulations for the application of Arts. 13 and 14 (Registration).

The Secretary of State, Attorney-General, and Governor-General shall, according to their respective duties, see to the carrying out of this law.

The following regulations were prescribed on the 20th May, 1889 :— Regulations.

Art. 1. A register is opened at the Secretarial Department for registration of the declarations required by Arts. 13 and 14 of the law of 1889.

The register is established according to Form A. annexed, with an alphabetical index to be filled in daily.

Art. 2. The declaration must be in writing in the French language in duplicate according to Form B., and may be sent post free.

Art. 3. It must emanate from the author or his representatives, or the attorney of the rightful owner. In this last case the special authority must be appended with the papers, and specially mentioned in the register.

Nevertheless, neither the right of the person making the declaration nor the truth thereof is subject to any previous enquiry, and registration is made at his own risk.

Art. 4. In the case of works published in successive, but not periodical parts, a declaration must be made for each part appearing at a distinct time.

Art. 5. The performance of the prescribed formalities is shown by a certificate, Form C., appended to the foot of one

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of the original declarations, which is returned to the person making it.

The other original is preserved in the Secretarial Department with the papers, which ought to be appended.

Art. 6. Any person may consult the register and papers relating to a registration, and make extracts, which will be certified on request.

There is no fee. These regulations came into force the 1st June, 1889, and apply to works previously published and referred to by Art. 37 of the law of 1889, as well as to new works.

Obligations
on printers.

Art. 267 of the Penal Code provides that no printer shall print any writing without previously declaring what he proposes to print, nor put it on the market, or publish it in any manner until he has deposited two copies at the Secretarial Department; he shall receive a receipt for the declaration and deposit.

Omission to make the declaration and deposit shall each be punishable with a fine of 500 francs for the first offence and 1000 francs for the second.

TURKEY.

Former and
present law.

Before the year 1872 the copyright of authors was protected by two decrees of January, 1850, and 19th April, 1857. The first applied only to authors paid by government, the second was general. These measures were very imperfect, and merely made a publisher liable to damages for issuing more copies of a work than had been agreed upon between himself and the author. The right was also reserved to the state of publishing any work which it should think proper on payment of an indemnity, the amount to be fixed by the State itself, to the author. In the year 1872, however, a copyright law was sanctioned by the Sultan. The provisions of this law are simple but comprehensive :—

Law of 11th
Sept., 1872.

Art. 1. Every person may print every kind of book. All monopoly is suppressed.

Art. 2. By way of reward, and that his example may be followed, every author shall have a privilege for life for the printing of his works. No other person shall be able to print them up to the death of the author.

Art. 3. In case the author shall not be able himself to have his work printed, he shall have the right of selling by agreement his privilege of printing to any person whatsoever on such conditions and at such price as he shall consider suitable.

Art. 4. The agreement for sale must be communicated to the Council of Public Education.

Art. 5. If the Government shall be of opinion that the printing of a work is necessary, the work shall be printed after the author has received a suitable remuneration through the said council.

Art. 6. Printing a larger number of copies of a work than has been agreed is forbidden. Accordingly any person who shall violate this provision, shall be considered purely and simply as a man who has committed a theft, and shall be punished by the penalties by the law prescribed against thieves.

The following additional articles were subsequently added.

Every author shall obtain on request the privilege of restraining the printing and publication of his work by any other person for 40 years from publication, and also of restraining the translation, without his permission, of his work on condition that he has expressly reserved the right of translation in the preface, on the cover, or in some other part of the work. Duration.

If the author dies before the expiration of 40 years, his privilege for the unexpired period shall pass as his other property to his heirs. The author or his heirs may assign their privilege in whole or in part. If the purchaser dies before the expiration of 40 years, he may transmit the privilege to his heirs for the unexpired period.

The rights of a translator are identical with those of an author, except that the duration is only for 20 years. Then Translation.

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any other person may obtain the right of translating the same work.

When the State has bought from an author and translators of a work their privilege, or they have granted it to the State, the printing of the work shall not be authorized by the Ministry of Public Education before deposit at the Treasury of the sum fixed by the State.

Persons who print works of which the publication and printing are the subject of privilege, shall be prosecuted in accordance with Art. 241 of the Penal Code.

Punishment
for offences.

Art. 241 of the Penal Code provides that a person shall be guilty of piracy who prints, or causes to be printed, books in defiance of the laws and regulations on the property of authors, or who shall prepare or cause to be prepared any article for which an exclusive privilege has been granted, whether to a private individual or a society. Pirated works or articles shall be confiscated for the benefit of the author or possessor of the privilege, and the pirate shall be punishable with a fine of 5 to 200 médjidie (*a*).

The introduction on to Turkish territory of productions of this kind pirated in a foreign country, shall also be punishable with a fine of 5 to 100 médjities, and the penalty against the person who knowingly sells them shall be a fine of 1 to 25 médjities.

Further new regulations were added on the 28th March, 1875.

Special
works.

Art. 1. A privilege of four years shall be granted to any one wishing to print works of large size, when the author or the owner of the privilege or their heirs are dead.

Art. 2. For a book to be considered as of large size and obtain this privilege, the entire work whether in one volume or in several parts or volumes must contain not less than 800 pages, and not less than 37 lines to the page. Privilege shall not be granted in the case of works not fulfilling these conditions.

Art. 3. Where (such) a privilege is demanded for a work

(*a*) Gold médjidie, worth about 18s.

containing plans, geographical charts, or artistic designs, the work must contain 200 pages of 21 lines, and 50 plates.

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Art. 4. At the request of the persons who have obtained a privilege for such works, the works may be divided into such number of volumes or parts as they please.

Art. 5. When a work for which a privilege has been granted has not been completely published within a year and a half, by the act or omission of the possessor of the privilege, the privilege shall be annulled and may be granted to any other person requesting it. The original holder of the privilege may bring an action for damages against the printer, if the delay is caused by the act or omission of the latter.

Art. 6. On the death of persons who have obtained a privilege under these articles, their entire rights shall pass to their heirs.

By Article 19 of the Press Law of the 18th January, 1888, which repeals the earlier law of 1857, no work can be printed without the permission of the Ministry of Public Education. Immediately after printing, the printer must send written information of the title of the work and the number of copies printed to such Ministry.

Press Law.

Two copies of all printed works must before their publication be deposited in Constantinople with such Ministry, in the provinces with the local administration. The deposit shall be accompanied by a declaration signed by the printer, giving the title of the book and the number of copies printed.

Deposit.

RUSSIA.

In Russia (except Finland) literary copyright is regulated by the Penal Code of 1832, and the ukases of 26th January, 1846, and of 7th May, 1857, which have recently in 1888 been reissued.

Literary
copyright.

Speeches and lectures are comprised in works of literature. Translations are protected like original works, and

What
protected.

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an author cannot prevent another person from publishing a translation of his work, but an exception is made in favour of authors of scientific works involving research. They may reserve the right of translation but must make use of it within two years.

Private letters cannot be published without the mutual consent of the writer and receiver.

The copyright of musical compositions is the same as for literary works, and no musical composition can be arranged for or adapted to another instrument without the consent of the composer.

Duration.

Copyright lasts for the life of the author, and after his death is enjoyed by his heirs or assigns for fifty years. In the case of posthumous works this term only commences to run from the date of publication. Learned societies have the exclusive right of reproduction for fifty years from date of publication.

Registration.

Authors must register their works in order to secure the copyright, but no deposit of a copy is required. Every assignment of copyright must be in writing.

Assignment.

The assignment of a work to a publisher gives him the right to publish only one edition, unless a stipulation to the contrary be expressly made. Five years after the Censure Office has authorized the sale of this edition, the author or his heirs can publish a new one. The author can also publish a new edition before the expiration of these five years if he has made changes in or additions to his work equivalent to two-thirds of the whole. The author of articles in reviews and periodicals retains the right to publish them in a separate form unless there be an agreement to the contrary. Manuscripts cannot be seized by creditors.

Remedies of the author against piracy.

No prosecution for piracy can take place except on the complaint of the injured party, and this complaint must be formulated within two years from the commission of the offence, or within four years if the plaintiff reside abroad. The trial is held in the courts of the province in which the defendant is domiciled.

Besides confiscation of pirated copies, damages may be awarded to the plaintiff in cases of piracy.

CAP. XVIII.

RUSSIA.

Penalties.

Any person guilty of the fraudulent publication in his own name of the work of another, or of selling a manuscript, or the right of publishing it, to several persons, was, by Article 742 of the Penal Code of 1832, liable to deprivation of his civil rights, to corporal punishment, and to transportation into Siberia in addition to the pecuniary penalties. But the Penal Code of 1857 does not contain this provision.

There are no provisions regulating the right of representation of dramatic and musical works, except a special regulation of the 13th November, 1827, relating to dramatic pieces and operas admitted to the imperial theatres.

Dramatic
and musical
works.

The same laws which regulate literary copyright apply also to artistic copyright. Pictures, drawings, engravings, maps, statues and other works of art enjoy the same protection as works of literature. An architect's plans are also his property, and it is not lawful to construct a building on the lines of another designed by some one else.

Artistic
copyright.
What
protected.

It is unlawful to reproduce a picture or any part of it by the same process without the artist's consent, or to copy it by engraving or drawing.

Piracy.

A sculptor's work may not be reproduced by a cast, nor in marble, nor in the form of a medallion, nor by an engraving, so long as the reproduction is on the same scale as the original. A sculptor is not allowed to copy portions of the work of another sculptor in order to introduce them in his own work.

In any case a piece of sculpture may be reproduced by a painting, and *vice versa*.

Works of art belonging to the government may be reproduced without consent of the artist.

The free use of works of art for application to industrial purposes is allowed by the law of 11th July, 1864.

Portraits and family pictures cannot be reproduced, even by the artist, without the consent of the owners.

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RUSSIA.
Assignment.

All assignments of right of reproduction must be in writing; on the death of an artist the assignee or legatee of the right of reproduction must give notice to the heirs within a year, or, if he reside abroad, within two years.

When an artist assigns or bequeaths his artistic copyright in a work, or the work itself, the copyright passes completely to such assignee and his heirs: but if the work be of such a nature that it can be reproduced in a complete collection of the artist's works, the law reserves to him the right to insert it in such collection. Works of art may be sold to pay the artist's creditors, but in such case the copyright does not pass.

Registration.

An artist in order to secure his copyright must, before publication, duly register it in his district with a detailed description. The fact of registration is then gazetted by the Academy of Arts.

FINLAND.

A separate and distinct law was enacted for Finland on the 15th March, 1880, on the right of the author and the artist in the produce of his work.

Chapt. I.—On the Right of Publication of Writings.

Literary
copyright.

Art. 1. The author of a writing has the exclusive right of reproducing it by printing or otherwise, and of publishing it for circulation, whether it exists only in manuscript or has been already published, and also of disposing of this right of publication by assignment or will.

After the death of the author the right of publication, if it has not been transferred to any person, shall belong to the widow and heirs, according to the law respecting matrimonial rights and successions.

Definition.

Art. 2. For the application of this law, the following are equivalent to writing: technical, geographical, topographical, natural history, and other drawings and pictures,

which from their principal aim cannot be considered works of art; also musical compositions, plans of buildings and other architectural drawings, drawn by the author on his own account or to the order of another.

It is permissible to build from a published plan.

Art. 3. In the case of published works, if the author has placed his true name on the title-page or any other usual place, the right of publication recognized by Art. 1 lasts during the author's life and fifty years after.

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FINLAND.

Duration.

If the work has not been published in the life of the author, or if a published work does not bear the name of the author as aforesaid; the exclusive right of republishing lasts for fifty years after the first publication. When the author discloses his true name, during this period, on a new edition, or by a notice inserted three times in the general papers of Finland, the period fixed in par. 1 of this article applies also to a pseudonymous or anonymous work.

Art. 4. When several authors have jointly contributed to a work, each as to a distinct part, the one who publishes the work has the exclusive right of republication during his life, and his assigns during fifty years afterwards, on condition that he places his name on the title-page, or some other usual place.

Joint works.

If a work of this kind has been published by several persons or by a firm, or if the person who publishes it has not been regularly named, the exclusive right of publication lasts for fifty years from the first publication.

The right of publication belonging to the Imperial University of Alexander, the Society of Sciences and any other association, has the same duration.

Art. 5. The right given by Art. 4 to the publisher of the whole of a collaborative work is not to stand in the way of the exclusive right belonging to each author, in the absence of agreement to the contrary, of publishing separately or under another form, his portion of the work after the lapse of two years from the first publication of the work jointly as aforesaid.

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FINLAND.

Art. 6. When a work has been published simultaneously in several languages, named on the title-page, it is considered as composed in each of the languages.

Translation.

A native author's right of publication includes also the exclusive right of publishing a translation of it in a national language during the whole period of protection, and in any other language for five years from first publication. In Finland, Finnish and Swedish shall be considered national languages.

If on the title-page of the writing of a foreign author the right of translation is reserved, this right lasts for five years from the first publication.

Art. 7. A translator has the same right in his translation, as the author of an original work.

Piracy,
definition of.

Art. 8. Any person who without authority reproduces or causes to be reproduced a writing by printing or otherwise, for circulation, incurs the consequences of piracy fixed in Chap. 4.

The unauthorized reproduction of a writing with alterations, modifications, or additions, not sufficiently essential to make it a new work, is also piracy.

Not piracy.

Art. 9. The following are not considered piracy:—

- (a.) Literal quotation of detached parts of writings or musical compositions already published.
- (b.) The insertion by way of specimen, in works of larger size and conceived on an original plan, of selections of prose, verse or music already published, to a limited extent, or of short extracts from larger works, or of isolated drawings or pictures.

The insertion of small works, extracts, morceaux of music, drawings or pictures of that kind, already published by other authors, in school books, manuals, collections of songs or hymns, and other collections or arrangements intended for instruction, education, pious exercises, or any other special literary object.

The reproduction of a morceau of poetry already published jointly with or as words to a morceau of music,

unless the verses were exclusively intended to serve as words for an opera or oratorio.

CAP. XVIII.

FINLAND.

(c.) The reproduction in a newspaper or a review of isolated articles or communications, extracted from another periodical, except however novels and scientific and literary articles the reproduction of which has been reserved.

In all the foregoing cases the original work from which the extract, &c., is taken must be clearly indicated.

Art. 10. Any person may, subject to the special regulations made on that subject, reproduce laws and general orders, reports and notices officially published, the decisions of the courts and other authorities, and all other official documents of every kind.

Art. 11. Sermons, lectures, and other analogous addresses delivered for purposes of instruction, education or amusement, form the subject of copyright on the same grounds as other works of literature; but speeches and debates at the sittings of the Land Tag, at synods and parish or communal assemblies, at electoral or other public meetings, are subject to Art. 10.

Chapt. II.—Representation of Dramatic Works and Musical Works destined for the Stage.

Art. 12. No dramatic work not yet published in print, can be represented on the stage without the consent of the author or other person entitled to copyright. When the work has been printed and published with the name of the author properly given, and the exclusive right of public representation reserved, this right belongs to the author during his life and to his representatives for fifty years after his death. The simple reading in public without scenic accessories is not a public representation.

Dramatic works.

Any one who has lawfully translated or arranged a dramatic work for the stage, has for himself and his representatives the same copyright of the public representation of his translation or arrangement. There is a like right

CAP. XVIII.

FINLAND.

Posthumous
dramatic
works.

over the public representation of music composed for the purpose of being performed as an accompaniment of a scenic representation.

Art. 13. When the first representation on the stage of an unpublished work referred to in Art. 12 takes place after the death of an author and under his name, or during his life but without the author's name being then or afterwards given, as mentioned in Art. 3, the copyright fixed in Art. 12 shall last for fifty years from the first representation of an unprinted work, or from publication in print. Any person may publicly represent a work put in print without the proper reservation of the right of representation.

Art. 14. Copyright sanctioned by Arts. 12 and 13, may be transferred to several persons at the same time. If the exclusive right of representation is assigned and the assignee does not exercise it during five years running, the right returns to the person to whom copyright belongs under the foregoing provisions.

Chapt. III.—Reproduction of Works of Art.

Artistic
works.

Art. 15. An artist has the exclusive right of reproducing his drawings, paintings or plastic works by the same artistic process for the purposes of sale and assignment of the right.

An artist has also the exclusive right of causing his work to be reproduced by copper or steel engraving or etching, by lithography or any other analogous means, or further by oleography, casting, photography, or any other process of the same kind and of multiplying reproductions.

Duration.

The right recognised to the artist as aforesaid belongs to him during his life, to his widow and his heirs for fifty years afterwards.

The same right also belongs to any person who reproduces by copper engraving, lithography, wood engraving or any other analogous artistic process, a work of art in

which no exclusive right is subsisting, without prejudice to the right of any other person to make a reproduction of the same original by the same or an analogous process.

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FINLAND.

Art. 16. The reproduction of a work of art is not rendered lawful by the fact that it is executed on a larger scale, or in a different material, or with non-essential modifications, suppressions, or additions.

Reproduction of drawings or paintings in a plastic art and *vice versâ* is permissible.

Art. 17. Any person who takes, not to order, a photograph from nature or from a work of art, the reproduction of which is permitted, has alone for five years the right of reproducing this photograph for purposes of sale by means of photography, on condition that each copy bears his name and the date of the year when the first photograph was taken.

Photographs.

When a photograph is taken to order, it cannot be reproduced, except with the consent of the person giving the order.

Art. 18. The following are not considered piracies:—

Not piracy.

- (1) The reproduction of a work of art belonging to the state or exposed in a public place.
- (2) The representation of a work of art in scientific or educational works.
- (3) The use of a work of art as a model by manufacturers or workmen in the construction and ornamentation of furniture or other goods of practical use.
- (4) The reproduction of works of art by pupils for the purposes of study.

Chapt. IV.—Penalties of Artistic and Literary Piracy.

Art. 19. Any person infringing another person's right of publishing a writing, representing publicly on the stage a dramatic work, performing music intended for the stage, or reproducing or multiplying in any manner the products of art, or photographs, by usurping and illegally exercising the rights protected by Arts. 1, 2, 4—7,

Penalties.

CAP. XVIII.

FINLAND.

12, 15 to 17, is liable to a fine up to 2000 markkaa (a) and in damages: all illegal reproductions will be seized and confiscated.

Art. 20. Any person to whom the right of reproducing a work of literature or any other of the works mentioned in the preceding article has been assigned up to a fixed limit, reproducing the work beyond the limit fixed, is liable to a fine up to 1000 markkaa and damages. All reproductions will be seized and confiscated.

The same provisions apply to the author or artist who reproduces his work in violation of the right granted to another.

Art. 21. Any one who puts on the market, or circulates in any manner, by himself or another, a work which is pirated under the terms of Art. 17, knowing it to be such, is liable to a fine up to 2000 markkaa and damages.

Art. 22. Seizure of a printed work includes all copies found in the possession of the publisher, editor or printer, bookseller or other retailer, and also blocks, plates, or other implements exclusively intended for the reproduction of the work. The same rule holds good when the confiscation of the reproduction of a work of art has been decreed. When only a part of a printed work or a figurative representation falls under the application of the law, and this part is separable without difficulty from the remainder, the pirated part will alone be confiscated.

The interested party may have the articles seized and decreed to be confiscated allotted to himself in place of the damages to which he is entitled at their market value fixed by valuers, or may buy them at a price to be paid to the state. If he does not exercise the right, the articles will be destroyed.

Art. 23. Any person in the case provided for by Art. 9 neglecting to indicate the source from which a morceau reproduced in print is derived, shall be punishable with a fine up to 100 markkaa.

(a) The markka = one franc.

Art. 24. When several persons have joined in committing the offences provided against by this law, each shall be treated according to the general rules relating to participation in offences.

Any one who has fraudulently caused another who, otherwise, ought to be regarded as not guilty, to infringe copyright by any of the means punishable hereunder, shall be considered as the author of the offence. Nevertheless, illegal reproductions shall be subject to seizure and confiscation, without prejudice to the remedies of the maker against the instigator for compensation for the injury suffered.

Art. 25. Only the injured party can prosecute these offences.

Art. 26. Fines decreed under this law shall be assessed according to Art. 1 of Chap. 28 of the Code of Procedure, and converted, in case of inability to pay, into imprisonment with bread and water for a period corresponding to one-third of the fine.

Art. 27. Criminal proceedings for these offences cannot be prosecuted after the lapse of two years from the offence. The action for damages is subject to the ordinary period of prescription in the case of actions for damages arising from torts. An injured person who desires to take in compensation or to buy the confiscated articles, must make his demand to the Criminal Court, or at the latest within three months after the decision in the criminal proceedings has become absolute. In this last case, if there has been already a decision on damages, the demand shall be made to the governor; in other cases to the court.

Prescription
of actions.

Chapt. V.—General Provisions.

Art. 28. In case of assignment of the right of publishing or preparing in any material a work mentioned in this law founded on copyright, there shall be drawn up a written document fixing the exact limits of the grant, periods, and conditions of enjoyment: agreements thus

Assignment.

CAP. XVIII.

FINLAND.

made shall be the law between the parties. The simple assignment of the right of publishing a literary work only carries the right of publishing without alterations a single edition of 1000 copies.

In every case where an assignment is only of a single edition, or a fixed number of editions, the author can resume the exercise of his right immediately on the publication of the last edition and without waiting till it is exhausted, on condition of buying at trade price all copies which the publisher proves he has in stock within a period of three months after notice.

The same rule applies where the right of publication has been sold in its entirety when ten consecutive years have elapsed without the publication of a new edition.

Calculation
of time.

Art. 29. Periods fixed by the present law to run from the death, publication, or representation, are always reckoned from the 1st of January following.

When a work appears in several volumes or parts, the periods will be calculated for each part or volume separately.

Art. 30. The right of publication of a manuscript cannot be seized for debts so long as it remains unpublished in the possession of the author, his widow, or his heirs. When a writing has been published by the author or his representative, or they have alienated the right of publication, creditors may take proceedings to reimburse themselves from the profits to be derived from the publication.

Art. 31. All proceedings founded on this law are within the jurisdiction of the courts of first instance as now constituted by the laws at present in force.

Art. 32. The provisions of this law apply to

(1) The works of Finnish authors and artists wherever they are published.

(2) The works of foreign authors and artists residing in Finland and publishing their works there.

Reciprocity.

And may also be declared by the Emperor and Grand Duke applicable in whole or in part, on condition of reciprocity,

to the works of artists and authors of a foreign country with which there may be treaties on the subject.

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Art. 33. This law shall come into force on the 1st January, 1881, and from that date shall be applicable to works of literature and art already published, on condition that in cases where the rules prescribed by this law to make the right valid cannot be observed within the appointed time, they shall be satisfied in the six months following the date aforesaid by notices published three times in the general newspapers of Finland. When the right of publishing a literary work is assigned with any special agreement as to translation, the assignment shall not be considered to include such right.

Copies already in existence of publications or reproductions not subject hitherto to the provisions of this law, may after the date aforesaid be circulated and sold.

Russia has not joined the Berne Convention. Russia had treaties with France (6th April, 1861), and Belgium (8th July, 1862), on property in works of intellect and art, but these treaties have ceased to be effective. A new treaty is on the point of being concluded with France.

GREECE.

Copyright in Greece is regulated by Articles 432 and 433 of the Penal Code of 1833, and by the provisions prescribing a deposit contained in the laws of the 10th May, 1834, and the 24th November, 1867 (*a*). The sections of the Penal Code coming under the head of Piracy and imitation of works of art and of the intellect are as follows:—

Art. 432. Any person who reproduces by printing or in any other way, or puts in circulation books or other printed writings, musical compositions, engravings, geographical drawings or charts, without the consent of the author, of the producer of the work, the publisher or

Penalties for piracy.

(*a*) Lois françaises et étrangères, par M. Lyon-Caen.

CAP. XVIII.

GREECE.

Duration.

their assigns or heirs, without the addition of some novel shape or form, during a period of fifteen years from the date of publication (with a reservation for cases where a longer privilege has been granted); or any person who within such period retails piracies or imitations so made by others against the law, of works of art or of the intellect, is punishable with a fine of 200 to 2000 drachmas (α), except when the privilege in question declares a special penalty.

In every case the circulation of the pirated articles shall be stopped by seizure on the demand of the person injured, who, on the day when the conviction has become final, has the right of disposing of the articles seized.

Reciprocity.

Art. 433. The provisions of Art. 432 apply further: in favour of a foreigner who has not obtained a privilege in Greece, but only when the country of such foreigner grants the same protection to Greek subjects; (2) to all other inventions, works, or productions of science or the arts, so far as they are protected by privileges granted in Greece, against all injurious imitation.

Deposit.

Under the law of the 10th May, 1834, a copy of every book, newspaper, and periodical work published in Greece, must be sent to the Public Library. The author or publisher who contravenes this provision is punishable with a fine double the price of a copy (b).

By the law of the 24th November, 1867, relating to the National Library, that library is to include the Public Library and the University Library, and is to be augmented by the deposits of two copies of every book which are according to the law to be made.

By Art. 3, the printer must deposit the two copies referred to. They must be delivered in Athens to the commissary general of the national library in exchange for a receipt within ten days of publication, under penalty of a fine of double the price of a copy. This fine is

(α) Drachma = a franc.

(b) The failure to deposit does not forfeit the copyright, and is not a condition precedent to action against infringers. Note by M. Lyon-Caen.

recoverable agreeably to the law relating to the recovery of taxes. Outside Athens the delivery must be made to the local authorities, who must transmit the copies without delay to the National Library, which shall send a receipt to be delivered to the printer.

M. Lyon-Caen remarks on this law, that it does not protect manuscripts or the representation of dramatic works.

Extension of the very short period of protection can be granted by the King in particular cases.

A new law has for some time been in project, and the second reading of a bill was passed in 1880, but ultimately failed to become law. Two extra parliamentary commissions have been named by the government to consider the question of a new law (*a*).

ROUMANIA.

M. Lyon-Caen (*b*) in a valuable notice states that the law of Roumania on literary and artistic property is at present in a state of extreme uncertainty. Three different opinions are maintained. The first is, that copyright is not protected at all, and a decision was actually given to this effect by the Commercial Chamber of the Civil Court of the district of Ilfov. Secondly, it is said that copyright is protected either by Arts. 339 to 342 of the Criminal Code which punish piracy, or by Art. 19 of the Constitution of 1866, which declares that property of every kind is inviolable, and as no duration is provided, that copyright is perpetual. This opinion is supported by a decision of the second Chamber of the Civil Court of Ilfov, delivered on the 17th March, 1887. The last opinion has been put forward that there are existing in the Press Law of the 13th April, 1862, effective provisions on copyright; and that the regulations of the 24th April,

(*a*) *Lois françaises et étrangères*, par M. Lyon-Caen, from the text of which the translation of the laws has been made.

(*b*) *Lois françaises et étrangères*, vol. i. p. 477.

CAP. XVIII.

ROUMANIA.

1862, providing for the execution of this law, determine the formalities necessary for protection.

The doubt is whether this law is still in force. The Constitution of 1866 repealed all laws contrary to the principles of the Constitution; but the law on copyright is not contrary to the Constitution, and section 19 of the Constitution expressly declares all property to be inviolable.

By a previous decree of the 2nd May, 1864, part of the law of 1862 was expressly repealed, but not the part relating to literary property.

A translation follows of the provisions of the law of 1862, the regulations and Articles 339 to 342 of the Penal Code.

Press Law of 1862. Chapter I: On Literary Copyright.

Duration.

Art. 1. Authors of every kind of writing, composers of music, or draughtsmen who have their pictures or drawings lithographed, shall enjoy during their life, as property, the exclusive right of reproducing and selling their works throughout the principality (a), or of transmitting this property to others, this right being recognized by the laws in force.

Art. 2. Their heirs or assigns shall enjoy this right for ten years after the death of the author or composer.

Newspapers.

Art. 3. Newspapers and other periodicals are the property of the persons or societies publishing them: their right of property is secured according to the terms of the foregoing articles.

Articles which the author or proprietor wish to protect from production by other papers must carry at the commencement a notice that reproduction is forbidden. This refers only to literary and scientific articles.

Art. 4. Dramatic compositions cannot in the periods mentioned be represented in any theatre, or published, without the consent of the author.

(a) Roumania is now a kingdom.

Art. 5. Translations are not comprised in the foregoing enumeration, except the text of a translation from the original text. Also extracts made from writings introduced in lectures or commentaries with the aim of instructing the public on the value of these writings are not injurious to the rights of another.

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Art. 6. All administrative authorities shall on the demand and for the benefit of the author, the draughtsman, the translator, or their heirs or assigns, confiscate all copies of publications printed, engraved or lithographed without the express written consent of the proprietors.

Penalties.

Art. 7. In addition to confiscation, the pirate shall pay to the rightful owner a sum equivalent to the price of a thousand copies of the original edition.

Art. 8. Every vendor of a pirated publication, which he has not himself fabricated; shall pay the proprietor a sum equal to the price of 200 copies.

Art. 9. Whoever publishes a printed, engraved or lithographed work, must deposit 4 copies at the Ministry of Public Education, and in the provinces 2 copies at the prefecture and 1 at the library of Jassy.

Deposit.

Art. 10. After the expiration of 10 years from the death of the author, every work shall become public property, and any one may reproduce it by printing, sculpture or lithography.

Art. 11. All these rights are secured to authors, composers, draughtsmen and translators of foreign countries which reciprocally secure literary property within their dominions.

Foreign authors.

Regulations for the carrying out of the Press Law.

Literary Property.

Art. 1. In order that the copyright secured to authors of writings and literary and artistic publications may be ascertained, a special register shall be kept at the Ministry of Public Education, in which the requests and declarations of authors shall be entered.

Registration.

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ROUMANIA.

Entry shall be made of the name of the author or composer, the title of the work, the date of publication and of the deposit made under Art. 9 of the law.

Art. 2. Authors and composers must on making the deposit address a written request to the Ministry of Public Education that their copyright may be registered; on their request, the Minister shall deliver an extract from the register certified by his signature and the seal of his department.

Art. 3. The formalities prescribed by the preceding articles shall be also observed in case of assignment.

Art. 4. Proprietors by succession or any other title enjoy the same rights as authors for all posthumous works, when these are printed apart and not collected with a new edition of works previously published and become public property.

Foreigners.

Art. 5. Foreigners agreeably to Art. 11 of the Press Law must also make declarations and deposits accompanied by documents in proof.

The Penal Code of 1864 provides:

Penal Code of
1864.

Art. 339. Every publication of writings, musical compositions, drawings, paintings or any other production, printed or engraved in any manner without the leave of the author, is considered a piracy and every piracy is a misdemeanour.

Art. 340. The sale of pirated works, and the importation into Roumania of writings which after being printed in Roumania have been pirated in a foreign country, are an offence of the same kind.

Art. 341. The penalty against a pirate or importer shall be a fine of 100 to 2000 francs, and against the vendor a fine of 26 to 500 francs.

Confiscation of the pirated publication will be decreed against the pirate, importer, and vendor. Plates, moulds, and matrices of pirated publications shall also be confiscated.

Art. 342. Every director or manager of a theatre, and every society of artists who shall represent a work in a theatre without the author's leave, shall be punishable

with a fine of 50 to 500 francs and confiscation of the receipts of the representation.

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ROUMANIA.

In the cases provided for by the four last articles, the produce of the confiscations shall be handed over to the proprietor (of copyright) by way of compensation.

SERVIA.

Servia has no law on copyright, though as long ago as 1844 it was provided in the Servian Civil Code of that year that a regulation should be made concerning the publication of books and the relations between authors and publishers.

SERVIA.

Servia in 1883 agreed to enter into a treaty with France on the subject of copyright, but has not yet done so (a).

CHINA.

China has no special laws on copyright. An interesting note contributed by General Tcheng-Ki-Tong to *Lois Françaises et étrangères*, by M. Lyon-Caen, states that publications may be divided into two classes, classical and modern.

Classical works have long become public property or rather the property of the State, which is a very liberal owner: with the exception of books of great importance, *éditions de luxe*, which can only be printed with the permission of the government, all current treatises can be freely reprinted by any one. A person publishing without the necessary leave would speedily be punished under the ordinary law.

There are only a scanty number of publishers of contemporaneous literature. Usually authors print, edit and sell their own works as best they can. Most books carry the caution "Reproduction forbidden." In case of piracy the magistrate would punish the offender with 80

(a) *Lois françaises et étrangères*, par M. Lyon-Caen.

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CHINA.

blows (*a*): the pirated copies and the type would be destroyed by burning.

Only works treating of literature and poetry are protected: authors of political works and novels are not encouraged and are often themselves punished.

An author rarely exercises his right: reprints are habitually sold cheaper than the original and have a larger sale, and the author contents himself with the extra fame thus acquired.

The Courts look with little favour on the complaints of publishers, reproaching them with selling at too high a price.

Duration.

In theory literary property is perpetual, passing to the author's heirs: in practice literary property is but ill defended.

JAPAN.

The first law on copyright in Japan was published in 1874, but a new Code has recently been promulgated in three Imperial Ordinances published on the 28th December, 1887. The first of these relates to copyright, and provides as follows (*b*):—

Definition of Copyright and piracy.

Art. 1. Copyright means the exclusive privilege for any person who has published a work of literature, a drawing, or a picture, of obtaining the produce of his labour.

Piracy means a reproduction of such works made without the consent of the author.

Registration.

Art. 3. Any person who wishes to obtain protection of his copyright must, before publishing his work, address for this purpose a request for registration to the Ministry of the Interior (*c*). A sum equal to the price of six copies must be sent at the same time.

(*a*) According to M. Alcide Darras, *Les Droits Intellectuels*, 100 blows and 3 years' transportation.

(*b*) Translation taken from the French translation published by M. Lyon-Caen:

(*c*) It is stated in an article in the *Official Copyright Magazine* of the Berne Convention for 1888, p. 60, that the request must be accompanied by 3 copies and information of the name of the author. This seems to be

Art. 4. Any State administration desiring to obtain protection for its copyright in a work of literature, a drawing, or a picture published by it, must inform the said ministry of its intention.

Art. 5. Works of literature, drawings, or pictures, the copyright in which has been registered, must bear throughout the duration of protection the inscription, *Aèves Han-ken-sho-yu* (meaning author's rights reserved); if this is not done, the registration will be ineffective.

Art. 6. A register shall be kept at the Ministry of the Interior for the registration of copyright. Requests shall be entered in order of presentation. A certificate of registration will be given.

Art. 7. Copyright in a work of literature, a drawing, or a picture, belongs to the author, and after his death to his heirs.

Copyright in lectures and speeches collected and united in volumes belongs to the lecturer or speaker. If with the consent of the lecturer or speaker publication is made by the person who has formed the collections, copyright belongs to this last, and after his death to his heirs.

Lectures and speeches.

Copyright in a translated work belongs to a translator, and after his death to his heirs.

Translation.

State administrations, schools, societies, and associations, or other like bodies, are the owners of copyright in works of literature, drawing, and painting, published in their name.

under a provision of a Press Law published in 1887, which contains the following further provisions:—

A speaker will not be held responsible for reports published without his authority.

The Minister of State may forbid or seize works which endanger the public peace or morality.

Only those persons who occupy themselves actually with the sale of literary and artistic works of authors and their representatives shall be considered publishers. An author who causes a work to be printed, must also print his name and the date of printing, and if the work is intended for publication, the name and address of the publisher. A publisher who neglects to print these details shall pay a fine of 25 to 50 yens: any one who prints false details for fraudulent purposes shall be punishable with imprisonment of a year to 6 months and a fine of 5 to 100 yen.

Any person who pirates or imitates the works of foreigners shall be considered a pirate and punishable accordingly.

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JAPAN.

Copyright in works of literature, drawing, and painting, which are compilations of works, lectures, or speeches of several persons, belongs to the compiler or, after his death, to his heirs. The interests of authors, lecturers, and speakers and their heirs, as against the compiler, shall be regulated by mutual agreement.

Assignment.

Art. 8. Copyright may be sold or assigned with or without conditions.

Art. 9. If a registration certificate is lost or destroyed, a new copy may be obtained, on a request setting out the reason addressed to the Ministry of the Interior. A fee of 50 yens will be payable (*a*).

Duration.

Art. 10. The enjoyment of copyright is secured during the life of the author and five years afterwards. If the number of years elapsed between the month of registration and that of the death of the author, with five years added, does not amount to thirty-five years, the enjoyment of copyright shall last for thirty-five years from the month of registration.

In the case of a work published in collaboration by several authors, the period of duration runs from the death of the survivor.

In the case of works published under the name of a State administration, a school, a society, or an association, &c., or in the case of a posthumous work, the period of duration is thirty-five years from the month of registration.

Art. 11. The duration of copyright in works of literature, drawing, or painting, published in parts, is reckoned for each part from the month of registration. The formality prescribed by Art. 3 is obligatory for each part.

Reviews or analogous publications may, by permission of the Minister of the Interior, be exempted from the formalities of Art. 3.

Art. 12. The enjoyment of copyright shall not be affected either by modifications, additions, or curtailments, to which a work of literature, drawing, or painting

(*a*) 1 yen = 100 sen = 4s. 3½d. Whitaker.

has been subjected, or by annotations, supplements, or the addition of charts, or by change of binding, or by a division into a greater or less number of volumes.

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Art. 13. If a work of literature, a drawing, or painting, is of special utility to the public, and if the profits derived from it during the period of copyright have not compensated the labour and expense spent in its preparation and publication, the owner may, on a request stating the reason, obtain from the Minister of the Interior a prolongation of ten years.

Prolongation.

Art. 14. If the person entitled to copyright in a work of literature, a drawing, or a painting, dies during the existence of the right, and a person who has reason to believe that there is no person to inherit such rights desires to publish the said work, he must insert a notice to this effect during seven days at the least in the Official Journal, in four of the most important papers of Tokio, and in the paper of the place where the owner resided. If no heir presents himself in the six months following the last notice, publication may be authorized by the Minister of the Interior, and the applicant shall be considered the inheritor of the copyright.

In the case of a work not yet published, of which the author and his heirs are not known and cannot be discovered, any person may, by following the formalities prescribed in the preceding paragraph, publish the work and obtain protection of the copyright.

Art. 15. Articles, reports, and tales which have appeared in continuation in two numbers at least of a paper or review, cannot in the two years following their publication be collected in one volume and published without the consent of the editor of the paper or review.

Review article.

Art. 16. Any person who pirates a work of literature, a drawing, or painting, the copyright of which is reserved, will be held liable in damages to the proprietor. Any person who has injured copyright by the sale of manuscript copies of the same work, shall be also liable in the same way.

Piracy.

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JAPAN.

Injunction.

Art. 17. In proceedings against piracy, the judge may, on the request of the plaintiff, restrain the sale or circulation of pirated works by interlocutory injunction. But if the result of the enquiry establishes no infringement, the plaintiff will be held liable in damages.

Art. 18. The obligation of paying damages for piracy affects the heirs of the pirate.

Pirates.

Art. 19. The following are considered pirates: any one who, having translated a work of literature, a drawing, or a painting, in which copyright is reserved, or having added to or mutilated such work, or having added notes, commentaries, supplements, drawings or maps, or having completed parts not yet finished, shall publish it in such condition without the consent of the proprietor: any person who offends against the provisions of Art. 15: any person who has collected lectures or speeches of an author and published them without his consent.

Art. 20. Although a translator has copyright in his translation, nevertheless he shall not be able to prosecute as piracy a translation of the same work if taken from the original text, unless he can prove that his own translation has been pilfered.

Art. 21. Persons shall be considered pirates who have injured copyright by the unlawful use or imitation, for the purpose of deceiving the public, of the title of a literary work, drawing, or painting, in which copyright is reserved, or by combinations of names or marks resembling those of other persons, societies, or firms.

Art. 22. Also, those who without leave publish an unpublished work of literature, drawing or painting, or reproduce a work of literature, a drawing, or a painting not intended for sale.

Art. 23. Also any person who has injured an author's rights by photographing a work of literature, a drawing, or painting.

Art. 24. Also any person who has imported or sold pirated copies made in a foreign country of works of literature, drawings or paintings, copyright in which is reserved in Japan.

Art. 25. If in any proceedings against piracy, it is a matter of difficulty to decide whether there is piracy or not, the court seized of the matter, may choose three experts at the least, and order them to make a report.

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JAPAN.

Art. 26. The liability to damages for piracy ceases by prescription three years after the expiration of the period of protection.

Prescription
of liability.

Art. 27. The pirate, and also the printer and vendor who have acted knowingly, shall be liable to the penalty of imprisonment of not less than a month up to a year, or a fine of 20 to 300 yens. Nevertheless proceedings can only be taken on the complaint of a party claiming to be injured.

Plates and parts already printed of a pirated publication shall be confiscated in whosoever's possession they are found, and shall be delivered to the plaintiff with the produce of the copies already sold.

Art. 28. Even when copyright in a work of literature, a drawing or a painting is not reserved, it is not permissible to distort the author's ideas by changes or mutilations, to change the title to conceal the author's name, or to reproduce the work passing it off as the work of another person. Every offender will be liable to a fine of 2 to 100 yens. Nevertheless, proceedings can only be taken on the complaint of the author or publisher.

Art. 29. Any person who without having accomplished the formalities prescribed by Art. 3, publishes a work of literature, a drawing or a painting, with the caution "Rights of property reserved," will be liable to a fine of 10 to 100 yens.

Art. 30. The provisions of the Penal Code relating to the diminution of penalties in case of voluntary information and aggravation of penalties in case of repetition of the offence, or the concurrence of numerous offences committed by the same person, are not applicable in case of violations of this law.

Art. 31. Public proceedings (*l'action publique*) against violations of this law are prescribed after the lapse of two

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years from the time where the work, the subject of piracy, has been last sold or circulated, and in the case of works not sold or circulated, from the time of last printing.

Art. 32. The duration of the enjoyment of copyright secured by virtue of the laws at present in force, shall be calculated according to these same rules.

The second Imperial Ordinance of the same date relates to dramatic and musical works. It provides :

Musical and
dramatic
works.

Art. 1. Dramatic works intended for the theatre, and musical compositions can be published, and the copyright reserved, by observing the regulations on copyright.

Art. 2. Any person who has reserved his copyright in a dramatic work intended for the theatre or in a musical composition published by him, shall be able at the same time to reserve, during the period of enjoyment, the right of representation (*i.e.* the right of causing the work to be represented or performed publicly for purposes of profit). But it is essential that dramatic or musical works of which the copyright is reserved, should bear the caution "Rights of representation reserved."

Art. 3. The right of reproduction of a dramatic work or musical composition may be sold or disposed of with or without conditions.

Art. 4. Any person infringing such rights of representation shall be liable in damages to the proprietor of the rights, and also any person who, without the permission of the author or his heirs, represents a dramatic work or musical composition not yet published.

Prescription.

Art. 5. The liability to pay damages for an unlawful representation is prescribed after the lapse of a year from the last infringement of these rights.

The third Imperial Ordinance regulates copyright in photographs.

Photographs.

Art. 1. By photography is meant the representation of persons, objects, views, or other pictures obtained either by light or chemical process, and by copyright in a photograph, the exclusive right of deriving profit from the photograph.

Art. 2. Copyright in a photograph belongs to the photographer who has taken it, and after his death to his heirs. Copyright in a photograph deposited with a photographer belongs to the depositor, and after his death to his heirs. Any person having copyright in photographs thus deposited, can withdraw the negatives from the photographer with whom they are deposited.

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Art. 3. Any person desiring to obtain protection of his copyright in a photograph must before publication request registration of such rights at the Ministry of the Interior, accompanying his request with two specimen proofs and a sum equal to the price of six copies. Photographs of persons have a right to protection before registration.

Registration.

Art. 4. When copyright of a photograph has been registered, every proof must during the period of protection, bear an indication of the name and address of the proprietor, as well as the date of registration. In default the registration will be non-effective.

Art. 5. A register shall be kept at the Ministry of the Interior for the registration of copyright in photographs: requests will be entered in order of presentation. A certificate will be given.

Such certificate shall be treated in the same way as the certificate of registration of literary works, &c.

Art. 6. The period of protection is for ten years from the expiration of the month of registration.

Duration.

Art. 7. Copyright in photographs can be sold or disposed of with or without conditions.

Art. 8. The reproduction of photographs the copyright of which is secured, and the making of pseudo photographs obtained by processes which allow of the multiplication of copies by mechanical means or chemistry, is forbidden: and a photographer with whom a negative is deposited is forbidden to multiply copies from such negative without the permission of the proprietor or his heirs.

Art. 9. Any one who without having fulfilled the for-

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JAPAN.

Piracy.

malities of Art. 3, falsely states that rights are reserved, will be punishable with a fine of 2 to 20 yens.

Art. 10. Every violation of the provisions of Art. 8, will be considered as an offence of piracy provided for by the rules relating to copyright. It will be punishable with a fine of 20 to 200 yens; the pirate will in addition be liable to pay damages.

The obligation of paying damages is prescribed on the lapse of a year from the expiration of the period of enjoyment of copyright in the original.

Art. 11. Public proceedings against any violation of this law will be prescribed on the lapse of a year from the date of the production of the photograph or pseudo photograph, which is the alleged subject of an offence, or if the matter in question is a sale, from the date of the last sale of a copy.

Art. 12. The provisions of the Penal Code relating to the diminution of penalties in case of voluntary information, and aggravation of penalties in case of repetition of the offence, or the concurrence of numerous offences committed by the same person, are not applicable to this law.

INDIA.

Copyright in literary works is regulated in India by Act No. 20 of 1847, passed on the 18th of December, 1847. The preamble of the Act recites that it was passed because doubts might exist whether the right called copyright could be enforced by the common law of England in the parts of the territories governed by the East India Company where English common law had been introduced. And whether the right could be enforced by virtue of the principles of equity and good conscience in the other parts of the territories governed by the East India Company. And because it was desirable that the existence of the said right should be placed beyond doubt and be made capable of easy enforcement. And it was doubtful whether the English Act of 5 & 6 Victoria, c. 45, contained sufficient

provisions for the enforcement of the said right by the proprietors thereof in every part of such territories.

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INDIA.

The Act, which does not however contain an interpretation clause (*a*), follows the English Act as to the period of duration and other essential features.

Literary
works.

It does not contain the provisions of sections 6 to 10 of the English Act relating to delivery of copies (*a*).

A register is to be kept in the office of the Secretary to the Government of India for the Home Department (*b*).

The fee for inspection of an entry is two annas : for a copy of an entry two rupees. Such copies do not require to be impressed with a stamp : for an entry of copyright two rupees.

Applications to expunge entries are to be made to the Supreme Court of Calcutta, or if the Court be not then sitting to any judge of such Court sitting in chambers.

Under section 7 (*c*) as amended by Act No. 13 of 1876, if any person shall print or cause to be printed either for sale or exportation any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall have in his possession for sale or hire any such book so unlawfully printed without such consent as aforesaid, such offenders shall be liable to a suit in the highest Local Court exercising original civil jurisdiction (*d*).

Court in
which pro-
ceedings are
to be taken.

It will be observed that knowledge of unlawful printing is not necessary.

Section 17 of the English Act relating to importation is omitted from the Indian Act (*e*).

Also the sections 20 to 22 and all provisions relating to musical and dramatic works.

The Act contained no provision for limitation of civil actions (*f*).

(*a*) See the Press Act No. 25 of 1867, *post*, p. 814.

(*b*) See Press Act, s. 13.

(*c*) Sect. 15 of 5 & 6 Vict. c. 45.

(*d*) Petition of Hameedoollah. L. R. Calc. 6, p. 499.

(*e*) See the Sea Customs Act of 1878.

(*f*) See the Indian Limitation Act of 1877.

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INDIA.

The ordinary form of procedure of the Zillah and other local Courts may be used instead of actions in detinue and trover for recovery of pirated copies and damages.

Press Act of
1867.

Under the Law of 1867 (No. 25) for regulating printing presses and newspapers :

Sect. 1. Book in this Act includes every volume, part or division of a volume, and pamphlet in any language, and every sheet of music, map, chart or plan separately printed or lithographed.

Sect. 3. Every book or paper printed within British India, shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) of the publisher and his place of residence.

Sect. 5. No printed periodical work containing public news or comments on public news shall be published in British India except in conformity with the rules hereafter laid down.

Deposit.

Sect. 9. Three printed or lithographed copies of the whole of every book printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any additions or alterations, whether the same be in letterpress or in the maps, prints or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Act shall come into force, shall within one calendar month after the day in which any such book shall first be delivered out of the press, and notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer, bound, sewed or stitched together, and upon the best paper on which the same shall be printed or lithographed at such place and to such officer as the Local Government shall, by notification in the official gazette from time to time direct.

The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

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Nothing in the former part of this section shall apply to any periodical work published in conformity with the rules laid down in section 5.

Sect. 10. Such officer shall thereupon give a receipt in writing for the copies so received, and if the book is for sale to the public, shall, on the publication thereof, pay the publisher for the same copies at the rate at which the book shall be *bonâ fide* sold for cash to the public.

Sect. 11. One copy is to be transmitted to the Secretary of State for India, another to be disposed of as the Governor General in Council shall direct, and the remaining copy, after a memorandum containing the particulars hereinafter mentioned respecting the book shall have been registered as hereinafter provided, shall be deposited in such public library or otherwise disposed of as the local government shall direct.

Persons offending against sect. 3 may be punished with fine not exceeding 5000 rupees, or imprisonment up to two years, or both.

Printers who do not supply copies of books shall forfeit, besides the value of the copies, a sum not exceeding 50 rupees.

Publishers, &c., not supplying the printer with maps, &c., shall forfeit the value of the maps, &c., which they ought to have supplied, and in addition a sum not exceeding such value.

Sect. 18. An office and an officer are to be appointed by the local government, and a book is to be kept called a Catalogue of Books printed in British India, wherein is to be registered a memorandum of every book delivered, under sect. 9. Such memorandum (so far as practicable) is to contain the following particulars:—

Registration.

(1.) Title of the book, the contents of the title-page,

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with a translation into English of such title and contents if not in the English language.

- (2.) The language in which the book is written.
- (3.) Name of author, translator, or editor of the book or any part thereof.
- (4.) The subject.
- (5.) Place of printing and publication.
- (6.) Name or firm of printer or publisher.
- (7.) Date of issue from press or of publication.
- (8.) Number of sheets, leaves, or pages.
- (9.) Size.
- (10.) First, second, or other number of the edition.
- (11.) The number of copies of which edition consists.
- (12.) Whether the book is printed or lithographed.
- (13.) The price to the public.
- (14.) Name and residence of the proprietor of the copyright or any portion of the copyright.

The memorandum is to be made as soon as possible.

Every registration under this section shall, upon payment of two rupees to the officer keeping the catalogue (*a*), be deemed to be an entry in the book of registry kept under the Act of 1847.

Sect. 19. The memoranda registered are to be published quarterly in the local 'Gazette,' and copies are to be sent to the Secretary of State and the Secretary to the Government of India for the Home Department.

4. The Governor General of India in Council may, by notification in the 'Gazette of India,' exclude any class of books from the operation of the Act.

Under this provision the following have been exempted :—

- (1.) Acts of legislative councils without notes or commentaries.
- (2.) Price lists and tradesmen's circulars.
- (3.) Catalogues of books and other articles, auctioneers' notices and advertisements.

(*a*) All books becoming the property of the Government for educational purposes are exempted from this payment.

- (4.) Playbills comprising advertisements of theatrical and musical entertainments. CAP. XVIII.
- (5.) Decisions of courts of law without notes or commentaries. INDIA.
- (6.) Petitions and appeals addressed to constituted authority under the provisions of law.
- (7.) Testimonials of private individuals or public officers.
- (8.) Annual reports of schools, banks, societies, and firms.
- (9.) Almanacs and calendars.
- (10.) Labels affixed to articles of commerce.

Under the Indian Limitation Act of 1877 (which repealed the Act of 1871) (No. 15 of 1877), sect. 4, and the second Schedule (No. 40), actions for compensation for infringement of copyright must be brought within three years of the date of infringement. Limitation of actions.

Under the Specific Relief Act, 1877 (No. 1 of 1877), sect. 54, illustration (v.), perpetual injunctions may be granted to restrain infringement of copyright, unless the work of which copyright is claimed is libellous or obscene; and under sect. 55 (a), the court may order the copies produced by piracy to be given up or destroyed. Injunctions.

Under the Sea Customs Act of 1878 (No. 8 of 1878), sect. 18 (a), no book printed in infringement of any law in force in British India on the subject of copyright shall be brought, whether by land or sea, into British India when the proprietor of such copyright, or his agent, has given to the chief customs authority a notice in writing that such copyright subsists, and a statement of the date on which it will expire. Importation.

Assignments of copyright by entry on the register are still free from stamp duty: see the Stamp Act, 1879, Schedule II., No. 5. Stamps.

Under the Civil Procedure Code of 1882 (Law No. 14 of 1882), which came into force on the 1st June, 1882, Procedure.

¹(a) *Baker v. Sutherland*, 8 Beng. L. R. 298.

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temporary injunctions may be granted to restrain infringement (sect. 492, and see Form No. 166 of Schedule IV.), where it is proved by affidavit or otherwise that any property in dispute in the suit is in danger of being damaged by any party to the suit. And the said Schedule IV. contains forms of concise statements of claim and of injunctions in actions for infringement of copyright, Nos. 114 and 166.

The Presidency Small Cause Courts Act of 1882 (Act 15 of 1882), sect. 19, provides that the Small Courts shall have no jurisdiction in suits for compensation for the infringement of copyright.

There are no provisions relating to musical and dramatic works in India.

Musical and
dramatic
works.

Designs.

The Inventions and Designs Act of 1888 (which received the assent of the Governor-General on 16th March, 1888) (No. 5 of 1888), Part II., sections 50—62, contains the following provisions as to designs: Part II. sect. 50 (1). In this part, unless there is something repugnant in the subject or context:

(1.) Design means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself.

(2.) Copyright means the exclusive right to apply a design to an article.

(3.) The author of any new and original design shall be considered the 'proprietor' thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the proprietor; and every person acquiring for good or valuable consideration a new and original design, or the right to apply the same to any article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the 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.

Application

51. (1.) Any person, whether a British subject or not,

claiming to be the proprietor of any new and original design not previously published in British India, may apply to the Governor-General in Council for an order for the registration of the design.

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for order for registration of design. .

(2.) The application must be in writing in the form or to the effect of the 5th Schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this part.

(3.) It must be left with, or sent by post to, the secretary (a); and the date of delivery or receipt thereof in the office of the secretary shall be endorsed thereon and recorded in that office.

52 (1.) Upon the application the Governor-General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

Registration in register of designs.

(2.) When an order has been made under sub-section (1), the secretary shall cause the design to be registered in a book to be kept by him for the purpose, and to be called the register of designs.

(3.) The date of registration shall be recorded in the register.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this part, have copyright in the design during five years from the date of registration.

Duration of copyright.

54 (1.) Before delivery or sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

Marking registered designs.

(2.) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

55. If the proprietor of a design exhibited at an in-

Effect of

(a) Secretary to the Government of India appointed to discharge functions of the Secretary under this Act. Sect. 4 of Act, sub-sect. (8).

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exhibiting
unregistered
designs at
exhibitions.

Mutation of
names in
register
of designs.

Suit for
infringement
of copyright.

Registration
of cessation of
copyright.

Rectification
of register
of designs.

dustrial or international exhibition, certified as such by the Governor-General in Council, causes an application for an order for the registration of the design to be delivered to or received by the secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the secretary for the entry of his name in the register of designs as proprietor of the copyright, and the secretary may, if he thinks fit, cause the entry to be made.

57 (1.) The registered proprietor of a design may institute a suit in the District Court (a) for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitations thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any articles to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2.) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the secretary, who shall cause an entry thereof to be made in the register of designs.

58. When from the expiration of the term of copyright or from any other cause, the copyright in a design has ceased, the secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

59 (1.) A High Court (b) may, on the application of

(a) District Court has the meaning given to that term by Code of Civil Procedure. Law XIV. of 1882.

(b) High Court = High Court of Code of Criminal Procedure, 1882 (No. X. of 1882) in reference to proceedings against European British subjects.

any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

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(2.) An order under sub-s. (1) may declare copyright in a design not to have been acquired.

(3.) A copy of the order shall be forwarded by the Court to the secretary, who shall cause an entry thereof to be made in the register of designs.

(4.) When the secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on, or dismiss application for rectification of the register.

Under sect. 61 four copies at least of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made must be delivered to the secretary when the design is registered.

Entries and documents on the register shall be deemed public documents for purposes of evidence, and shall be open to the inspection of any person.

An agent may act for a principal.

Section 62 provides as to fees.

AFRICA.

EGYPT.

There is no law in Egypt on literary and artistic property, but that does not mean that copyright is not protected. Protection is afforded by the Mixed Courts. These, three in number, with a Court of Appeal, were established under the Convention of 1875, and deal with all questions arising between natives and foreigners, and between foreigners of different nationalities. Regulations have been established for these courts, and under Art. 34,

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EGYPT.

the new courts in the exercise of their jurisdiction in civil and commercial matters, and within the limits given to them in criminal matters, shall apply the codes presented to the powers by Egypt, and in case of the silence, insufficiency or obscurity of the law, the judge shall observe principles of natural justice and the rules of equity.

The codes are silent on copyright, but the courts have decided that under the principles of natural justice and the laws of equity, copyright ought to be recognised.

In consequence the Court of Appeal has given four important decisions on this subject (*a*), and the Mixed Court at Cairo another.

These five decisions relate to (1) an infringement of an artistic work; (2) and (3) to an illegal representation of an opera; (4) the infringement of literary works; and (5) the illegal representation of musical compositions at the Grand Café Egyptien.

The first of these cases occurred in 1877, and the court gave damages for the reproduction of a photographic plan of the Suez Canal and other views which they considered to be the creation and conception of the plaintiff. The Court of Appeal adopted the reasoning of the lower court, that such rights were protected by Art. 34 of the Regulations.

Again in 1888, the Court of Appeal punished with damages the performance of the opera 'Giaconda' without the consent of the proprietor, laying down that it was useless to allege in argument, the absolute lack of all special law aiming at fixing the conditions of protection of literary and artistic property, as the omission in the law did not result in destroying the principle of the right, but merely threw it under the protection of Art. 34 of the Regulations (*b*). This judgment was given in the absence of the defendant, but was afterwards re-affirmed against his opposition on the same grounds in 1888 (*c*).

(*a*) Lois françaises et étrangères, par M. Lyon-Caen.

(*b*) Official Copyright Magazine of the Berne Convention, 1888, p. 92.

(*c*) Lois françaises et étrangères, par M. Lyon-Caen.

The same court in 1889 granted damages to the Société des Gens de Lettres against The Egyptian Gazette, for unlawful reproductions of the works of Georges Ohnet, Henry Greville, and other well-known French authors, supporting its judgment on the same grounds.

The last decision, previously referred to, was delivered by the Cairo Mixed Court on the 29th March, 1890, by which the proprietor of a hall at the Café Egyptien was held liable for the public performance of musical works without permission. The court held that the argument founded on the absence of special law in Egypt, was no longer open after the previous decisions, and further, that the absence of any preliminary deposit was no objection to the proceedings (a).

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EGYPT.

REPUBLIC OF SOUTH AFRICA.

A law was on the 23rd May, 1887, promulgated in the South African Republic on the subject of copyright. Its provisions are as follows (b) :

I.—In what Copyright consists.

Art. 1. The author and his representatives have exclusively the right of publishing in print, writings, drawings, charts, musical or theatrical works, and oral addresses, as well as the right of publicly performing or representing dramatic-musical and dramatic works. Definition.

All performances or representations to which admission is obtained, for one or several occasions, by payment in money or *la prestation d'une valeur*, even when a person cannot be present without election, are equivalent to public performances or representations.

Art. 2. The following have the same rights as authors :

(a) Official Copyright Magazine of the Berne Convention, 1891, p. 128.

(b) Translation taken from the French translation of M. Ernest Chavegrin given in *Lois françaises et étrangères*, par M. Lyon-Caen. Reference should be made to the Dutch Law of the 28th June, 1881, from which this is taken almost word for word.

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(a.) Publishers, in works mentioned in Art. 1, when they are composed of works contributed by various collaborators.

(b.) Charitable foundations and other legal bodies, associations and societies, in works published under their directions.

(c.) Translators in their translation.

Moreover when a work is composed of parts contributed by different collaborators, each one of them, in the absence of agreement to the contrary, has copyright in his own work.

Anonymous
works.

Art. 3. In the case of anonymous or pseudonymous works published in print, the publisher is treated as the author, or if the publisher's name does not appear on the title-page, or if none, on the cover, the printer, until some third person makes himself known as the person entitled in the manner prescribed in Arts. 10 and 11, except the time fixed for the deposit in Art. 10.

Laws.

Art. 4. Except in cases determined by the government on the advice of the executive council, there is no copyright in laws, ordinances, decrees, and other documents, which the public authorities publish to the world in writing or in print.

Translations.

Art. 5. The author has the exclusive right of publishing printed translations :

(a.) Of his works not published in print, including oral addresses.

(b.) Of his works published in print, on condition that on the title-page, or if none, on the cover of the copies of his first edition, he expressly reserves the right in question for one or more specified languages, and also that he publishes his printed translation within three years from his first edition.

In the case of works appearing in separate volumes or parts, the period is calculated separately for each part or volume.

Art. 6. When the same work is published simul-

taneously in several languages, one of the editions is considered the original, and the others as translations.

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The author is entitled to designate on the title-page or cover, the edition which he intends to treat as the original.

In the absence of indication, the edition published in the mother-tongue of the author is considered the original.

Art. 7. Copyright in works published in print does not prevent other persons making extracts from them and inserting them in other works, with the object of criticising or discussing them. Extracts.

It is permissible to reproduce, with a mention of the source, reports or articles published in daily, weekly, or monthly papers, unless copyright has been expressly reserved at the head of the articles or reports in question, and the formalities prescribed by Art. 10 have been observed.

Art. 8. Copyright in oral addresses does not prevent reports of debates taking place in any public assembly.

Art. 9. Copyright is considered personal property, can be assigned in whole or in part, and is transmissible to heirs. It cannot be taken in execution. Assignment.

II.—The conditions to which the recognition of copyright in works published in print is subject.

Art. 10. The author or his representatives, the publisher or printer of every work published in print must, under penalty of forfeiture, in the two months following publication, and besides, in the case of translations, in the period fixed by Art. 5, deposit at the office of the *Registrar* three copies, each having on the title-page or cover the signature of the depositor written by himself, with his address and the date of publication. Registration.

The deposit must be accompanied by a sworn declaration of the printer, attesting that the work has been printed in his establishment situate within the domains of the Republic.

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AFRICA.

Art. 11. The registrar shall give the depositor a dated receipt. A duplicate of this receipt is entered on a register kept in his office, which any one may consult gratuitously, and from which any one may obtain extracts or copies at his own expense. The government shall settle the form of receipt and regulate the keeping of the register.

The 'Staats Courant' shall contain every month a notice of the works and translations deposited.

Art. 12. The author loses the exclusive right of representation in dramatic musical or dramatic works published in print, unless this is expressly reserved on the title-page or cover of the first edition.

III.—Duration of Copyright.

Duration.

Art. 13. Copyright in works published in print lasts fifty years from the first publication, dating from the receipt mentioned in Art. 11.

If the author survives this period without having alienated his right, he preserves it during his life. This provision does not apply to the persons entitled to copyright enumerated in Art. 2 (a) and (b).

Art. 14. Copyright in works not published in print, including oral addresses, lasts for the life of the author and thirty years afterwards.

Art. 15. The exclusive right of performance or representation of dramatic and dramatic-musical works lasts,—

- (1.) For those not published in print, during the life of the author and thirty years after.
- (2.) For those published in print with a reservation of the exclusive right, ten years from the date of the delivery of the receipt mentioned in Art. 11.

Art. 16. The exclusive right of translation lasts,—

- (1.) In the case of unpublished works, including oral addresses, as long as copyright.
- (2.) In the case of published works, five years from the delivery of the receipt mentioned in Art. 11.

Art. 17. In respect to works composed of volumes or

separate parts, the duration of copyright is calculated separately for each part or volume.

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AFRICA.

IV.—Protection of Copyright.

Art. 18. Any person who infringes copyright, or sells, imports, or circulates, puts on the market, or has in his possession for sale a work infringing copyright, is liable to a civil action for damages on the part of the author or his representatives.

Protection of
copyright.

Art. 19. An author or his representatives may seize copies published in print in defiance of their right, and may demand the confiscation of such copies for their own benefit, or their destruction.

These measures do not apply to isolated copies found in the possession of individuals who do not sell them and have only acquired them for their personal use.

V.—Transitory Provisions.

Art. 20. Copyright cannot be exercised in a work published before the coming into force of this law, unless in the six months before this date the author or his representatives, the publisher or printer, deposits at the office of the registrar three copies, each bearing on the title-page or cover the signature of the depositor written by himself, his address, and the date of the first edition.

Works pub-
lished before
this law.

This date, subject to proof to the contrary, is the commencement of the duration of the right.

A declaration in accordance with Art. 10 (2) must be delivered also in this case.

Art. 21. The registrar shall deliver to the depositors a dated receipt, a duplicate of which shall be entered on the register kept in his office; any one may consult the register without payment, and obtain copies and extracts at his own expense.

The 'Staats Courant' shall contain a notice every month of the works and declarations received by the registrar, with information of the dates assigned by the depositors as to the first edition of their works.

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AFRICA.

VI.—*Final Provisions.*

Art. 22. Of the three copies deposited according to Arts. 10 and 20, one shall remain in the office of the registrar, a second shall be placed in the state library, the third shall be placed as the government shall determine.

Art. 23. This law comes into force three months after its publication in the 'Staats Courant.'

TUNIS.

Tunis was one of the signatories of the Berne Convention.

The following law on artistic and literary property was passed on the 15th June, 1889, and published in the official Tunisian journal on the 20th June, 1889 (*a*).

Duration.

Art. 1. Authors of literary and artistic works shall enjoy during their entire life the exclusive right of sale, of reproduction, of representation or performance and circulation of their works throughout the territory of the regency of Tunis, and also the right of assigning such property in whole or in part. Nevertheless this protection shall be limited to (1) works published for the first time in Tunis, whatever may be the nationality of the author; (2) to works published in a foreign country, for the protection of which a diplomatic treaty can be cited.

Art. 2. The right is prolonged for fifty years after the death of the author, for the benefit of his heirs or assigns.

Definition
clause.

Art. 3. The expression "literary and artistic works" includes books, pamphlets, and all other writings, dramatic or dramatic-musical works, musical compositions with or without words, works of drawing, painting, sculpture and

(*a*) Translation taken from the Official Copyright Magazine of the Berne Convention.

engraving, lithographs, illustrations, geographical charts, plans, sketches, and plastic works relating to geography, topography, architecture, and sciences in general: in short, every production of the literary or scientific and artistic domain which can be published by any method of printing or reproduction (*a*).

Copyright does not exclude the right of making quotations for purposes of criticism, argument or education.

Every paper can reproduce an article published in another paper, on condition of indicating the source, unless this article carries a special warning that reproduction is forbidden.

Art. 4. Copyright in a literary work includes the exclusive right of making or authorizing a translation of it. Copyright in musical compositions includes the exclusive right of making arrangements on the motifs of the original work.

Art. 5. No literary or artistic work not become public property, can be publicly performed in the regency, without the formal consent in writing of the author or his assigns, under penalty of a fine of 50 piastres (*b*) at least, and confiscation of receipts for the benefit of the authors or their assigns.

Penalty for infringement.

Art. 6. Piracy in the territory of the regency constitutes a misdemeanour; and so also, the sale, exportation and consignment of pirated works, as well as their importation into Tunisian territory.

Piracy.

Art. 7. Any persons who knowingly sell, expose for sale, keep in their shops for purposes of sale, or import into the territory of the regency, with a commercial object, pirated articles, are guilty of the same offence.

Art. 8. The offences mentioned in Arts. 6 and 7 shall be punishable with a fine of 50 to 2000 piastres.

Confiscation for the benefit of authors or their assigns of pirated works or articles, as well as plates, moulds or matrices, and other implements directly employed in com-

(*a*) This definition agrees with that in the Berne Convention.

(*b*) Piastre = 5 $\frac{3}{4}$ d. Whitaker.

CAP. XVIII.

TUNIS.

mitting these offences, will be decreed against convicted persons.

The fabrication and sale of instruments mechanically reproducing airs of music which are private property do not constitute musical piracy (*a*).

Art. 9. The fraudulent application on a work of art, a work of literature or music, of the name of an author, or any distinctive sign adopted by him to distinguish his work, will be punishable with imprisonment from three months to two years, and a fine of 100 to 2000 piastres, or of one of these two penalties only.

The confiscation of pirated articles shall be decreed in every case.

Persons who knowingly sell, expose for sale, keep in their shops, import into the territory of the regency, or export for purposes of sale the articles pointed out in the first paragraph of this article, shall be punishable with the same penalties.

Art. 10. The local authorities shall in every case give their assistance to authors or their attorneys for the ascertainment and repression of all acts in opposition to their rights.

Art. 463 of the French Penal Code shall be applicable to the acts contemplated and restrained by this law (*b*).

Art. 11. The French Courts shall be alone competent to take cognizance of all claims or disputes relating to this law.

SOUTH AMERICA.

In 1888 an international congress of the states of South America met at Montevideo under the auspices of the Argentine Republic and the Republic Oriental of Uruguay.

One of the most noteworthy results of this congress was the drawing up of a treaty for the protection of works of literature and art, which was signed on the 11th January,

(*a*) Protocol of the Berne Convention, Art. 3.

(*b*) *Ante*, p. 635.

1889, by the delegates of the following seven South American States: the Argentine Republic, Bolivia, Brazil, Chili, Paraguay, Peru and Uruguay. The treaty provides that a simultaneous ratification by all the signatories is not a necessary condition of its coming into force, the effect of which is that it would become binding between any two nations ratifying it. The treaty has however not yet been ratified by any of the signatories. Countries not represented at the congress may adhere to the treaty (a).

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AMERICA.South
American Con-
vention of
1889.

The treaty differs in several points from the Berne Convention.

(1.) It does not protect the exclusive right of performance and representation of musical and dramatic works.

(2.) It comprehends photographs and choregraphical works under the terms literary and artistic works: the Berne Convention, sects. 1 and 2 of the Protocol, protects the photographs of a work of art as the work itself: other photographs are only protected in countries where they are recognized as works of art; choregraphic works are only protected in countries whose law expressly recognizes them.

(3.) The exclusive right of translation lasts for the same time as copyright instead of for ten years only.

The treaty provides as follows:—

Art. 2. The authors of all literary or artistic works shall enjoy in the signatory States the rights accorded to them by the law of the State where the first publication or production took place.

Art. 3. The right of property in a literary or artistic work includes, for the author, the power of disposition, of publication and alienation, of translation or authorizing translation, and of reproduction under any form.

Art. 4. No State shall be bound to recognize a longer duration of literary or artistic property than that given to authors who obtain it directly in that State.

(a) Lois françaises et étrangères, par M. Lyon-Caen.

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AMERICA.

But the duration may be limited to that accorded by the country of origin, if it is less.

Art. 7. Newspaper articles may be reproduced on condition that the publication from which they are taken is named, except articles treating of art or science, reproduction of which has been expressly forbidden.

Art. 8. Speeches delivered or read in deliberative assemblies, in courts of justice, or public meetings may be published in periodicals without authorization.

Art. 9. The following are considered unlawful reproductions: indirect and unauthorized appropriations of literary or artistic works, designated under various names, such as adaptations, arrangements, &c., when they are mere reproductions, without presenting the features of a new work.

Art. 10. Copyright shall be recognized unless proved to the contrary, in favour of the persons whose names or pseudonyms are indicated in the work.

If authors wish to conceal their identity, publishers must make it known that copyright belongs to them.

Art. 11. The liabilities incurred by persons infringing literary or artistic copyright shall be established and decided by the Courts and regulated by the laws of the country where the offence has been committed.

Art. 13. It is not necessary for the coming into force of this treaty that it shall be ratified simultaneously by the signatory States. Any State which approves it, shall notify its approval to the governments of the Argentine and Uruguay Republics, in order that they may communicate it to the other contracting parties.

This proceeding shall take the place of ratification.

Art. 14. When mutual approvals have been exchanged in the manner indicated in the preceding articles, this treaty shall remain in force indefinitely.

Art. 15. If any of the signatory States judges it useful to withdraw from the Convention or introduce modifications therein, it shall give notice to the other States; but it shall not be discharged until a lapse of two years after

repudiation, during which period efforts shall be made to arrive at a fresh agreement.

Art. 16. Art. 13 may be extended to nations which may desire to adhere to the treaty, though they have not taken part in the congress.

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AMERICA.

THE ARGENTINE REPUBLIC.

There is no special law in the Argentine Republic on copyright. Art. 17 of the Constitution of 1869 provides that property is inviolable, and no inhabitant of the Argentine Republic can be deprived of it except by virtue of a legal decision in conformity with the law. Every author or inventor is the exclusive proprietor of his work, invention, or discovery, for the period accorded by law.

Argentine
Republic.

No period has, however, been fixed by legislation for copyright.

Authors are at present protected in their rights by the provisions of the Civil Code, of which the following are, according to M. Lyon-Caen (*a*), specially applicable to copyright.

Art. 1072. Every unlawful act committed knowingly and with the intention of injuring the person or rights of another, is considered as an offence by this Code.

Art. 1075. Every right may be the subject of an offence, whether it be a right over an external object or inseparable from the existence of the person.

Art. 1077. Every right gives rise to the obligation of making good the injury caused to another.

Art. 1083. The making good all injury, whether material or moral, caused by an offence may be reduced to a pecuniary compensation to be fixed by the judge, except in cases where there is an opportunity of delivering up the article which has been the subject of the offence.

Art. 1095. The right to claim the making good of damage caused by offences against property belongs to

(*a*) Lois Françaises et étrangères.

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THE
ARGENTINE
REPUBLIC.

the proprietor of the thing, to the person entitled to possession of the thing or simply to hold it, as a tenant, bailee, or trustee; it belongs also to a mortgagee, who can put in force this right even against the proprietor of the mortgaged article if this latter has caused the damage.

Infringement of copyright becomes, under these provisions, a civil wrong, for which compensation may be obtained by an action for damages.

Foreigners.

Foreigners are protected as well as natives under sect. 20 of the Constitution, which provides that foreigners shall enjoy, in the nation's territory, all civil rights belonging to citizens; they may carry on their trade, business, or profession; hold real property, buy it and alienate it; navigate the streams and along the coast; practise freely their religion, make wills, and marry in conformity with the laws.

Piracy and infringement, however, have ceased to be offences under the criminal law since 1887, as the Penal Code of the 25th November, 1886, which then came into force, omitted the provision punishing piracy contained in the Penal Code of 1880.

The Argentine Republic has not at present any treaties on the subject of copyright, but she has been one of the prime movers of the treaty arranged between the South American States on this matter.

BOLIVIA.

A law on literary and artistic works was enacted in Bolivia on the 13th August, 1879. It provides as follows (a).

*Chap. I.—Of Literary Works in general.*Literary
works.

Art. 1. It is lawful to publish by printing, by lithography, on the stage or in any other analogous way, any

(a) This law follows closely the Portuguese Code of 1867, *ante*, p. 747. The translation is taken from the French translation in *Lois Françaises et étrangères*, par M. Lyon-Caen.

literary work without any previous censorship or restriction obstructing the free exercise of this right, subject to all liabilities incurred according to the laws.

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This provision is applicable to the right of translation.

Art. 2. It is lawful to publish laws and regulations and also all other official public decrees, on condition that the authentic text published by government is strictly adhered to.

Laws.

Art. 3. Speeches delivered in the legislative chambers and all other speeches of an official character are included in this last provision. Nevertheless, a collection of all or part of the speeches of a particular speaker cannot be published except by the speaker himself or with his consent.

Speeches.

Art. 4. Lectures of masters and professors, also sermons, can only be reproduced by their author, except by way of abridgement.

Lectures.

Art. 5. Every manuscript work is the property of its author, and cannot in any case be published without his permission.

Art. 6. Private letters cannot be published without the consent of the author or his representatives, except in legal proceedings.

Art. 7. The author of a printed or lithographed work enjoys the property in such work and the exclusive right of reproduction during his life.

Duration.

Authors of a writing of any kind have the right of quoting from one another, or copying fragments or passages relating to the subject of their work, on condition of indicating the author, the book, and periodical borrowed from.

Articles first published in a periodical, or forming part of some work or collection, can be reprinted by their authors, subject to agreement to the contrary.

Art. 8. The author's rights contemplated by the previous article include also the right of translation. But if the author is of foreign nationality, he shall only enjoy this right in Bolivia during ten years from the first publica-

Translation.

Foreigner.

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tion of his work, and on condition that the translation has appeared before the end of the third year from publication.

In case of assignment, all the author's rights pass to the translator, subject to agreement to the contrary.

The translator, whether a Bolivian or a foreigner, of a work not become public property enjoys, during thirty years, the exclusive right of reproducing his own translation, subject to the right of any other person to make a new translation from the same work.

Foreign
reciprocity.

Art. 9. Foreign authors enjoy the same advantages as are accorded to Bolivian authors residing in a foreign country.

Duration
after death
of author.

Art. 10. After the death of an author his heirs, assigns, or representatives, preserve the right of property mentioned in Art. 7 for fifty years.

Art. 11. The State or any other public institution which shall cause a work to be published shall enjoy the right aforesaid for fifty years from the publication of the last volume of the work.

If the work consists of a collection of writings or articles on different subjects, the fifty years count from the publication of each volume.

Art. 12. When a work has been produced by several authors, and each one of them has collaborated on the same conditions, and in his own name, the property in such work belongs to all the collaborators. The first period of duration of this property extends to the death of the last surviving collaborator, who shall enjoy the produce of such property jointly with the heirs of his deceased collaborators: the second period shall commence at his death.

If a collective work, composed of works by several authors has been undertaken, edited and published by a single person, and in his name, the second period referred to commences to run from the death of such person.

Art. 13. The provisions of the preceding articles, so far as they relate to authors, apply to publishers to whom

they have assigned their rights, following the terms of the respective agreements.

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Nevertheless in this case, the duration contemplated by Art. 10 counts from the death of the author.

Art. 14. The provisions regulating works published with the author's name are also applicable to anonymous and pseudonymous works as soon as the author or his heirs or assigns reveal their identity and prove their existence.

Anonymous works.

Art. 15. The publisher of the posthumous work of a known author enjoys copyright for 50 years from the publication.

Posthumous work.

Art. 16. The publisher of an unpublished work, of which the proprietor is unknown or cannot obtain legal recognition, enjoys copyright for 30 years from the completion of publication.

Art. 17. The expropriation of every published work, which is out of print, and which the author or his heirs are unwilling to reprint, although the work in question has not yet become public property, is lawful.

Expropriation by the State.

The State alone may proceed to this expropriation after procuring a law to this effect, and after previously compensating the author, and on condition of acting on the general principles of expropriation on the ground of public utility.

Art. 18. The publisher of a work, whether unpublished or printed, so far as it has not become public property, cannot alter it or modify the text, during the life of the author or his heirs, and is bound to keep the title given by the author, and the latter's name, subject to agreement to the contrary.

Obligations of publishers.

Art. 19. A publisher who has contracted for the publication of a work, is bound, unless there is a contrary agreement, to commence the publication in the year following the date of the contract, and to carry it on regularly, under penalty of paying damages to the person with whom he has contracted.

A publisher who has contracted for successive editions

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of a work, cannot break off the publication, unless he proves that unsurmountable obstacles stand in the way of reprinting (*a*).

Art. 20. Literary property is considered and regulated as all other personal property, subject to the special modifications by law prescribed, by reason of the special nature of this property.

Art. 21. In case of failure of heirs, the State does not succeed to copyright: any one may publish and reprint the works, subject to the right of creditors on the inheritance.

Art. 22. Literary property cannot be prescribed.

Art. 23. There is no property in works forbidden by the law and ordered to be withdrawn from circulation.

Chap. II.—Dramatic Works.

Dramatic
works.

Art. 24. Dramatic authors enjoy property in their works in conformity with the provisions of the preceding chapter, and have in addition the following rights.

Art. 25. No dramatic work can be represented at a public theatre, where admission is obtained by payment, without the written consent of the author, his joint heirs, assigns, or representatives in the following manner:—

- (1.) If the work is printed, this consent is only necessary after the death of the author during the time for which his heirs, assigns or representatives enjoy copyright.
- (2.) If the work is posthumous, it cannot be represented without the consent of all the heirs or any other person who has property in the manuscript.
- (3.) The permission to represent a dramatic work may be given for a certain period, a certain place or several places, or for a certain number of theatres.

(*a*) The Portugese Code has, "unless he shows unsurmountable obstacles standing in the way of a ready sale."

Art. 26. If the permission is limited, and the work has been put on the stage of a theatre not included in the permission, the net receipts of the representation or representations thus given shall belong to the person whose consent was necessary.

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Art. 27. The author's share of the receipts of a representation cannot be seized by creditors of the theatrical venture.

Art. 28. A dramatic author who has assigned by agreement the right of representing his works, enjoys the following rights unless he has expressly renounced them.

- (1.) To make such changes and improvements as he shall judge necessary, on condition that he does not alter any essential parts without the consent of the manager.
- (2.) To require that the work so long as it is in manuscript shall not be communicated to any person outside the theatre.

Art. 29. An author who has contracted with a manager for the representation of his work, cannot, while the contract holds good, assign to any other manager in the same locality either the original text or an imitation.

Art. 30. If the piece has not been represented in the period agreed upon, or in the course of the first year where no period has been expressly fixed, the author is free to withdraw his work.

Art. 31. The judicial authority shall decide all disputes arising between authors and theatre managers.

Chap. III.—Artistic Property.

Art. 32. The author of every musical work, drawing, painting, sculpture or engraving has the exclusive right of reproducing his work by engraving, lithography, sculpture or any other process in conformity with the provisions established in matters concerning literary property.

Artistic
property.

The provisions laid down in the preceding chapter in

CAP. XVIII.
BOLIVIA.

favour of dramatic authors are wholly applicable to authors of musical works in regard to their performance in theatres or any other places where the public is only admitted by payment.

Chap. IV.—Obligations Common to Authors of Literary, Dramatic or Artistic Works.

Obligations.

Art. 33. To enjoy the advantages granted by this law, the author or the proprietor of every work reproduced by typography, lithography, engraving, sculpture, or any other process, must observe the following provisions:—

Deposit.

Art. 34. Before putting on the market copies of any published work, he must deposit a copy with the Minister of Public Education, a second with the Procureur of the District, and a third at the Library of the seat of Government. A receipt shall be given for these deposits, which shall be entered on the registers established for this purpose free of charge.

If a musical or dramatic work is in question, or a work relating to musical instruction (*a*) or art, copies shall be deposited in the manner prescribed in the preceding article. If the work is a lithograph, an engraving or a sculpture, or a work relating to one of these arts, the deposit and registration shall be made in the same manner with the Council of Education. Nevertheless in this case the author may deposit the original drawings in place of the copies.

Art. 35. The library and institutions mentioned in the preceding article must publish the registrations respectively made by them in the Municipal Bulletin.

Art. 36. Certificates extracted from the register aforesaid are presumptive evidence of the copyright in the work with the results flowing from such right, subject to proof to the contrary.

(*a*) The corresponding section of the Portuguese Code says, "relating to dramatic literature or musical art." It may be doubted whether the difference does not lie only in the fact that the two laws have had different French translators.

*Chap. V.—Liability of Pirates or Infringers of
Literary and Artistic Property.*

Art. 37. Any person infringing the rights recognised by this law, or who are guilty of literary infringements, are subject to the liability fixed by the following articles: Piracy.

Art. 38. Any one who publishes an unpublished work, or reproduces a work in course of publication or already published, belonging to another person, without the authority and consent of such person, shall forfeit to the benefit of the author or proprietor all copies of his illegal reproduction which shall be confiscated, and shall pay in addition the value of the entire edition, deducting the copies seized, at the price at which lawful copies are sold, or at their estimated value.

If the number of copies fraudulently printed and put in circulation is not known, the pirate shall pay the value of 500 (a) copies in addition to the copies seized.

Art. 39. Any person selling or exposing for sale a work fraudulently printed, shall be jointly and severally liable together with the publisher as prescribed by the preceding article: and if the work has been printed in a foreign country, the seller shall be liable as if he were the publisher.

Art. 40. Any person publishing a manuscript comprising private letters, without the permission of the author during his life or of his heirs or representatives, shall be liable in damages.

This provision shall not stand in the way of the exception mentioned in Article 6, relating to private letters.

Art. 41. The author or proprietor of a work fraudulently reproduced, may, as soon as he becomes aware of such fact, demand the seizure of the copies so reproduced, without prejudice to his action for damages, to which he is entitled even when not a single pirated copy can be found.

(a) Portuguese Code, 1000 copies.

CAP. XVIII.

BOLIVIA.

Art. 42. The provisions of the chapter concerning civil compensation do not prevent the institution of criminal proceedings by the author or proprietor for the punishment of the pirate or infringer.

Bolivia was one of the signatories of the South American Convention (*a*), and has recently arranged a treaty with France (8th September, 1887), to secure the protection of literary, artistic, and industrial property (*b*). This treaty provides that persons under the jurisdiction of each of the contracting parties shall enjoy on the territory of the other the same treatment as natives in all matters concerning :

- (1.) The protection of literary and artistic works.
- (2.) The protection of trade marks, trade names, trade designs or trade models, trade labels, and packages.

BRAZIL.

Until very recently the legislation of Brazil concerning copyright consisted in a single article (No. 261) of the Criminal Code of the 16th December, 1830, which prohibited the reproduction and importation of writings or prints made, composed or translated by Brazilian citizens, during the life of the author, and ten years after his death, or during ten years in the case of works belonging to corporations.

Many attempts have been made to improve this state of affairs, and a law on copyright was introduced into Parliament in 1875, but was not discussed: a subsequent bill was considered in 1887, and was referred to a committee, but has not yet become law.

Brazil was one of the signatories of the South American Convention of the 11th January, 1889 (*c*), and in the same year, on the 9th September, she concluded a treaty with Portugal, by which the two countries reciprocally

(*a*) *Ante*, p. 831.

(*b*) Official Copyright Magazine of the Berne Convention, 1890, p. 76.

(*c*) *Ante*, p. 831.

assured the treatment accorded to natives to authors writing in the Portuguese language and artists of either of the two countries. This treaty came into force on the 1st November, 1889.

CAP. XVIII.

BRAZIL.

On the 11th October, 1890, the New Penal Code was promulgated, which contains a special chapter on literary and artistic property, Arts. 342—350, which are as follows (a) :

*Chap. V.—Offences committed against Literary,
Artistic and Commercial Property,*

Sect. 1. Of infringement of the rights of literary and artistic property. Penal Code
of 1890.

Art. 342. It is forbidden to publish or print collections of laws, orders, resolutions, regulations, reports, and any other decrees of the legislative and executive authorities of the Nation and States.

Penalties : Confiscation and forfeiture, for the benefit of the Nation or State, of all copies published or put on the market, and a fine equal to their value.

Art. 343. The following persons are jointly and severally liable for this breach :—

- (a.) The owner of the printing establishment where the printing or publication took place.
- (b.) The author or the importer where the work was published in a foreign country.
- (c.) The vendor.

Art. 344. It is forbidden to reprint, engrave, lithograph, import, introduce or sell, documents, prints, geographical charts, and every kind of publication issued on behalf of the Nation or States from either public or private offices.

Penalty : Confiscation and forfeiture, for the benefit of the Nation, of all copies, and a fine equal to three times the value of these copies.

The fiscal privileges contained in this article and

(a) Official Copyright Magazine of the Berne Convention, 1890, p. 135.

CAP. XVIII.

BRAZIL.

Art. 342 do not imply in any way a prohibition against copying or inserting the decrees above mentioned in newspapers or gazettes, in abridgements, treatises, or any other scientific or literary work, or against re-selling the articles enumerated when legitimately acquired.

Duration of
copyright.

Art. 345. It is forbidden to reproduce, without the consent of the author, any literary or artistic work by means of printing, engraving, lithography, or any other mechanical process during the life of the author or of the person to whom he has assigned his property and ten years after his death, if he leaves heirs.

Penalty: Confiscation and forfeiture of all copies, and a fine equal to three times their value, for the benefit of the author.

Art. 346. In the absence of the author's consent, it is forbidden to reproduce in their entirety in a book, collection, or separate publication, speeches or addresses delivered in public assemblies, in the courts, in political, administrative, or religious meetings or public conferences.

Penalty: Confiscation and forfeiture of copies and fine equal to their value, for the benefit of the author.

Translation.

Art. 347. It is forbidden to translate and sell any writing or work without the author's leave.

Penalty: The same as in the preceding article.

But partial quotations may be made for purposes of criticism, argument, or instruction.

Musical
compositions.

Art. 348. It is forbidden, except with the leave of the author or proprietor, on any occasion to perform or represent at theatres or public performances any musical composition, tragedy, drama, or any other production.

Penalty: Fine of 100 to 500 milreis, for the benefit of the author or proprietor.

Piracy.

Art. 349. It is forbidden to import, sell, conceal, or receive, for purposes of sale, pirated literary or artistic works.

Penalty: Confiscation and forfeiture of copies, and fine equal to double their value, for the benefit of the author or proprietor.

Art. 350. It is forbidden to reproduce by imitation or piracy any artistic work whatsoever without the proprietor's consent.

CAP. XVIII.

BRAZIL.

Penalty : That prescribed in the last article.

The following will for this purpose be considered piracies :—

- (1.) Reproduction by painting, when an artist copies from a picture, without the consent of the author or his assigns, groups, figures, heads, or details of landscapes, or uses these elements for his own picture, while keeping the same proportions and the same effects of light as in the original work.
- (2.) Reproduction by sculpture, when the imitator takes from an original work, groups, figures, heads and ornaments, and introduces them into his own work.
- (3.) Reproduction by music, when a composition composed for an orchestra is arranged for a single instrument, or when a piece composed for one instrument is arranged for a different one.

It may be remarked on this law that no formalities of registration or deposit are prescribed, and no express reservation of the right of translation is necessary.

There is no provision relating to the rights of foreigners (*a*).

CHILI.

Copyright in literary and artistic works is regulated in Chili by the law of the 24th July, 1834, and is further sanctioned by the Civil Code of 1855, Art. 584. Authors can take civil proceedings for damages under Art. 2314 of the Civil Code, or proceed criminally against the offender under Art. 471 of the Penal Code, which provides that the punishment of minor transportation or banishment (*b*), or a fine of 100 to 1000 pesos

(*a*) Official Copyright Magazine of the Berne Convention, 1890, p. 136

(*b*) Enforced residence in a fixed locality.

CAP. XVIII.

CHILI.

may be inflicted on any person who commits any fraudulent act relating to literary or artistic property, and that copies, implements, or articles pirated, fraudulently imported or circulated, may be confiscated for the benefit of the injured person, and that engraving plates and implements used for the committal of the offence may be confiscated where only useful for that purpose.

Chili was one of the signatories of the South American Convention (a), but has no other treaties on the subject of copyright. The law of 24th July, 1834, follows (b):

Duration.

Art. 1. Authors of any kind of writing, or compositions of music, painting, drawing, or sculpture, and, in short, all persons to whom the first conception of a work of literature or *de belles lettres* belongs, shall have the exclusive right during their life of selling, causing to be sold, or circulating in Chili, reproductions of their works, whether by printing, lithography, moulding, or any other process intended to reproduce or multiply copies.

Art. 2. Their legatees or heirs shall enjoy the same right for five years, which may be extended to ten, if the government thinks fit; but if the inheritance devolves on the treasury, the work shall become public property.

Art. 3. Authors and their heirs may transfer their rights to any person.

Art. 4. The proprietor of the MS. of a posthumous work shall enjoy copyright for ten years, with no extension: the period shall run from first publication, and on condition that the work is published separately and not in an edition comprising the works of the author published in his lifetime: in this case the posthumous work shall share the fate of those works.

Art. 5. The possessor of posthumous MSS. containing corrections of a work published in the lifetime of the author shall enjoy copyright for ten years, with no extension, on condition that he brings the MSS. before the

(a) *Ante*, p. 831.

(b) From the French translation in *Lois Françaises et étrangères*, par M. Lyon-Caen.

ordinary court in the year following the death of the author, and clearly proves that they are his. CAP. XVIII.

Art. 6. Foreigners who publish their works in Chili shall enjoy the same rights as Chilians, and if they publish in Chili a new edition of works published in another country, they shall enjoy like rights for ten years. CHILI.
Foreigners.

Art. 7. Theatrical pieces shall, in addition, be protected against representation in any theatre in Chili without the written consent of the author or his heirs during the life of the author and five years from his death, which latter period belongs to the heirs. Dramatic
works.

Art. 8. When a work has been composed by a body of several persons, they shall enjoy copyright for 40 years from first publication.

Art. 9. Translators of works and their heirs shall enjoy the same rights as authors and their heirs.

Art. 10. To enjoy the rights given by these Articles, it is not necessary to obtain any title from government, but it will suffice to deposit three copies of the work at the public library of Santiago and to mention the proprietor at the head of the work. Deposit.

Art. 11. The government may grant an exclusive privilege for five years to persons reprinting interesting works, provided the reprint is correct and handsome.

Art. 12. If the author or publisher does not desire to enjoy copyright and does not fulfil the formalities prescribed by Art. 10, the printer must deposit three copies as aforesaid.

Art. 13. Printers must also deposit at the library two copies of every periodical, paper or separate publication printed by them, and send one copy to the Ministry of the Interior and one to each Procurcur fiscal.

Art. 14. After the expiration of the periods previously mentioned, every work shall become public property, and any person may take advantage thereof as seems good to him.

Art. 15. If any person reprints, engraves, or imitates the work of another, or contravenes in any way the pro- Piracy.

CAP. XVIII.

CHILI.

visions of this law, the person interested may bring him before the judge, who shall decide the matter summarily according to the laws in force relating to encroachments on the property of another.

Art. 584 of the Civil Code of 1855 provides that the productions of talent or intellect are the property of their author. This property is regulated by special laws.

COLUMBIA.

Copyright in Columbia is governed by the law of the 20th October, 1886, which has taken most of the provisions of the Spanish law of the 10th January, 1879.

Duration. Copyright has the same duration, the life of the author and 80 years after his decease, with a special right of reversion to the necessary heirs in case of alienation.

Registration. Literary works must be registered and deposited. Deeds of assignment must also be registered.

Foreigners. Foreigners are not protected in the absence of treaties, except authors in whose country of origin Spanish is spoken, and Columbian authors are protected.

The right of translation is only assured to natives, and cannot even by treaty be secured for foreigners, except in the case of works published in a foreign language in a country where Spanish is spoken, as, for example, works printed in Latin, Basque or Catalan, and published in Spain.

Columbia has one treaty on copyright, that with Spain of the 28th November, 1885, for the protection of works of literature and art (a).

The law of 1886 on literary and artistic property is as follows:—

Definitions. Definitions and general provisions.

Art. 1. Literary and artistic property, or copyright, consists in the privilege accorded to authors by law of

(a) *Lois Françaises et étrangères*, par M. Lyon-Caen, from whose work this translation is taken.

profiting by their works, during a fixed period and in consideration of certain previous formalities.

Art. 2. For the purposes of the law, an author means a person who has produced an original work ; also a person who recasts or compiles, or who makes an abridgement or summary of another work, on condition that in these various works he keeps within the limits allowed by law and international treaties.

Art. 3. The benefits of this law can be claimed by any Columbian who publishes a work in a foreign country, even in a country with which there is no literary convention.

Art. 4. Any person who first publishes an unpublished work, not belonging to any person, from a manuscript of which he is the proprietor, is equivalent to an author.

Art. 5. The state, corporations, and persons constituted by law also enjoy literary copyright, so long as they have a legal existence.

Art. 6. For the purposes of this law, a literary or artistic work means any original production resulting from individual effort or labour of intellect, imagination or art.

Not only works completely original are considered to belong to the person producing them, but also those of which the elements, though drawn from other authors, have been selected with discernment, clothed with a new form, and intelligently adapted to a purpose more or less general.

Art. 7. Ideas, philosophical or scientific, conceptions or systems, and other parts of human knowledge, apart from the particular form with which the author or artist has clothed them, do not constitute private property and may be freely presented under new forms.

Art. 8 relates to scientific discoveries and inventions.

Art. 9. Every work of the intellect, after having been published by printing, engraving, or any other analogous process, and after the fulfilment of the legal formalities, constitutes a property regulated by the ordinary law without other limits than those resulting from the law.

CAP. XVIII.COLUMBIA.
Duration.

Art. 10. Literary and artistic property belongs to authors for life, and after their death to persons lawfully acquiring it for eighty years.

Art. 11. Literary property is subject to the restrictions imposed on the press by Art. 42 of the Constitution.

Literary copyright is also subject to restraint by the Censorship to which the government may, according to the laws, subject dramatic representations for reasons of public morality or public honour.

Art. 12. No one can reproduce a work in whole or in part without the consent of the author. This prohibition applies in the case of literary or artistic works, not yet published or registered, which have been taken down in shorthand, or by notes, or copied, during a public or private reading, performance, or exhibition.

Art. 13. Any person may freely reprint works become public property; but if the works are by a known author it is not permissible to suppress his name nor to make interpolations in the work, without making a suitable distinction between the original work and the modifications or additions of the publisher.

Chap. II.—Transfer of Literary Property—Legal and International Effects.

Transfer.

Art. 14. Literary property is transferable as all personal property. The author may assign it gratuitously or for value, in whole or in part. In the absence of express stipulation, the assignee will take the rights belonging to the author or his heirs.

The author may also by an express declaration abandon his work to the public.

Art. 15. In the case of transfer by acts *inter vivos*, literary property belongs to the purchasers for the life of the author and 80 years after his death, if he does not leave heirs of necessity. If he leaves such heirs, the right of the purchaser will last for twenty-five years after

the death of the author, and will then revert to the heirs of necessity for fifty-five years.

Art. 16. The assignee has no right to introduce changes or modifications into the work without the leave of the author or his family after his death.

Art. 17. An author entrusted with the preparation of a literary or artistic work for an agreed remuneration does not acquire any right of property in it.

In such case, the property belongs to the employer, and the person executing the work has only a right to the promised remuneration.

Art. 18 (Transitory). The prolongation of literary copyright shall benefit authors whose privilege has not expired at the date of the promulgation of this law, and also their assigns in like case, but they must register.

Art. 19 (Transitory). Authors whose privilege has expired may also recover their copyright and enjoy the new benefits given by this law, on condition of fulfilling the formalities of registration and deposit, or only the formality of registration if the work is out of print.

Publishers who have reprinted such works during the period when they were public property, may continue to sell the copies already printed, on condition of having them counted and stamped, under the superintendence of the author, in order to prevent any fraudulent reprinting.

Art. 20 (Transitory). The widow and surviving children of a Columbian author may also recover copyright according to the conditions prescribed by the last article.

Art. 21. If a work is not registered in the prescribed period, it shall become public property for ten years from the day of failure to register.

Penalty of non-registration.

Art. 22. During a period of a year from the expiration of such ten years, the author or his assign may recover the copyright on condition of registration, but he cannot prevent the sale of copies lawfully printed in the period of forfeiture. But he may use the precaution mentioned

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COLUMBIA.

in Art. 19 (2). If the author does not take advantage of the second opportunity, copyright is lost for ever.

Art. 23. When works are published in successive parts, and not at one time, the periods fixed by the preceding articles only run from the completion of the work.

Art. 24. An author who bequeaths a manuscript of his own, or who enjoys copyright in a printed work may by will suspend the printing or prohibit the reprinting for eighty years.

Art. 25. Authors, natives of countries where Spanish is spoken and the legislation of which accords to Columbians literary copyright within the limits of this law, shall enjoy in Columbia the rights hereby given, without any treaty and without necessity of diplomatic intervention, by means of a private action before a judge having jurisdiction.

Art. 26. No reservations of the right of translation can be made in international Conventions entered into by government, except in the case of works written in a foreign language, and printed in a country where Spanish prevails, as for example, works in Latin, Basque or Catalan, published in Spain.

Chap. III.—Registration and other Legal Formalities.

Registration.

Art. 27. A general register of literary property shall be opened at the Ministry of Public Education, and special registers in the secretary's office of the provincial governments.

The general register shall include the entries directly requested by authors or their attorneys, and also the entries made in the provincial registers which the provincial governors must transmit every six months.

Art. 28. In order to obtain the advantages of this law, the person interested must request and obtain the making of the entry which concerns him, in the general or provincial register, and this within the period and according to the formalities indicated in this chapter. A certificate of registration, delivered to the person who registers

Reciprocity
with other
Spanish
speaking
countries.

a work, is *prima facie* evidence of title until proof to the contrary is given.

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COLUMBIA.

Art. 29. Registration is regulated by the following provisions:

- (1.) The request for registration shall be made according to the form published by the Ministry of Public Education.
- (2.) If the work is printed, three signed copies shall be deposited, one for the Ministry of Public Education, and the two others for the National Library. If registration is made in a provincial register, the governor shall transmit two copies to the Ministry aforesaid, one for the Ministry and the other for the National Library: the third shall be delivered to the provincial library if there is one, or to some other public institution of the chief town of the province.
- (3.) If the work is a periodical, registration and deposit shall be made of a collection of numbers, not exceeding six months. Registration effected by the proprietor of a periodical magazine shall secure at the same time protection of his rights and the right of reproduction belonging to his collaborators.
- (4.) If the work has been represented in public, but not printed, a single MS. copy shall be deposited.
- (5.) In the case of a work of art which is unique, such as a picture, bust, or any other work of painting or sculpture, there is no necessity to register or deposit, but this shall not prejudice protection.

Art. 30. Registration may be made within one year from the publication of the work: but the author shall enjoy protection from the date of publication: protection will not be lost unless the provisions of the law are not fulfilled within the year.

Art. 31. There is no fee for registration.

Art. 32. Every assignment of literary or artistic property must be made by a legal document to be entered

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on the proper register; in default of this formality, the purchaser cannot avail himself of the right.

The law, or if none, the regulation made for the execution of the law, shall fix a duty on the transfer of literary property.

Special provisions.

Chap. IV. Sect. 1.—Special Provisions for Different Kinds of Works.

Letters.

Art. 33. Letters are the property of persons to whom they are sent, but not for purposes of publication. This right belongs only to the writer, except where publication of a letter which is to be used as evidence in legal proceedings, is authorized by the court having jurisdiction.

Art. 34. Letters of deceased persons may not be published within eighty years from their death without the permission of the family council.

The law or the regulation made for its execution shall define the meaning of family council.

Sect. 2.—Oral Lectures and Speeches.

Lectures and speeches.

Art. 35. A paid professor preserves the right of publishing his lectures, subject to any stipulation to the contrary.

Art. 36. Parliamentary speeches if published officially, may be freely reproduced in the papers or magazines.

But the parliamentary speeches of one speaker cannot be published in a separate collection without his permission.

Sect. 3.—Transcriptions and Anthologies.

Anthologies.

Art. 37. It is lawful to quote from an author with a transcription of the required passages, provided the passages taken are not so numerous or consecutive as to be liable to be considered as a literal imitation which may cause damage to the original work.

Art. 38. It is lawful also to reproduce selections, in verse or prose, in collections intended for schools or with

a special literary aim, on condition that no injury is done to any author by reason of the number of pieces taken from him, and that the reproduction is not made against the express wish of the poet or writer.

The author of an anthology or a selection only acquires, on the ground of his work of compilation, property in the novel arrangement adopted by him, and in the prefaces, notes, and commentaries added by him.

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Sect. 4.—Translations and Abridgments.

Art. 39. Translations and abridgments of a work cannot be made without the author's consent.

Translations
and abridg-
ments.

But the works of a foreign author printed in a country with a foreign language may be freely translated, in whole or in part, on the single condition that the author's name is not concealed.

Art. 40. Translators and persons who make abridgments are proprietors of their own translation or abridgment, but unless they have acquired from the author the sole right of presenting his work in the new form, they cannot oppose the publication of other translations or abridgments, every translation or abridgment constituting property in favour of the person making it.

Art. 41. If a question arises before the court whether a translation or an abridgment, where there are slight variations, but where the intellectual work does not justify copyright, is only an imitation of a previous translation or abridgment, the court shall take the advice of experts.

Sect. 5.—MSS., Anonymous and Posthumous Works.

Art. 42. Compilations of works or of information which are public property, shall constitute private property if they present a work novel in its method and arrangement.

Compilations.

A compiler cannot oppose other persons making a work of the same kind, if they follow a new method with a distinct difference of form.

Art. 43. A person who reduces a work, which is public

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property, to smaller dimensions, or extracts the substance of it in any manner, is the proprietor of his personal work, and may prevent any reproduction of it, but he cannot prevent other persons publishing other *résumés* of the same work.

Art. 44. A collection of songs and popular tales constitutes property when it is the result of direct investigations made by the author or by his agents, and is on a special literary plan.

MSS.

Art. 45. MSS. preserved in the archives and public libraries cannot be copied or published without the permission of the proper authority.

This permission shall be granted by government to the person who first asks for it, and there shall be allowed to him a period not exceeding three years for publication, and the profits as sole publisher for a period of ten to forty years according to circumstances, in order to stimulate the publication of old or curious MSS.

If at the expiration of the period fixed, the grantee has not published the work, he shall lose the entire rights.

Anonymous works.

Art. 46. The publisher who, as assignee, exercises the rights of proprietor, shall be considered as the proprietor of anonymous or pseudonymous works, until the author establishes his title.

If the author makes himself known, he shall be substituted for the publisher in the rights belonging to him.

Posthumous works.

Art. 47. Not only works published after the death of an author, but also works published orally during his life and printed only after his death, shall be considered posthumous works: also printed works which the author at the time of his decease has left so remodelled, augmented, or corrected that they can be considered new works.

Art. 48. The proprietors, by inheritance or any other title, of a posthumous work have copyright in it: they may print it separately or jointly with other works which are still private property.

But they may not publish it with works become public property, under penalty of losing their copyright.

Sect. 6.—Collaborative Works. Newspapers.

CAP. XVIII.

Art. 49. The author or editor (*directeur*) of a collective work is the proprietor of it, and he is under no other obligations to his collaborators than those imposed upon him by agreement. The agreement may contain different terms.

COLUMBIA.
Collaborative
works.

A collaborator who does not reserve to himself by express stipulations any right of ownership, can only claim the payment agreed upon, and the editor of a collective work to which he gives his name shall be considered as the author in the eye of the law.

Art. 50. Works made in collaboration constitute an indivisible work so long as they are kept together in the form in which they were produced: and the duration of the second period of copyright commences from the death of the surviving collaborator.

But each of the collaborators may freely dispose of the part contributed by him, if a stipulation to this effect has been made at the time when the joint work was entered on.

Art. 51. The editors or managers of papers, subject to agreement to the contrary, have only the right of once publishing articles by writers whom they pay. These writers preserve the property in their works and the right of publishing them in such form as they think fit.

Newspaper
articles.

Art. 52. Productions published in papers can be reprinted in other papers under the express condition of naming the paper from which they are taken.

Exception must be made where notice is formally given in the paper that the editor or author reserves the right of reproduction of special articles.

Art. 53. Where the title of a work is not generic, but is characteristic and particular, as happens particularly in the case of the names of papers and reviews, this title cannot, without the proprietor's permission, be adopted for an analogous work of such kind that the public may have doubts between the two, or that the second may be considered a republication of the first. This is a case of piracy.

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Sect. 7.—Official Documents. Civil and Criminal Pleadings.

Official documents.

Art. 54. Any person may reproduce laws, regulations, and other official documents, on condition of adhering to the official text.

Private persons may also publish codes and collections of laws with notes and commentaries, each author being the proprietor of his own commentary.

Pleadings, &c.

Art. 55. The parties are the proprietors of pleadings, &c., presented in their names in any civil or criminal proceedings, provided they have paid the cost: but they shall not be able to publish them without permission of the court called on to give a decision: permission shall only be given if publication is unobjectionable.

Counsel who sign pleadings or defences may publish them in collections, with the permission of the party and the court.

Art. 56. The permission of the court which has given judgment is necessary for the publication of a copy or extract from a judgment. The court shall, after considering the reputation and peace of the families interested in the case, grant or refuse permission with deliberation and without appeal from its decision.

If two or more persons ask the same permission, the court, according to the circumstances, may grant it to one and refuse it to the other, and with such restrictions as it thinks fit. No appeal is allowed.

Sect. 8.—Dramatic and Musical Works.

Dramatic and musical works.

Art. 57. No person may perform, in whole or in part, in a theatre or any public place, a dramatic or musical composition without the previous consent of the proprietor.

If the work is not national, but originates from another country where Spanish is spoken, and with which reciprocity exists as to literary property, the above prohibition shall extend only to works of which the authors have expressly reserved the right of representation.

Art. 58. The proprietors of dramatic or musical works may in giving permission fix at pleasure the royalties payable for representation ; if they do not fix them, they can only recover the royalties established by regulation.

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COLUMBIA.

Art. 59. Songs of the people are public property, and a person publishing them has no exclusive right of restraining their communication.

Art. 60. Musical compositions, as well as arrangements, variations, &c., on a theme or air which is public property, constitute property for the benefit of the author or composer.

Arrangements of this nature, if founded on an original composition, are subject to the previous authorization of the original author.

Transpositions are assimilated to translations in literary subjects ; the question whether they constitute an unlawful reproduction shall only be decided after a report of experts.

Sect. 9.—Works of Painting and Sculpture.

Art. 61. Any person may stop his bust or portrait being exhibited or sold without his consent : but one cannot deprive a dealer acting *bonâ fide* of the possession except by paying him an equitable compensation.

Works of painting and sculpture.

The permission of the family is necessary for the reproduction or sale of a bust or portrait of a deceased person.

A final and perpetual assignment of the right of publishing a portrait can only result from a formal contract.

Art. 62. The question whether a painter or a sculptor preserves the right of exclusive reproduction, by engraving or analogous process, of a work which he has alienated, is generally to be answered in the negative, and in particular cases, according to the stipulations of the contract of alienation.

Chap. V.—Penalties.

Any person who registers or sells as his own, or who publishes as public property, a work of private property,

Piracy.

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COLUMBIA.

commits a fraud or forgery in respect of literary property : also any person who violates in any way the rights recognised by this law.

Art. 64.—Piracy executed in a foreign country also constitutes the offence if the products are sold in Columbia. The liability falls not only on the importer, but the consigner from abroad, and the consignee who introduces them.

Art. 65. Any person who reproduces in Columbia works of private property, printed in Spanish in countries with which there is reciprocity in respect of literary property, is also a pirate.

Art. 66.—Also a printer who keeps for himself a larger number of copies than belongs to him under his agreement with the author.

Art. 67. The following are considered aggravating circumstances : the reproduction, executed abroad, of the work of another, if it is afterwards imported into Columbia ; the alteration of the title, the adulteration of the text and all other alterations of the truth maliciously committed to the injury of the author.

Penalties.

Art. 68. Pirates shall be punishable with a fine varying from the amount of the injury caused to treble this amount : in addition, confiscation of all pirated copies, which shall be delivered to the injured party.

Art. 69. If the author of a piracy is not known, the publisher, printer or vendor shall be successively responsible, subject to their right of proving that they acted in good faith, by surprise or by mistake.

Art. 70. Any person who imports from a foreign country copies of an unlawful publication will be obliged in every case to hand over the copies in his possession to the injured proprietor and to pay to him the value of those sold.

If it is proved, that the author has given notice to booksellers in good time of a pirated publication and that they have subsequently introduced copies of this publication, in addition to the penalties above indicated, a fine of 100 to 500 pesos will be inflicted on them : in case of a second

offence, in addition to the other penalties correctional imprisonment of two to six months.

CAP. XVIII.

COLUMBIA.

Art. 71. As doctrines, opinions, and systems do not constitute literary property within the terms of Art. 7, a person who reproduces ideas, while changing their form, arrangement, or performance will not be considered a pirate.

Not piracy.

But if he attributes to himself a method or system invented by another, the injured author shall have a civil action and shall be able to obtain from justice that his name should be indicated and the honours of the invention attributed to him.

Art. 72. The ordinary courts are competent to try all questions raised by frauds in respect of literary property, and to decide the civil actions which private persons are entitled to bring in defence of the rights given to them by this law. The right of action always belongs to the proprietor of the work, or to the person who has acquired the right of another or is his legal representative.

Jurisdiction.

Art. 73. If a contest arises on the question whether there has been a lawful reproduction of ideas in a work, or an unlawful reproduction of materials belonging to another, the judge or court which has cognizance of the case, may order an examination or reference to experts, and in the absence of previous decisions settling the law, it shall specially adhere to the principles sanctioned by French and Spanish law in relation to literary and artistic property.

French and Spanish law to be followed.

Chap VI.—Final Provisions.

Art. 74. The government shall publish a regulation for the execution of this law.

Art. 75. The first and second laws of the third treatise of the Collection of Grenada and all provisions of the legislature contrary to this law are repealed.

CAP. XVIII.

COSTA RICA.

COSTA RICA.

Costa Rica has no special law on copyright. This state was represented at the first conferences at Berne, but has not signed the Convention.

However Costa Rica was one of the signatories of a treaty of peace, friendship and commerce which was signed on the 17th February, 1877, between the five republics of Central America (namely, Costa Rica, Guatemala, Honduras, Nicaragua and Salvador). This treaty has not yet been ratified. Art. 20 is in the following terms :

Persons under the jurisdiction of one of the signatories shall enjoy in the other Republics the right of literary, industrial, or artistic property, on the same conditions and subject to the same obligations as natives (*a*).

ECUADOR.

Article 27 of the Constitution of Ecuador of 1884, provides that every person shall enjoy liberty of industry, and within the conditions fixed by law, the exclusive property in his discoveries, inventions and literary works (*b*).

A law was passed concerning literary and artistic property on the 3rd August, 1887.

Chap. I.—Literary and Artistic Property.

Art. 1. This law determines the rights of authors in literary and artistic works for the purposes of the protection laid down for their benefit by Article 27 of the Constitution.

Art. 2. The following are considered authors in matters of literature :—

- (1.) A producer of a written or oral work.
- (2.) A translator.

(*a*) Lois Françaises et étrangères, par M. Lyon-Caen.

(*b*) Lois Françaises et étrangères, par M. Lyon-Caen, from which work the translation of the law of 1887 is taken.

- (3.) A proprietor of an unpublished work, not legally belonging to any other person, which he publishes for the first time.
- (4.) The compiler of historical or legislative documents, when the directors of the archives interested (in such subject) or the government has not anticipated him in this publication, and has accorded him permission to make it.
- (5.) The compiler of popular productions, such as songs, traditions, &c., provided that the publication is made with a literary aim.
- (6.) The publisher or compiler of works which are no longer private property.

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ECUADOR.

Art. 3. The following are considered authors, in matters of art :—

Definition of
authors of
artistic
copyright.

- (1.) The creator of a work.
- (2.) The composer of variations on a musical theme, on condition that these variations constitute in the opinion of experts a new creation.
- (3.) The compiler of popular musical works without known proprietor.
- (4.) The author of transpositions or instrumentations made with the permission of the author of the original work.
- (5.) An artist, a geographer, an engineer, a draughtsman, a calligraphist, or a sculptor, each in respect of his original work and copies which can be made from it by any process whatsoever, unless however he has alienated the original.
- (6.) The reproducer of a work with the author's permission.
- (7.) The publisher of works of which the privilege has ceased.

Art. 4. The State and Corporations clothed with the character of *personnes morales*, if they make publications in conformity with this law, shall enjoy the same rights as authors.

Art. 5. Literary and artistic works referred to in Art.

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1456 of the Civil Code shall not enjoy the protection given by this law (a).

Art. 6. Except in the cases contemplated in Arts. 2 and 3, no work can be reproduced, in whole or in part, without the permission of the author, his heirs or assigns; this permission ought to be mentioned on the reproduction of literary works.

Art. 7. Philosophical and scientific, &c., systems are not protected so far as they are organic systems of human knowledge, but only as works materialised by word or pen.

Nevertheless the inventor of a system can apply to a judge to obtain recognition of his title as inventor against a person who has profited by the invention in a fraudulent manner (b). The decision of the judge shall be published in the official journal.

Art. 8. Works relating to artistic or trade processes shall be subject to the provisions of this law, but the invention itself, the products, &c., to which the work is devoted, shall be regulated by the special law on such matters.

Duration.

Art. 9. The property shall be secured during the following periods :—

(1.) The life of the author, and fifty years after his death, as respects his heirs.

(2.) Fifty years.

(3.) Twenty-five years.

The benefit of the first of these periods is accorded to the authors mentioned in Art. 2 (1) and Art. 3 (1) and (5).

Of the second period to translators, compilers of historical or legislative documents, government, *personnes morales*, authors of variations on musical themes.

Of the third period to all other persons.

Art. 10. The duration of protection runs from publication.

Art. 11. In matters relating to posthumous works, not only works published for the first time after the death of

(a) Books of which the circulation is forbidden, and obscene pictures, &c.

(b) Confer the Law of Columbia, *ante*, p. 861.

the author shall be considered posthumous works, but also works already published which the author shall have augmented or corrected, &c. In this case the duration of the privilege shall run from the publication of the modified work.

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Art. 12. In the case of works published in parts, the duration of privilege runs from the completion of publication.

Art. 13. On the expiration of the period of duration, the work shall become public property.

Art. 14. No one may publish abridgments or epitomes of a literary work, alter it, or publish it with commentaries without the author's permission.

Abridgments
and extracts.

The prohibition does not extend to extracts in the form of quotations for a critical work, to passages or works of small size, which accompanied by critical remarks are presented as forms for instruction, or to parts of musical works inserted in systems used for teaching music.

Art. 15. When an abridgment or epitome of a didactic or technical work belonging to another has been edited on a more methodical plan, or illustrations have been added to it, the General Council of Public Education may permit the publication of the abridgment or epitome, giving to its author the benefit of the corresponding privilege.

The circumstances of the case shall be considered by three experts named, one by the original author, one by the author of the abridgment or epitome, and the third by the Council General. If the decision of the experts is favourable to the author of the abridgment, he shall be bound to deliver to the author of the original work a compensation in specie of which the amount shall be fixed by the Council itself.

Art. 16. The author of an abridgment of a work become public property only possesses a right relating to the abridgment and cannot oppose the author of another abridgment of the same work having a like privilege.

Art. 17. The existence of a privileged translation of a

Translations.

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ECUADOR.

work does not prevent the publication of a new translation of the same work.

Art. 18. Every translation must indicate the name of the author of the translated work, but this shall not prohibit translations of anonymous works.

Assignment.

Art. 19. The assignment of the copyright in a literary work does not confer the right of altering the text in any manner whatsoever except with the author's permission.

All additions and alterations which are made ought to be separated from the text in such manner as to be sufficiently distinguishable.

Every violation of this provision shall give the author or his heirs a right to demand the restoration of the original text, otherwise all copies of the works shall be confiscated for their benefit.

Official documents.

Art. 20. Government has the exclusive right of publishing official documents and laws in a special collection. This provision only prohibits private persons from publishing such collections, and does not prevent the reproduction of these documents when once published in any periodical official magazine, in other periodical magazines.

This provision is not opposed to the right of property of jurisconsults who publish the laws of the Republic accompanied by doctrinal commentaries and studies.

Legal documents.

Art. 21. Permission of the Court seized of a suit is necessary for the publication of documents relating thereto: the Court shall grant absolute or partial leave, taking into consideration the material interests and the reputation of the persons involved in the suit.

Anonymous works.

Art. 22. When an author has published works anonymously or under a pseudonym, and without recording his true name in the register, the publisher shall be considered the author for the purposes of the privileges attached to that title.

Posthumous works.

Art. 23. The heirs or proprietors of a posthumous work who publish it in a collection with other works of the same author already become public property, shall lose their

right of property in such work : they can only preserve their right while they publish this work separately.

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Art. 24. Letters belong to the persons to whom they were sent, but only so far as regards the actual property in them. With regard to publication it is different, this right being reserved exclusively to the author, and in cases provided for by law, to the judge. After the death of the author, the right passes to his heirs.

Letters.

Notwithstanding the provisions in the first paragraph, persons who retain letters which have been sent to them, are able to publish them, when this publication is necessary to protect their personal honour, or to sustain an argument entered upon for the defence of religion, morality or country.

Art. 25. Written or oral works, which have been produced by their authors in the exercise or the accomplishment of their duties or public functions, and which for this reason, have been published officially may be reprinted in periodical magazines : but the right of publishing them in a separate collection is reserved exclusively to the author.

Works or speeches of officials.

Art. 26. When an author has produced his work for a certain remuneration, copyright in the work shall belong to the person or corporation, who has procured it to be made, subject to any agreement to the contrary.

Works executed for pay.

Art. 27. In the case of collaborative works, the agreements between the collaborators shall be adhered to, so far as they are not contrary to this law.

Art. 28. Every work published in a periodical magazine can be reproduced in another, unless the author expressly reserves the right of reproduction, but such work cannot be published in a separate edition.

Magazines.

Art. 29. If the editor or person who brings out a periodical magazine reserves to himself the property in the publications therein inserted, these cannot be reproduced in another magazine.

Otherwise reproduction of such works can be freely

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ECUADOR.

made, on condition that the magazine from which they are taken is indicated.

Art. 30. An author who has undertaken the editorship of a periodical publication under an agreement, cannot reserve to himself property in the works which he inserts therein, with a view to prevent their reproduction: this right belongs to the proprietor (of the magazine). Nevertheless, the author preserves property in any separate publication made by him of his articles.

Art. 31. The proprietor of a periodical publication may prevent another periodical being started under the same title.

Portraits and busts.

Art. 32. Portrait-painters and sculptors cannot sell reproductions of portraits or busts made by them, without the permission of the interested person.

Dramatic works.

Art. 33. Dramatic works are protected against reproduction in the same manner as other works of literature.

Art. 34. They cannot be represented in public theatres without the author's permission. The latter is free to fix at the time of giving permission, such royalties as he thinks fit.

Duration.

Art. 35. The rights above mentioned, recognised to a dramatic author in respect of the representation of his works, are secured to him for his life. The rights shall endure for 25 years after his death for the benefit of his heirs, if there are not other assigns.

Art. 36. The extent of the respective rights of the authors of a dramatico-musical work shall be determined by the agreement between them.

Art. 37. Although the author of musical transpositions made without the permission of the author of the original work is not admitted to enjoy the privilege recognised by the law, he shall however have the right of preventing the performance of his transpositions, when no remuneration is given to him.

Chap. II. Of Contracts.

Art. 38. Literary and artistic property may be transferred by any title whatsoever.

Art. 39. The persons who are heirs according to the ordinary law shall be considered heirs from the point of view of this law.

Art. 40. Grounds of disability fixed by the civil law in respect of succession to ordinary property shall also hold good so far as they are applicable, in matters of literary and artistic property.

Art. 41. An author may abandon his rights to the public by express declaration.

Art. 42. When an author has granted to a citizen of Ecuador the exclusive right of translating or making an abridgment or epitome of his works, such person may prevent any work analogous to his own being made in Ecuador.

The same provision shall apply in like cases in regard to artistic property and the representation of dramatic works permitted by a foreign author to an Ecuadorian theatrical enterprise.

Chap. III. Formalities to be fulfilled to obtain the Enjoyment of Literary and Artistic Property.

Art. 43. In order to enjoy the right of property in this matter, the author or person who procures a work to be made must register the title of his work, and the reservation of his rights. Registration.

Art. 44. A special register for entering literary and artistic property and another for agreements relating thereto shall be opened in the cantonal registration offices.

Art. 45. The officer charged with the duty of registration, shall demand before proceeding to registration that the author shall deliver to him three copies of his work if printed: one for the Ministry of Public Education, another for the National Library, and the third for the Provincial

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Library, or if none, for the local municipality : the receiver shall inscribe on each of them a statement of registration and shall mark them with the office stamp.

In the case of a periodical, it shall be sufficient to register the first number but subject to the continuing obligation on the author or proprietor to deposit three copies of the subsequent numbers for the destinations aforesaid.

Art. 46. In the case of an artist, or sculptor, it shall be sufficient to preserve the right of copying or reproduction, if this reservation is entered on the register.

Nevertheless engravers, lithographers and other artists, who are proprietors of works of which copies can be multiplied by a mechanical process, must in addition to registration deposit three copies of their works above-mentioned.

Art. 47. In the case of dramatic works, and musical works joined with them, which are presented for registration while not yet printed, it shall be sufficient to deposit a MS. copy.

Art. 48. Every agreement relating to artistic or literary property must be entered on the register in order to be effective.

Art. 49. The period allowed for registration will be six months to be reckoned from publication, or in the case of the works mentioned in Art. 47, three months from the date of representation.

Art. 50. The formalities relating to the registration and transfer of literary and artistic property shall not require a fee.

Art. 51. A special section shall be opened in the register for the registration of anonymous and pseudonymous works, in which the identity of the author shall be stated.

The officer charged with registration shall be bound to secrecy in this respect, and in the reports given by him to the Minister of Public Education, he shall only enter the fact of registration. But he shall be relieved from this obligation on the requisition of a judge in criminal pro-

ceedings relating to a work, or when the production of the entry on the register shall be necessary to support rights conferred by this law.

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Chap. IV.—Penalties.

Art. 52. The ordinary judges shall have jurisdiction in litigation relating to literary and artistic property. Jurisdiction.

Art. 53. The following are considered fraudulent acts :— Piracies.

- (1.) Registering as a man's own the work of another.
- (2.) Publishing a work on the same conditions.
- (3.) Publication of a work made before the expiration of the legal duration of a privilege or agreement.
- (4.) The fact of omitting in a reproduced work, a reference to the agreement between the author or publisher, or the permission relating to the reproduction.
- (5.) Plagiarism.
- (6.) Piracy of an edition, outside the territory of the Republic.
- (7.) The introduction and sale of pirated copies.
- (8.) The dramatic representation and musical performance of a work without the author's permission.
- (9.) The reproduction and putting on sale of editions made in fraud of authors who live under the jurisdiction of a State with which Ecuador is bound by treaty on this subject.
- (10.) The fact of a printer, publisher, lithographer, &c., reserving to himself a larger number of copies than that agreed on.

Art. 54. In every case where a fraudulent act has been committed the author, or proprietors interested, shall have the right of seizing all copies of the work of a fraudulent character, and of claiming restitution of the value of copies sold, without prejudice to the compensation they may obtain for the damage caused to them.

Art. 55. If plagiarism is only partial, the author shall only have the right of claiming from justice an insertion

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in the Official Journal of a notice mentioning the proceedings taken by him in the matter.

Art. 56. An action for plagiarism can only be instituted in respect of published works.

Art. 57. Legal proceedings in relation to fraudulent acts can only be instituted against the author of the acts. If proceedings cannot be taken against him, proceedings may be taken successively and in the following order against the publisher, printer, importer, vendor, and possessor.

The judge shall at the request of the person interested, and for the duration of the proceedings, order sequestration of all copies of the work existing in the Republic.

Art. 58. If there are aggravating circumstances, the offenders, in addition to the penalty of confiscation, shall be liable to a fine graduated by the judge, and varying from 50 to 500 sucres (*a*).

Art. 59. On a second offence the fine will be doubled.

Art. 60. The following shall be considered aggravating circumstances :—

- (1.) The putting on the market editions whose fraudulent character has been the subject of a notice by the author to the public.
- (2.) Any marked alteration of the text.
- (3.) The fact of publication of the work outside Ecuador.
- (4.) The fact of pirating the title and frontispiece of a work.

Art. 61. The penalties prescribed by this law against alteration of the text shall be applied, without prejudice to the penal proceedings which may be taken according to circumstances.

Art. 62. The right of instituting proceedings in relation to artistic and literary property belongs, according to the circumstances, to the author, his heirs or assigns.

Art. 63. Whenever it is a question of deciding if two works are identical or if one is taken from another, and

(*a*) = 5 francs nominally.

the judge thinks it useful, the question may be submitted by him for a previous examination by three experts, two to be named by the parties and one by the judge.

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Chap. V.—General Provisions.

Art. 64. Every citizen of Ecuador who shall publish a work outside the territory shall also enjoy the rights recognised by this law, on condition of fulfilling the legal formalities.

In such case, the period for registration shall be double.

Art. 65. The period fixed for registration of the rights recognised by this law, and in order to obtain their benefit, shall in regard to works previously published by Ecuadorian authors commence to run from the coming into force of this law.

Art. 66. The executive authorities may publish a regulation for carrying out this law.

GUATEMALA.

Guatemala was one of the signatories of the treaty between the five States of Central America of the 17th Feb., 1887 (a).

The following law was passed on the 29th October, 1879 (b):—

Art. 1. The inhabitants of the Republic have the exclusive right of publishing and reproducing, as often as they think fit, in whole or in part, their original works, whether by manuscript copies or transcripts, or by printing, lithography, or any analogous process.

Definition.

To what copy-right extends.

Art. 2. The right recognised by the preceding article extends to oral or written lectures and to every speech of whatever nature, delivered in public.

Art. 3. Reports placed before, and speeches delivered in political assemblies, scientific or literary articles, and

(a) *Ante*, p. 862.

(b) Translation taken from *Lois Françaises et étrangères* par M. Lyon-Caen. The law is very similar to that of Mexico: see *post*.

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- original poems inserted in periodical publications are included in the works mentioned in Art. 1, so far as the right of forming collections of them is concerned.
- Art. 4.* Private letters cannot be published without the consent of the two persons between whom they have been exchanged, or their heirs, unless this publication be necessary to establish or maintain some right, or the public welfare, or the progress of science requires it.
- Duration. *Art. 5.* Literary copyright is perpetual. After the death of an author, it passes to his heirs according to law.
- Rights of assignee. *Art. 6.* The author and his heirs can alienate their property as any other property, and the assignee acquires all the author's rights, according to the terms of the contract.
- Art. 7.* If the author, after an assignment of one of his works, subsequently makes essential modifications in the work, the assignee cannot oppose the author or his heirs publishing or alienating the corrected work.
- Art. 8.* The judge shall give his decision in the case mentioned in the preceding Article, after a report from experts: he may, in addition, take the advice of such learned societies as he thinks fit to consult.
- Posthumous works. *Art. 9.* The heirs and assigns shall have the same rights as an author, in relation to posthumous works.
- Anonymous works. *Art. 10.* Anonymous or pseudonymous works are comprised in the works to which the provisions of this law apply, from the time when the author, his heirs or representatives, shall establish their right of property.
- Institutions. *Art. 11.* Academies and other scientific and literary institutions have property in the works published by them.
- Collaborative works. *Art. 12.* In the case of the publication of a dictionary, an encyclopædia, or any other work composed by several persons, whose names are known, if it is impossible to determine the part of which each is the author, the property shall belong to all. If such persons cannot agree about the use of them, the decision of the majority shall

be binding: if a majority is not constituted, the judge shall decide.

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Art. 13. In the case provided for by the last Article, if one of the authors dies without leaving heirs or assigns, his right accrues to his collaborators.

Art. 14. Where, in the case of such a work, the authors of determined parts are known, or it can be proved who they are, each of them shall enjoy the property in the part of which he is author, in conformity with the principles of law: but the complete work cannot be again published without the agreement of the majority.

Art. 15. If a work composed by different collaborators has been published by a single person, he shall have the entire property, subject to the right of each author to republish his own composition, either separately or in a collection.

Art. 16. In such case, the publisher cannot publish the said compositions separately without the consent of their authors.

Art. 17. With regard to political periodicals, the only property recognised is that in scientific, literary, or artistic articles contained in them, whether these articles are original works or translations: but any person publishing any passage from the unprotected part must cite the title and number of the periodical from which the quotation is taken.

Periodicals.

Art. 18. Every author can reserve the power of publishing translations of his works: but in such case, he must declare if his reservation is limited to particular languages or is extended to all.

Translations.

Art. 19. If an author does not make this reservation, or has assigned the right of translation, the translator shall enjoy, in regard to his translation, the author's rights: but he cannot prevent the work being translated by others unless the author has also given to him the right of preventing any other translation.

Art. 20. No one can reproduce the work of another, under the pretext of annotating it, commenting on it,

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completing it, or making an improved edition, without the leave of the author: but any person annotating or making additions to the work of another, can publish his annotations and additions separately, in which case he shall be considered as the proprietor of them.

Abridgments.

Art. 21. The permission of the author is also necessary for the publication of an abridgment or epitome. Nevertheless if an epitome or abridgment is of such value or importance that it constitutes a new work or is of general utility, the Government may authorise its printing, after a previous hearing of the interested parties, and two experts to be named by each.

In such cases, the author or proprietor of the original work has a right to demand that his name be preserved on the abridgment, and he may claim compensation, which shall be fixed after hearing the same interested parties and experts.

Publishers.

Art. 22. A publisher who is neither the heir nor the assign of the proprietor of a work or translation, shall only have the rights given to him by the agreement made with him.

Art. 23. The publisher of a work previously become public property shall only have a right of property during the time required for publication and a year afterwards, and this right shall not enable him to prevent other editions being made outside the territory of the Republic.

Cesser of
copyright.

Art. 24. A work shall be considered as public property, when its author or proprietor dies without leaving successors.

Art. 25. The publisher of an anonymous or pseudonymous work shall have the same rights as the author, subject to the provisions of Art. 10.

In the case contemplated by that Article, the proprietor shall recover all his rights, and the publisher shall place at his disposal the copies in existence, or their value, but if the publisher is proved to have acted not *bond fide*, proceedings shall be taken against him according to the penal law.

Art. 26. The nation is the proprietor of MSS. preserved in the public Archives, and consequently these MSS. cannot be published without the permission of the Government. CAP. XVIII.
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Art. 27. The nation is also proprietor of works published by Government, subject to any agreements made with the authors or publishers.

Art. 28. To secure copyright, the author or his representative must apply to the Ministry of Public Education, for the purpose of obtaining legal recognition of the right. Registration.

Art. 29. The author of every printed book must deposit four copies, of which one is to be placed in the National Library, another in the public Archives, and the others at the Ministry of Public Education. Deposit.

A similar deposit must be made for each edition or new translation.

Art. 30. The said ministry shall give the person interested a certified copy of the order recognising in his favour the property in the work, which copy shall be a sufficient title.

Art. 31. When a work is published without the author's name, he shall append to the copies mentioned in Art. 29, if he wishes to enjoy copyright, a sealed envelope containing his name, and marked by him in such manner as he thinks fit.

Art. 32. Every author, translator or publisher must put on the title page of published books his name, the date of publication, and such conditions or legal information as he thinks necessary.

Subject to the exception provided for by the preceding Article, a person neglecting to fulfil the formalities of this Article cannot exercise his rights of property.

Art. 33. Any person reproducing the work of another without the consent of the author or his representatives, shall incur the following penalties:— Penalties.

(1) Confiscation of all copies of pirated works found in his possession: these to be delivered to the author or his representatives.

(2) To pay compensation for the damage and injury

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suffered by the proprietor. The compensation shall be fixed by the judge after hearing the parties and obtaining a report by experts.

- (3) To pay the expenses of the proceedings (*procédure*) and the personal expenses of the suit (*frais personnels de l'instance*).

If the offence is repeated, in addition to these penalties, a fine from 100 pesos to 1500.

In the case of a fresh repetition, in addition, *arrêt majeur* (a), graduated according to circumstances.

Injunction.

Art. 34. When the author or proprietor of a work learns that it is on the point of being secretly printed or circulated, he may demand from the judge of first instance of the department where the piracy is committed, that the printing or vending of the work be at once prohibited, and the judge shall be bound to do justice to this demand according to the law.

HAITI.

By the law of literary and artistic property passed on the 8th October, 1885, after a preamble stating that the law on this subject already sanctioned in the Penal Code and the law of the 25th October, 1864, required modification and extension, it was enacted as follows (b).

Definition.

Art. 1. The expression "literary and artistic works" includes books, pamphlets, writings of every kind, dramatic works of every kind, musical compositions with or without words and arrangements of music, works of drawing, painting, sculpture and engraving, lithographs, geographical charts, plans, scientific sketches, and generally every kind of literary, scientific or artistic work capable of being published by any method of printing or reproduction.

Deposit.

Art. 2. Authors of these works shall enjoy the right

(a) *Arrêt majeur.* Imprisonment: from 4 months' to a year's imprisonment. Lois Françaises et étrangères par M. Lyon-Caen.

(b) Lois Françaises et étrangères par M. Lyon-Caen, from which work the present translation has been made.

of property hereinafter mentioned, and the privilege of proceeding against pirates or vendors of their works, on the sole condition of depositing at the secretary's office of the Department of the Interior five copies, to be sent on to the different public libraries by the chief of the said department.

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Art. 3. This deposit shall be made :—

(1.) In the case of a work published by a Haitian in Haiti or a foreign country, in the year of publication.

(2.) In the case of a work so published before the promulgation of this law, within a period of two years.

Art. 4. The proprietors of posthumous works, by inheritance or other titles, are equivalent to authors, and shall enjoy the same rights and the same privileges, subject to the condition of printing their works separately and observing the provisions of this law.

Posthumous works.

Art. 5. Authors have the exclusive right during their life of selling, causing to be sold, circulating, representing, translating or causing to be translated in another language, all their works whatsoever, of assigning the property in whole or part, and making use of the appropriate processes of reproduction of every class of work.

Duration.

Art. 6. The same privilege, which extends to widows for their life, passes to children for twenty years, and if no children, for ten years to the other heirs or proprietors : after which the work becomes public property.

Widows and children, and other heirs.

Art. 7. Any person publishing, reproducing, exhibiting or representing, without the written consent of the author, or his representatives, a literary or artistic work, of which he is not proprietor, commits the offence of piracy, and shall be punishable according to the Penal Code and these provisions.

Piracy.

Art. 8. The authority having jurisdiction is bound to confiscate, on the first demand of authors, their heirs or the other proprietors, and for their benefit, all copies or reproductions of any work printed or engraved, painted or

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drawn by any process or sculptured, without the consent mentioned in the preceding article.

Art. 9. The pirate shall further be condemned by the court with jurisdiction, at the request, and for the benefit of the proprietor, in a sum equivalent to the price of 1000 copies of the original publication.

Art. 10. The vendor of pirated publications, if he is not found to be the pirate, shall be condemned, also for the benefit of the proprietors, in a sum equivalent to the price of 200 copies of the original.

Art. 11. This law repeals all contrary laws and provisions, and shall be carried into effect by the secretaries of the Departments of the Interior and Justice.

Penal Code.

By the Penal Code of 1835, it was provided as follows :

Art. 347. Every publication of writings, of a musical composition, a drawing, a lithograph, a painting, or any other production, printed or engraved in whole or in part in violation of the laws and rules relating to copyright is a piracy, and every piracy is a misdemeanour.

Art. 348. The sale of pirated works, the importation into Haitian territory of works which, after having been printed in Haiti, have been pirated in a foreign country, are an offence of the same kind.

Art. 349. The penalty against the pirate or importer will be a fine of 100 gourdes (a) to 1000 gourdes : against a vendor, 16 to 80 gourdes.

Confiscation of the pirated publication will be decreed against the pirate, importer, or vendor.

Plates, moulds, and matrices of pirated articles will be also confiscated.

Art. 350. Every director or theatre manager, every society of artistes representing in a theatre dramatic works in violation of the laws and regulations respecting copyright, shall be punishable with a fine of 24 to 80 gourdes and confiscation of the receipts.

Art. 351. In the cases provided for by the four pre-

(a) Gourde = a peso or 5-franc piece. Whitaker.

ceding articles, the products of the confiscations or the confiscated receipts shall be handed over to the proprietor in compensation so far of the injury suffered by him: the remaining compensation, or the entire compensation, if there has been neither a sale of confiscated objects nor a seizure of receipts, will be regulated in the ordinary way.

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HONDURAS.

Honduras has no special law on copyright, but the Civil Code of 1880, Art. 668, provides that the productions of talent or intellect are the property of their authors, and that this property is to be regulated by special laws.

HONDURAS.

Honduras has no treaties with other nations, but was one of the signatories of the treaty between the five States of Central America of the 17th February, 1887 (a).

MEXICO.

Mexico has a single treaty on literary and artistic property, namely, that with France of the 27th November, 1886, which provides that in matters concerning literary and artistic property, the citizens of each of the two states shall enjoy reciprocally with the other the most favoured nation treatment (b).

The Civil Code of 1871 contains full provisions on literary and artistic property (b).

Title 8.—Labour.

Art. 1245, following *Art. 4* of the Constitution of the 12th February, 1857, provides that every one is at liberty to follow the profession, trade, or employment which suits him, provided it is useful and honest, and to appropriate its produce. This double power can only be withdrawn by a judicial sentence, or a decree of government

(a) *Lois Françaises et étrangères*, par M. Lyon-Caen, *ante*, p. 862.

(b) *Lois Françaises et étrangères*, par M. Lyon-Caen.

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made in conformity with law, when the rights of others or of society have been violated.

Art. 1246. Property in the productions of labour and industry is ruled by the same laws as ordinary property except in the cases for which this code contains special provisions.

*Chap. II.--Literary Property.*Literary
property.

Art. 1247. Inhabitants of the Mexican Republic have the exclusive right of publishing and reproducing as often as seems good to them, in whole or in part, their original works, either by manuscript, printing, lithography, or other analogous process.

Art. 1248. With regard to publication, the provisions of the law regulating the liberty of the press shall be observed.

Art. 1249. The right recognised by Art. 1247 applies to oral and written lectures and all other speeches delivered in public.

Art. 1250. Pleadings, and speeches delivered in political assemblies do not constitute literary property except in the case when it is intended to form a collection of them.

Art. 1251. The provisions of this chapter apply to MSS.

Art. 1252. Private letters cannot be published without the consent of the two correspondents or their heirs, except where publication becomes necessary for proof or defence of a right, in the public interest, or to aid the progress of science.

Perpetual
duration.

Art. 1253. An author shall enjoy literary copyright during his life : after his death it shall pass to his heirs, according to the law.

Power of
alienation.

Art. 1254. An author and his heirs can alienate literary property as any other property, and the assignee shall succeed to all the author's rights, according to the terms of the contract.

Arts. 1255 and 1256. If the assignment is made for a

shorter period than that fixed in certain cases for the duration of copyright, the assignor shall recover all his rights at the expiration of the period agreed upon: if for a longer period, the assignment will be void as to the excess.

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Art. 1257. In respect to posthumous works, the heir or assign shall have the same rights as the author.

Posthumous works.

Art. 1258. The publisher of a posthumous work by a known author, if he is not the heir or assign of the author, shall have copyright for thirty years.

Art. 1259. Anonymous and pseudonymous works are subject to the provisions prescribed by this chapter, provided that the author, his heirs, or representatives legally prove their title to the copyright.

Anonymous works.

Arts. 1260 and 1261. If an author after having assigned his copyright in a work, makes substantial changes therein, the assignee cannot prevent the author or his heirs from publishing and assigning the work thus altered.

Modification by author after assignment.

For the purpose of deciding such a case, the judge shall take the opinion of two experts to be respectively named by each party. He may in addition consult such persons or bodies as shall seem good to him.

Art. 1262. Academies and other literary or scientific institutions shall enjoy copyright in works published by them during twenty-five years.

Works published by academies.

Art. 1263. When several authors have composed in common an encyclopædia, a dictionary, a newspaper or other work and their names are known, but it is impossible to distinguish the share of each in the composition, the copyright shall belong jointly to them all and Articles 1367 and 1368 shall regulate the exercise and division of the property between the different persons entitled.

Collaborative works.

Art. 1264. In such case, if one of the authors dies without leaving heirs or assigns, his right shall accrue to his collaborators.

Art. 1265. If the authors of such a work are known, and it is possible to distinguish who is the author of each article, each one of the collaborators shall enjoy his own

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copyright according to law, but the publication of the entire work can only be made with the consent of the majority.

Art. 1266. If a work composed by several authors has been the enterprise of or published by a single person or a corporation, such individual or corporation shall have the property of the entire work, reserving the right of each author to republish his articles either separately or together.

Art. 1267. In the case referred to in the last Article, the publisher cannot publish the articles separately without the consent of their authors.

Newspapers.

Art. 1268. In political newspapers, only scientific literary or artistic articles, whether original or translated, shall be subjects of copyright. Nevertheless, any person who publishes an extract from the parts of the paper not capable of being the subject of copyright, must indicate the title and number of the paper borrowed from.

Translation.

Art. 1269. An author may reserve the right of translation, but he must state whether he does so for a special language or for all.

Art. 1270. If an author has not reserved this right or has assigned it to another, the translator shall have in his translation the same rights as an author, but shall not be able to prevent others making another translation, unless the author has also assigned this right to him.

Art. 1271. Authors not resident in the national territory, who publish a work outside the Mexican Republic, shall enjoy for a period of ten years the right of translation recognised by Art. 1269.

Art. 1272. If a translator takes proceedings against a new translation asserting that it reproduces the first, and does not constitute a new work from the original, the judge shall act according to the provisions of Art. 1261 before giving his decision.

Annotations.

Art. 1273. No one may under pretext of annotating, commenting on, adding to or improving the edition, reproduce the work of another without his leave. Any person,

however, who has made additions or annotations to the work of another, may publish them separately: in which case his additions or annotations shall constitute a literary property for his benefit.

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Art. 1274. Permission is also required for the making of abridgments or epitomes of a work. Nevertheless, if an epitome or an abridgment has such merit or such importance that it constitutes by itself a new work, or is of extreme utility to the public, the government, after a hearing of the parties interested, and two experts named respectively by each party, may permit its publication.

Abridgments.

Art. 1275. In such case the authors of the original work shall be entitled to a compensation at the rate of 15 to 30 per cent. on the net produce of every edition published of the abridgment.

Art. 1276. If the publisher is neither heir nor assign of the owner of copyright in a work or a translation, he shall have no other rights than those given to him by any agreement which may have been made.

Publishers' rights.

Art. 1277. The publishers of a work become public property shall only have the exclusive right during the time necessary for publication, and one year in addition. This property does not imply the right of stopping editions made out of Mexican territory.

Art. 1278. The publisher of an anonymous or pseudonymous work shall enjoy copyright, subject to the provisions of Art. 1259.

Art. 1279. In the case provided for by that article, the proprietor shall recover all his rights, and the publisher shall put at his disposal the existing copies or their value. If the publisher is proved to have acted in bad faith, proceedings shall be taken against him according to law.

Art. 1280. Any person who publishes for the first time a MS. of which he is lawfully possessed, shall have the right of publication during his life.

Art. 1281. Anyone may publish laws, other decrees of government, and judicial decisions, but after the

Laws.

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official publication has taken place, the publisher must adhere to the authorized text. Nevertheless, no one may publish a collection of the federal laws or the laws of a particular state of the Mexican Republic without having previously obtained the consent of the Central Government or the particular state.

Art. 1282. In the exceptional cases when literary copyright is temporary, the period of duration shall run from the date of the work. If this is unknown, from the 1st January of the year following that in which the work, or the last volume, part or number appeared.

Chap. III.—Dramatic Property (a).

Dramatic works.

Art. 1283. Dramatic authors, besides the exclusive right of publication and reproduction, have also an exclusive right of representation.

Duration:

Art. 1284. A dramatic author shall enjoy the exclusive right of representation during his life: at his death, this right shall pass to his heirs, who shall enjoy it for 30 years.

Art. 1285. Assignees of the right of representation shall only enjoy it for the life of the author and 30 years after his death.

Art. 1286. At the expiration of the periods established by the preceding articles, the works shall, so far as regards the right of representation, become public property.

Art. 1287. The creditors of the theatrical management cannot seize the part of the receipts belonging to the dramatic author.

Authors and managers.

Art. 1288. An author may in the agreement between him and a manager for the representation of his piece, limit the number of representations, and insert such conditions as shall seem good to him; he may stipulate, accordingly, that it shall only be played during a certain time, in a certain town, in a certain theatre.

(a) A number of these provisions resemble very closely the law of Portugal.

Art. 1289. An author may make such alterations and corrections in his piece as he thinks proper, but must not alter any essential part without the approval of the management.

Art. 1290. The management shall not under any pretext whatever communicate the piece while in manuscript to any person outside the theatre, without the express permission of the author.

Art. 1291. The author of a dramatic work which has been accepted cannot assign the right of representation to another theatrical management except under provisions in his agreement, nor can he publish or put on the stage an imitation of his piece.

Art. 1292. When the work is not represented at the time and according to the conditions agreed on, the author may freely withdraw it.

Art. 1293. When the agreement does not determine the time of representation, the piece may be withdrawn by the author if a year has elapsed since the day of acceptance, without the piece having been played.

Art. 1294. The same right belongs to the author of a piece which has not been played for five years without just cause.

Art. 1295. In the cases contemplated in the three last articles, the author is not bound to return the money he has received.

Art. 1296. Posthumous dramatic works cannot be represented without the permission of the heirs or assigns in the enjoyment of the rights given by Arts. 1284 and 1285.

Art. 1297. The publisher of a posthumous theatrical piece, who happens to be in the position contemplated by Art. 1258, shall only have the dramatic property for 20 years.

Art. 1298. The publisher of an anonymous or pseudonymous theatrical piece shall have the dramatic property during 30 years. But if the author, his heirs or assigns legally establish their rights, they shall recover

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the property, and accordingly all intervening agreements made as to the representation of the piece, shall come to an end.

Art. 1299. When a theatrical piece has been composed by several authors, each one of them has the right of authorizing the representation, unless there is a contrary agreement, or some good reason is alleged: this shall be subject to the consideration of the administrative authority, after a previous reference to experts.

Art. 1300. In the case referred to in the last article, the heirs and assigns shall have the same right. But if one collaborator leaves several heirs or assigns, their opinions taken in the manner prescribed in Art. 1367, shall only count as one vote and shall only represent that of the author whom they have succeeded.

Art. 1301. In the same case, if one of the authors of the piece dies without leaving any heirs or assigns, the property shall accrue to the others; but the portions of the receipts which would have been allotted to the deceased shall be devoted to the encouragement of theatres.

Art. 1302. The assignment of the right of publication of a dramatic work does not carry with it the right of representation, unless expressly agreed.

Art. 1303. All the provisions relative to authors apply to translators.

Art. 1304. Where dramatic property has a fixed duration, the period shall run from the first representation.

Art. 1305. All the provisions contained in Arts. 1254—1257 and 1269—1272, respecting the right of publication, apply also to the right of representation.

Chap. IV.—Of Artistic Property.

Art. 1306. The following persons have the exclusive right of reproduction of their original works:—authors of geographical and topographical charts, of scientific and architectural, &c., drawings, and the authors of plans,

Artistic
property.
Definition of
author.

prints and drawings of every kind; (2) architects; (3) artists, engravers, lithographers, and photographers; (4) sculptors for such of their works as are completely finished as well as for their designs and casts; (5) musicians; (6) calligraphists.

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Art. 1307. Artistic copyright is governed so far as the right of reproduction of the original work is concerned, by Arts. 1251—1253, 1266, 1273—1279, and 1282, in the cases referred to in such Articles respectively, so far as such Articles are applicable to works of art.

Art. 1308. The right of performance of musical compositions is regulated by Articles 1283—1302, and Art. 1304.

Musical
Composition.

Art. 1309. For legal purposes the author of the music is considered as being also the author of the words, reserving to the author of the words a right to protect himself by written agreement.

Art. 1310. Musical copyright gives the author the exclusive right of making agreements as to arrangements to be composed on the *motifs* or themes of the original work.

Art. 1311. The owners of artistic copyright may reproduce or authorize reproduction to the exclusion of all others, either in whole or in part, of the works the subject of the copyright, and that either by the same or a different process, in different or the same proportions.

Art. 1312. The author of a lawful reproduction shall have the rights of the artist himself in such manner as is fixed by agreement.

Art. 1313. The purchaser of a work of art is not presumed to have acquired at the same time the right of reproduction where it has not been expressly so agreed.

Rights of
purchaser of a
work of art.

Art. 1314. An artist who executes a work to order loses the right of reproducing it in the same art.

Art. 1315. The possessor of a sculptural design is presumed to have the right of reproduction, unless there is an agreement to the contrary.

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Chap. V.—Piracy.

MEXICO.

Piracy.
Definition.

Art. 1316. The following acts, in the absence of the lawful owner's permission, constitute piracy.

- (1.) Publication of works, speeches, lectures and original articles referred to in Chapter II.
- (2.) Publication of translations of such works.
- (3.) Representation of dramatic works and performance of musical compositions.
- (4.) The publication and reproduction of artistic works effected by the same process as that employed by the artist or a different process.
- (5.) The omission of the name of the author or translator.
- (6.) Change of the title of a work, suppression or modification of any part.
- (7.) Publication of a larger number of copies than agreed upon in conformity with Art. 1363.
- (8.) The reproduction of an architectural work, when to effect this it is necessary to penetrate into a private house.
- (9.) The publication and performance of a musical piece composed of extracts from other pieces.
- (10.) The arrangement of a musical composition for separate instruments.

Art. 1317. Also, the reproduction or representation of a work when done in violation of the conditions or after the time fixed in certain cases by the preceding articles.

Art. 1318. Also, the announcement of a dramatic work or musical composition, even though the piece should not be represented, and without distinction whether the announcement did or did not contain the name of the author or translator, in every case where the author has not given his consent.

Art. 1319. Also, the sale of pirated works either in the Mexican Republic or elsewhere.

Art. 1320. Also, the publication of a work in contravention of the provisions contained in the press law.

Art. 1321. Also, every publication or reproduction not expressly provided for by the following Article. CAP. XVIII.
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Art. 1322. The following acts do not constitute piracy :— Not piracy.

- (1.) The literal quotation or insertion of a selection or passage taken from a published work.
- (2.) The reproduction or an extract of articles from a review, a dictionary, a newspaper, or a composition of a similar kind, provided that the writing from which the extract has been borrowed is indicated, or that the reproduction is not, in the opinion of experts, made to an exaggerated extent.
- (3.) The reproduction of a poem, a memoir, a speech, &c., in a critical or historical work of literature, a paper, or in a book intended for the use of an educational establishment.
- (4.) The publication of chosen selections from different works.
- (5.) The separate publication of additions or corrections made to or in a work.
- (6.) The publication of the works of an author dying without heirs or assigns who has neglected the legal formalities prescribed for the preservation of copyright.
- (7.) The publication of anonymous or pseudonymous works, but subject to the restrictions expressed in Arts. 1259 and 1279.
- (8.) The representation of a drama, or the performance of a musical work, in whole or in part, when it takes place without stage accessories in a private house or in a public gratuitous concert.
- (9.) The representation or performance of a dramatic or musical work of which the receipts are intended for charity.
- (10.) The publication of the libretto of an opera, or the words of any musical composition where the author has not expressly reserved his literary copyright.

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- (11.) The translation of a published work, subject to the provisions of Arts. 1269 and 1272.
- (12.) The reproduction of a sculpture, if there are such essential differences between it and the original work that, in the opinion of experts, the former ought to be considered a new work.
- (13.) The reproduction of works of sculpture standing in squares, promenades, cemeteries, and other public places.
- (14.) The reproduction of works of painting, engraving, or lithography, by processes of the plastic arts and *vice versa*.
- (15.) The reproduction of a sculptural design already sold when the reproduction is essentially different.
- (16.) The reproduction of works of architecture, in the case of public monuments or the exterior parts of private houses.
- (17.) The use of artistic works as designs for manufacturing productions.

Chap. VI.—Penalties of Piracy.

Penalties.

Art. 1323. Any person contravening the provisions of Arts. 1316—1321, shall forfeit to the benefit of the proprietor all pirated copies in existence, and shall pay the price of any missing copies required to complete the edition.

Art. 1324. If the proprietor does not desire to recover the copies, the pirate shall pay to him the value of the whole edition.

Art. 1325. The price per copy to be paid by the pirate shall be the actual price of copies of the legal edition; and if that is exhausted the price of copies at the commencement of publication of the work shall be looked to.

Art. 1326. If the legal edition of the work is published by subscription, the price payable by the pirate shall be, not that of the subscription, but the actual price in the book market at the close of the publication.

Art. 1327. If the edition is the first published, the pirate shall pay the market price of copies, the right

being reserved to the proprietor of complaining against the smallness of this.

Art. 1328. If the piracy has been executed otherwise than by mechanical processes, the price shall be fixed by experts.

Art. 1329. Where the number of copies forming a fraudulent edition is unknown, the pirate shall not only forfeit the copies seized, but shall pay in addition the value of 1000 copies, a right being reserved to the proprietor to prove that this amount is less than the damage he has suffered.

Art. 1330. Plates, moulds, and matrices used in manufacturing the fraudulent edition shall be destroyed: this does not apply to type.

Art. 1331. The provisions of Arts. 1323 to 1327 apply also in case the pirated edition has been manufactured outside the Mexican Republic.

Art. 1332. Any person representing a theatrical piece or performing a musical composition in violation of Art. 1316 (3) and (9) and Arts. 1317—18, shall pay to the proprietor the gross receipts of the unlawful representation or performance.

Piracy of musical and dramatic pieces.

Art. 1333. If the representation or performance includes different pieces or compositions, the receipts shall be divided into shares proportional to the number of acts or *morceaux*, and if the calculation cannot be made in that way, it shall be made by experts.

Art. 1334. The proprietor has the right of seizing the receipts before, during, and after the representation.

Art. 1335. The value represented by season tickets shall be brought into the account of the receipts.

Art. 1336. Copies distributed to actors, singers, and musicians, and also librettos and scores, shall be destroyed.

Art. 1337. The proprietor has a right to stop the performance: in which case the last Article shall apply, and the proprietor shall be allotted a compensation to be fixed by experts.

Art. 1338. In addition to the proprietor's right to the

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receipts, he shall receive compensation for the damage caused to him. This shall be fixed by the judge, on the advice of experts.

Art. 1339. For the purposes of the law any person who, on his own behalf, undertakes or executes a piracy shall be civilly responsible.

Art. 1340. If the piracy has been produced out of the Republic, the person selling will be responsible.

Art. 1341. Actors and artistes who take part in a piracy on another's account are not civilly responsible.

Art. 1342. No person other than the proprietor can put in force the rights mentioned in this chapter.

Art. 1343. The judge shall take the advice of experts in all doubtful cases.

Art. 1344. In copyright actions, the judge who has jurisdiction is the judge where the proprietor resides.

Art. 1345. The administrative authority of a State has power to stop the performance of a dramatic work, sequester the receipts, seize pirated works, and generally to take any measure of urgency.

Art. 1346. Judgments given in cases of literary, dramatic, or artistic property, shall be appealable or not, according to the amount in litigation; but no appeal lies from orders of urgency made in conformity with the last Article.

Art. 1347. If proceedings are once commenced in vindication of copyright, the subsequent abandonment of them by the proprietor will not discharge the pirate from civil responsibility.

Art. 1348. Independently of the penalties pronounced by this chapter, the pirate will be liable to the penalties prescribed by the Penal Code for the offence of fraud.

Chap. VII.—General Provisions.

Registration.

Art. 1349. In order to obtain copyright, the author or his attorney must present himself at the Ministry of

Public Education, to procure legal recognition of his rights. CAP. XVIII.
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Art. 1350. The author of a book shall deposit two copies (*a*). Deposit.

Art. 1351. Every author of a musical work, an engraving, a lithograph or an analogous work, shall deposit *one* copy (*b*).

Art. 1352. The author of a work of architecture, painting, sculpture or other work of the same kind shall present a drawing, sketch or plan with information as to the dimensions and essential points of the original.

Art. 1353. The copies mentioned in Art. 1350 shall be deposited, one in the National Library, the other in the Public Archives.

Art. 1354. The copy of a musical work at the Philharmonic Society (*c*).

Art. 1355. The copy of engravings, &c., and the descriptive account mentioned in Art. 1352 at the School of Fine Arts.

Art. 1356. The author of an anonymous work, who wishes to enjoy copyright must also append a sealed envelope containing his name.

Art. 1357. A register in which the deposited works are to be entered, shall be kept at the Library, the Philharmonic Society, and the School of Fine Arts. The entries in the register shall be published monthly in the official journal.

Art. 1358. Office extracts from the registers shall be *prima facie* evidence of copyright, subject to proof to the contrary.

Art. 1359. A proprietor who does not fulfil the formalities prescribed in Arts. 1350--2 shall be liable to a fine of 25 pesos and shall remain liable to the deposit (*d*).

(*a*) Said now to be 3 copies. Official Copyright Magazine, 1890, p. 100.

(*b*) Subsequently altered to *two* by a ministerial order. Note par M. Lyon-Caen.

(*c*) Now one in the Conservatoire National, and the other in the Public Archives. Note par M. Lyon-Caen.

(*d*) Peso = 4s. 3 $\frac{3}{4}$ d.

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Art. 1360. Every new edition, translation, or reproduction requires a fresh deposit.

Art. 1361. The right of representation shall be legally recognised in accordance with the literary or artistic copyright.

Art. 1362. When an unpublished work, whether dramatic or musical, is performed without the consent of the author, he shall be allowed to prove his title in the ordinary way, and as soon as proof is given, the provisions of this chapter shall apply to the person responsible for the unlawful representation.

Art. 1363. Agreements for the publication of a work ought to fix the number of copies to be printed. If this is not done, an action for piracy on this ground will not lie.

Art. 1364. Every author, translator and publisher must put on the cover of the book or musical composition, at the foot of an engraving, and at the foot of or some other visible place of an artistic work, his name, the date of publication, the conditions of reproduction or the legal information which he shall consider proper.

Art. 1365. An author who has not observed the provisions of the preceding Article, cannot exercise the rights given on the fulfilment of such provisions.

Art. 1366. The assignee of a copyright which has a limited duration shall only enjoy it for the unexpired period of legal duration.

Art. 1367. If the different co-proprietors of a work do not agree as to the exercise of the rights conferred upon them by law, the decision of the majority shall prevail, subject to the provisions of Art. 1299. If the majority does not decide, the judge shall.

Art. 1368. In the case contemplated by the preceding Article, the product shall be divided proportionally, if it is possible to determine the share taken by each collaborator in the joint work, or in equal parts, if this cannot be done.

Art. 1369. For legal purposes, a person who has procured

Name, &c.,
of author to
appear on
copyright
works.

a work to be made at his expense, shall be considered as the author, subject to any agreement to the contrary.

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Art. 1370. When an author's inheritance has devolved on the Public Treasury, according to law, copyright is extinguished, and the work becomes public property, without prejudice to the rights of creditors of the proprietor.

Art. 1371. The Nation has copyright in all manuscripts of the Archives, and federal administrations, as well as of the federal district and California. Consequently no one of these manuscripts can be published without the permission of the government.

MSS. belonging to the State.

Art. 1372. Permission will also be necessary for the publication of MSS., and the reproduction of artistic works belonging to academies, colleges, museums, and other public institutions.

Art. 1373. Publication and reproduction of MSS. and artistic works belonging to the different States of the Republic cannot take place without the permission of their respective governments.

Art. 1374. If the works mentioned in the three preceding Articles have been acquired by the State by agreement with the author, the terms of the agreement shall be adhered to.

Art. 1375. Works published by government shall become public property ten years after their publication. This period shall be computed according to Art. 1282, and subject to the exception mentioned in Art. 1281.

Works published by Government.

Art. 1376. Nevertheless the government may prolong or restrict the period given by the preceding Article, as it shall think useful.

Art. 1377. Authors, translators, and their heirs, whose copyright is not extinguished at the date of the promulgation of this law, shall profit by its provisions, but they must, in order to obtain this benefit, fulfil the formalities prescribed by Arts. 1349—52.

Works already published.

Art. 1378. If the author or his heirs have alienated copyright, the assignee shall keep the right during the whole period assigned by the law then in force in relation

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Prescription.

to copyright, and at the expiration of such period the property shall return to the author or his heirs who shall enjoy it to the exclusion of other persons, and in conformity with the provisions of this law.

Art. 1379. Literary and artistic property is prescribed after ten years, to be calculated in the manner mentioned in Art. 1282 ; dramatic property in four years, counting from the first representation or performance.

Art. 1380. Property the subject of this chapter shall be considered personal property, subject to the modifications inherent to its special nature, and by which the law distinguishes it from other personal property.

Art. 1381. When the reproduction of a work shall be considered desirable, and the author does not reproduce it, Government may decree the reproduction : in such case it shall undertake it on the State's account or put it up to auction ; subject to compensation to be paid to the proprietor and to the accomplishment of the other terms prescribed for expropriation on the ground of public utility.

Art. 1382. There can be no copyright in publications prohibited by law or withdrawn from circulation by a judicial sentence.

Foreigners.

Art. 1383. For legal purposes, there shall be no distinction between Mexicans and strangers : it is sufficient if the work is published on Mexican territory.

Art. 1384. If a Mexican or a foreigner residing in Mexico publishes a work outside the territories of the Republic, he may enjoy copyright, on condition of conforming to the provisions of Arts. 1349—52.

Art. 1385. The translator of a work written in a foreign language shall have the same rights in his translation as an author.

Reciprocity.

Art. 1386. Authors residing in foreign countries are treated by the law precisely as Mexican authors, provided that Mexicans enjoy reciprocity in the States where their works have been published.

Art. 1387. All provisions contained in this law are

of general effect as forming regulations under Article 4 of the Constitution (a).

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NICARAGUA.

NICARAGUA.

Nicaragua has no law on literary and artistic property, and has not entered into any treaties with other States on this subject, but was one of the signatories of the Treaty between the five Republics of Central America of the 17th February, 1887 (b).

PARAGUAY.

Paraguay has no special law existing on copyright. A law was passed between the years 1862 and 1865, but it fell into disuse and has been so completely forgotten, that in 1889 the actual text could not be found in the Archives (c).

PARAGUAY.

The constitution of the 24th November, 1870, Art. 19, provides that every author or inventor has the exclusive property of his work, invention or discovery, during the time fixed by law.

Paraguay has no treaties with other states on this subject, but was one of the signatories of the South American Convention of the 11th January, 1889 (d).

PERU.

Copyright in Peru is regulated by the law of the 3rd November, 1849, passed in execution of Art. 174 of the Constitution of the 1st November, 1839, which proclaimed the inviolability of intellectual property. The Constitution of 1860 now in force has in Article 26 reaffirmed the principle of the earlier constitution by declaring that

(a) *Ante*, p. 881.

(b) *Lois Françaises et étrangères*, par M. Lyon-Caen, *ante*, p. 862.

(c) *Lois Françaises et étrangères*, par M. Lyon-Caen.

(d) *Ante*, p. 831.

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property is inviolable whether it be material, intellectual, literary or artistic: no one can be deprived of his property except for some reason of public utility, recognized by law, and on payment of a previously fixed compensation (*a*).

Peru has no treaties with other nations on copyright, but was one of the signatories of the South American Convention of the 11th January, 1889 (*b*).

The law of 1849 on literary property provides as follows:—

Duration.

Art. 1. Authors of writings, geographical charts, engravings, and musical compositions, of whatsoever kind, shall enjoy during their life the exclusive right of being able to sell or circulate their works in the territories of the Republic, and the power of assigning their right in whole or in part.

Art. 2. The following are excepted from the right recognized in Art. 1: books and writings contrary to religion or good morals, and paintings or engravings which offend public morals: these works will be prosecuted in conformity with the laws.

Art. 3. The author's heirs and assigns shall enjoy the same rights for 20 years from his death.

Posthumous works.

Art. 4. The legitimate proprietors of a posthumous work shall enjoy the exclusive right during 30 years.

Deposit.

Art. 5. In order to prove at any time the copyright of a book, engraving, &c., it will suffice to deposit a copy in the public library, where there is one, and another copy in the Archives of the prefecture of the department where the work is published, except where there is a question or opposition raised by another person: in such case, the question must be decided by a judgment. If the author desires not to disclose his name, he shall deposit at the prefecture a sealed and closed envelope, in which his name shall be inscribed.

(*a*) *Lois Françaises et étrangères*, par M. Lyon-Caen, from which work the translation of the law of 1849 is taken.

(*b*) *Ante*, p. 831.

Art. 6. Any person publishing or selling within the Republic pirated publications shall incur a fine of 200 to 500 pesos for the benefit of the author, to whom there shall be handed over all the copies in addition.

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PERU.
Penalties.

Art. 7. Any person importing into or selling in the Republic publications made in a foreign country of works, the copyright of which belongs to another, shall be liable to confiscation of all copies in his possession; these shall be allotted to the proprietor of the work.

Art. 8. The author of a translation or version enjoys the same rights, provided he has fulfilled the formalities prescribed by Article 5.

Art. 9. After the expiration of the periods mentioned in this law, the works, whatever they may be, shall become public property, and any citizen may freely print and sell them.

SALVADOR.

Salvador has no special law regulating copyright, but the Civil Code of 1880, Art. 610, provides that productions of talent or intellect are the property of their authors, and that this property is to be regulated by special laws.

SALVADOR.

Salvador concluded on the 2nd June, 1880, a treaty with France, which in the absence of any special law in Salvador, has provided somewhat fully as to the advantages secured to authors and the punishment of infringers.

The dispositions of this treaty have been mostly borrowed from French law (*a*).

Under the treaty French citizens in Salvador and citizens of Salvador in France, authors of literary or artistic works (as defined in the Berne Convention), shall enjoy in each of the two states reciprocally the advantages agreed upon in the treaty as well as all those attributed by the law in either State to property in works of literature, science or art.

Treaty with
France.

(*a*) Lois Françaises et étrangères, par M. Lyon-Caen. The translation is taken from the same source.

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SALVADOR.

For the security of these advantages, for the recovery of damages, and the prosecution of pirates, they shall have the same protection and legal remedies, which shall be accorded to native authors in each country whether by special laws on copyright or by general civil or penal legislature.

Art. 2. To assure protection to works of literature, science and art, and to enable authors or publishers to take proceedings in the courts, it shall suffice for them to establish their copyright by a certificate of a competent authority showing that they enjoy in their own country legal protection for the work in question against piracy.

Art. 3. The provisions of Art. 1 apply also to the performance or representation of dramatic or musical works.

Art. 4. Translations by a native of either of the States of native or foreign works are expressly assimilated to original works. Translators shall enjoy the protection by this treaty accorded to original works in respect to an unauthorized reproduction in the other State. It is to be understood that this Article only protects the translator as to his own version, and does not give to a first translator an exclusive right of translation.

Art. 5. Authors of original works may oppose any unauthorized translation of their works in the other country during the whole period of copyright.

Authors of dramatic works shall enjoy the same rights as to translations or representations of translations of their works.

Art. 6. Unauthorized indirect appropriations, such as adaptations, *bonâ fide* imitations, &c., are also forbidden.

Art. 7. But it shall be lawful to publish extracts or an entire *morceau*, if this be done in works specially adapted and appropriated for purposes of information and study, and it is accompanied by explanatory notes in a language different from the original.

Art. 8. Works appearing in parts and articles or *feuilletons* published in papers or magazines, cannot be reproduced or translated in the papers or magazines of

the other country nor published in any way without the author's leave.

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This does not apply to articles of political discussion.

Art. 9. The legal representatives or assigns of authors, &c., shall enjoy the same rights.

Art. 10. The period of protection secured is for the life of the author, and fifty years after his death for the benefit of the spouse, heirs, irregular successors, donees, legatees, &c.

Duration.

Art. 11. The exhibition and sale of unauthorized works and reproduced articles is forbidden in either country, whether such works and articles come from either country or from elsewhere.

Art. 12. Every publication of a literary or artistic work in contravention of this treaty will be punished as a piracy, and any person publishing, selling, exposing for sale, or introducing pirated articles, will be punished as provided for in Arts. 13, 14, and 15.

Salvador was one of the signatories of the treaty of the 17th February, 1887, between the five Republics of Central America (*a*).

URUGUAY.

Uruguay has no special law on copyright, but the Civil Code of 1868, Art. 443, provides that the productions of talent or intellect are the property of their author, and that this property is to be regulated by special laws.

Uruguay has no treaties with other States on the subject of copyright, but was one of the signatories of the treaty of the 11th January, 1889, between the South American States for the protection of literary and artistic works (*b*).

Negotiations have recently taken place with Spain on the subject of a copyright treaty (*c*).

(*a*) *Ante*, p. 862.

(*b*) *Ante*, p. 831.

(*c*) Official Copyright Magazine of the Berne Convention.

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VENEZUELA.

Copyright in Venezuela is now regulated by (1) Art. 450 of the Civil Code of 1880, which enacts that productions of intellect and talent belong to their author, in conformity with the rules established by special laws; (2) the law on Intellectual Property of the 12th May, 1887, which, by sect. 55, has repealed the law of the 8th April, 1853, and other provisions contrary to the present law; and (3) a regulation of the 12th January, 1888.

Duration.

The law of 1887 and the Regulation are closely modelled on the Spanish law of the 10th January, 1879, and the annexed Regulation of 1880, except in the matter of duration, which is *perpetual* in Venezuela, and the protection accorded to foreigners. The differences between the two laws are very slight. The Venezuelan law omits sects. 13, 15, 17, 18, 35 (2), 53, and 56 of the Spanish law, and there are the following slight alterations.

Sect. 4 (*a*) (1) of the Venezuelan law applies the benefits of the law to the Nation, the States, the sections, districts or municipalities, and the dependent administrations.

Sect. 6 (*b*) has the variations resulting from the altered duration. If there are heirs of necessity, the right of a purchaser will be extinguished twenty-five years after the death of the author, and the property will pass to such heirs.

In sect. 14 (*c*), it is provided that the consent of the judge or court is only necessary for the publication of pleadings in legal proceedings when the court or judge has ordered such documents to be reserved for some legal reason, but there is a new provision that the consent of advocates and counsel is necessary for the publication of pleadings signed or settled by them, and such advocates

(*a*) = Art. 4 of the Sp. Law.

(*b*) = Art. 6 of the Sp. Law.

(*c*) = Art. 16 of the Sp. Law.

and counsel may publish collections of pleadings without the consent of the judge.

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On the other hand, the court or judge is empowered to take free or exact copies of such pleadings.

Art. 16 introduces Art. 63 of the Spanish Regulation as part of the law. It provides that the chief authorities of any places where it is proposed to represent or perform musical or dramatic compositions, shall immediately stop any performance or representation announced to take place, when the proprietor of such composition has addressed to them a complaint that the management of the performance has not obtained from him or his representatives the requisite permission.

Art. 17 (*a*) further provides that the amount of the royalties due to authors for representations shall be considered as a deposit in the hands of the theatre manager, who is bound to hold it at the disposition of the proprietor (of the work) or his representatives.

By Art. 20 (*b*), the author of a musical work with a libretto by another person may not only publish his own work separately, but he may also join with it the libretto.

Under Art. 22 (*c*) there is an additional penalty of a fine equal to half the produce of an unauthorized performance, which fine will be allotted to the purposes of primary national education.

Art. 25 (*d*) provides that the express permission of the government to publish collections of laws must itself be published.

Art. 28 (*e*) introduces as a new sub-paragraph Art. 19 of the Spanish Regulation, which provides that papers may not reproduce from other papers drawings, engravings, lithographs, music, or other artistic works contained in periodicals, or novels and scientific, artistic, and literary

(*a*) = Art. 20 of the Sp. Law.

(*b*) = Art. 23 of the Sp. Law.

(*c*) = Art. 25 of the Sp. Law.

(*d*) = Art. 28 of the Sp. Law.

(*e*) = Art. 31 of the Sp. Law.

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works, whether published in parts or chapters, without any necessity that this reservation shall be expressly mentioned.

The central register is to be kept at the Ministry of Public Education, and the provincial ones in the institutions of secondary education in the capitals of the States and their political sub-divisions.

Deposit.

Four copies must be deposited.

Art. 32 introduces as part of the law Art. 23 of the Spanish Regulation, and enacts that entries on the register must give the following information :—

Name, Christian name, and address of applicant.

Title of the work.

Class to which it belongs.

Name and Christian names of the author, translator, and arranger.

Name, Christian names and address of the proprietor.

Establishment where the printing or reproduction was effected, and the kind of process employed.

Place and year of printing.

Edition and number of copies.

Volumes, size, and number of pages.

Date of publication and any other information useful to show the character of the work, and in conformity with the provisions of the law and regulations.

Art. 37 (a) provides that when a work has definitely become public property, any one may reprint it without alteration.

Art. 44 provides that the articles of the Penal Code in force and applicable to piracy are Arts. 511 and 518 to 521 of the Penal Code of 1873.

The enumeration of the aggravations of the offence contained in Art. 45 (b) is without prejudice to Art. 22 of the Penal Code, which gives a long list of aggravating circumstances.

(a) = Art. 39 of the Sp. Law.

(b) = Art. 48 of the Sp. Law.

By Art. 47 (*a*), proprietors who declare at the head of their works that they have made the deposit prescribed by Art. 31 (*b*) when they have not done so within the time prescribed, are subject to the penalties prescribed by Art. 44. CAP. XVIII.
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Art. 49, varying the provisions of Art. 51 of the Spanish law, provides that after the promulgation of the present law and in conformity with its provisions, the government may exchange with friendly nations agreements on literary property which it may consider favourable to the interests of the Republic, but it shall not accord to foreigners any greater advantages than nor any rights contrary to the advantages or rights enjoyed by Venezuelans in their own country in accordance with its laws. Reciprocity.

Under Art. 51 (*c*), authors desiring to recover intellectual property must register their right, and they shall forfeit the right if they do not do so within one year.

Art. 53. The periods fixed by this law in respect to the registration of intellectual property, shall only commence to run from the day when the Ministry and other institutions announce in the 'Official Gazette' that the offices of registration are organized.

A regulation of considerable length and importance, with a number of provisions as to musical and dramatic works, was published on the 12th January, 1888: the part relating to musical and dramatic works corresponds with the Spanish Regulation.

Venezuela has not entered into any treaties with other nations.

HAWAI OR SANDWICH ISLES.

A law regulating the registration of copyright was passed on the 23rd June, 1888 (*d*).

(*a*) = Art. 47 of the Sp. Law.

(*b*) = Art. 35 of the Sp. Law.

(*c*) = Art. 54 of the Sp. Law.

(*d*) Translation from the French translation published in *Lois Françaises et étrangères*, par M. Lyon-Caen.

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HAWAII.

Works pro-
tected.

Art. 1. From the date of the passing of this law, the author of every chart, book, marine chart, musical composition, print, plate, engraving, photograph, painting, drawing or statue, or the author of any model or sketch intended to be finished and completed as a work of intellect or art, or his heirs, testamentary executors or the administrators of the estate of a deceased author, may procure a certificate of their rights of property in the following manner.

Registration.

Art. 2. Before obtaining a certificate of copyright, a request shall be presented to the Ministry of the Interior, setting out on oath that the applicant is the first and true author of the chart, book, or other work mentioned in the preceding article for which the certificate of copyright is claimed, or if the request is made by the legal representative of a deceased author, such representative shall affirm on oath that he believes that the said deceased author was the first and true author of such chart, book, or other work as aforesaid, and the applicant shall declare his nationality. The request shall be accompanied, in addition to the oath already mentioned, by a copy of such chart, book, or other work as aforesaid, if publication has taken place, and if there has not been publication, of a copy of the title of the work. All the said copies shall be preserved at the Department of the Interior, and all the said titles shall be recorded in a book kept for this purpose in the said department. If the said chart, book, or other work as aforesaid has not been published at the moment when the request in question is presented, the applicant or applicants must, in order to ensure the validity of the certificate of copyright provided for by Art. 4, send to the Minister of the Interior a copy of the said chart, book, or other work as aforesaid, within one month after the publication in this kingdom.

Art. 3. The applicant shall pay to the said minister five dollars at the time of making the request.

Art. 4. Upon the request and the establishment of the right, the Minister of the Interior shall cause to be deli-

vered to the applicant a certificate of copyright under the seal of the Department of the Interior, granting to him and his heirs, executors, administrators, and assigns, the exclusive right of printing, reprinting, publishing, using, and selling the said chart, book, marine chart, musical composition, print, plate, engraving, photograph, painting, drawing or statue, model or sketch intended to be finished and completed as a work of intellect or art, within the kingdom of Hawaii during the period of twenty years.

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Duration.

Art. 5. No one shall be able to institute proceedings for infringement of his copyright except on condition of giving previous notice by inserting on each copy of his chart, book, or other work as aforesaid, on the title-page or page following if it is a book, or if it is a chart, marine chart, &c., by inscribing on a visible part of the work or the material on which it is mounted, the words "Copyright in Hawaii of A. B., the 18 ."

Art. 6. In the interpretation of this law, the words "print," "plate," and "engraving," shall apply only to illustrated works or works belonging to the fine arts, and no impression or label intended for any other mercantile product shall be registered under the law regulating copyright.

Interpretation.

Art. 7. The law entitled, "Law intended to encourage Science in the kingdom by securing copies of marine charts, maps and books to their authors and proprietors, passed the 31st December, 1864, and all other laws and parts of laws in any way conflicting with the provisions of this law are repealed."

Art. 8. This law shall come into force on the day it is approved.

UNITED STATES.

Copyright as it exists in the United States depends entirely on the legislation of Congress (*a*).

Copyright and its extent in the United States.

All statutes relating to copyright were repealed in

(*a*) 21 Davis's Rep. Supreme C. (Amer.) 244.

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1870, and the entire law on the subject embodied in one Act. No change was made in the duration of copyright. To the subjects protected by previous statutes were added paintings, drawings, chromos, statues, statuary, and models or designs intended to be perfected as works of the fine arts.

In 1873—4 the Copyright Act, with all other statutes of the United States, was revised.

Authors, inventors, designers, or proprietors of books, maps, charts, dramatic or musical compositions, engravings, cuts, prints, or photographs, or negatives thereof, or of any paintings, drawings, chromos, statues, statuaries, and of models or designs intended to be perfected as works of the fine arts, being citizens of the United States, or resident therein (a), and their executors, administrators, or assigns, were given the exclusive right of printing, reprinting, publishing, completing, copying, finishing, and vending them, for the term of twenty-eight years from the time of recording the title thereof (b), and if the author, inventor, or designer, or any of them, where the work was originally composed and made by more than one person, be living, and a citizen of the United States, or resident therein, at the end of the term, or being dead should have left a widow, or child, or children, either or all of them living, she or they were entitled to the same exclusive right for the further term of fourteen years, on complying with the terms prescribed by the Act of Congress within six months after the expiration of the first term. In order to acquire a copyright under these Acts, a person had to be a resident in the country. A temporary residence there, even though with a declared intention of becoming a citizen, was not sufficient. Captain Marryat, the well-known novelist, a subject of Great Britain, and

Duration.

To acquire a copyright in the States a person must be a citizen.

(a) *Keane v. Wheatley*, 9 Amer. Law Reg. 33, 45; *Boucicault v. Wood*, 16 Amer. Law Rep. 539.

(b) It seems that in the United States a title will not be protected under the copyright laws independent of the contents of the book. This was the decision of the United States Circuit Court in the *Beun-Leclercq* case.

an officer under our government, being temporarily in the United States, took the required oath of his intention to become a citizen, and then took out a copyright for one of his books and assigned the same to the plaintiff; but it was nevertheless held, that the author was not a "resident" within the meaning of the Act of 1831, so as to be entitled to a copyright in his book (a).

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But where the intention of continuing in the United States existed at the time of publication, the courts held the author to be a resident within the meaning of the Acts. Thus in *Boucicault v. Wood* (b), it appeared that the plaintiff, who was a native of Great Britain, had been in the United States from 1853 to 1861, when he returned to the former country. During this period he had registered certain plays which he had written and taken the usual steps to secure the copyright. The defence was, that the plaintiff, being a foreigner, was not entitled to copyright in this country. The jury was directed to find whether Boucicault, when he entered his copyright, intended to make the United States his home. It was found that such intention then existed in his mind, and accordingly the copyright was held to be valid. The law on this point was expounded by Mr. Justice Drummond as follows: "No person is entitled to the benefit of these

(a) *Cory v. Collier*, 56 Niles Reg. 262; Betts, J. The assignee of the work composed by a non-resident alien could not under these Acts have obtained a copyright in respect thereof. Three suits were begun by Messrs. A. & C. Black, of Edinburgh, and the Scribners, their American agents, against an American firm which had published a pirated edition of the 'Encyclopædia Britannica' from photographic plates, charging infringement of the American copyright law because the republication contained articles written by Americans and copyrighted in this country by them. The defendants entered demurrers based on the general ground that the publishers of the 'Encyclopædia Britannica,' in employing American authors to treat of American topics and then publishing their articles under copyright, thereby laid a trap for the American public and American publishers, and therefore a court of equity would not interfere to protect such a fraud. Judge Shipman overruled the demurrers, and declared that the assignments in no way permitted other parties to infringe authors' copyrights. The decision, which was given on the 25th June, 1890, in the United States Circuit Court, was of the greatest importance to the plaintiffs, as there were at the time three photographic editions of the 'Encyclopædia Britannica' selling at about a seventh of the price of the authorized edition.

(b) 2 Bliss. 38; 7 Amer. Law Reg. N. S. 539, 545.

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Acts unless he be at the time of publishing the title a citizen of the United States, or a resident therein. Residence ordinarily means domicile, or the continuance of a man in a place, having his home there. It is not necessary that he should be the occupant of his own house, he may be a boarder or a lodger in the house of another. The main question is the intention with which he is staying in a particular place. In order to constitute residence it is necessary that a man should go to a place, and take up his abode there with the intention of remaining, making it his home. If he does that, then he is a resident of that place. This question of residence is not to be determined by the length of time that the person may remain in a particular place. For example, a man goes into a place, and takes up his abode there with the intention of remaining, and if so, he becomes a resident there, although he may afterwards change his mind and within a short time remove. So if a person goes to a place with the intention of remaining for a limited time, although in point of fact he may remain for a year or more, still this does not constitute him a resident. So it is his intention accompanied with his acts, and not the lapse of time, which determines the question of residence. The plaintiff came to this country in 1853, and remained pursuing his profession as an actor and author till 1861; and if at the time of filing the title he had his abode in this country with the intention of remaining permanently he was a resident within the meaning of the law, even though he afterwards changed his mind and returned to England. If, however, he was a sojourner, or transient person, or at the time of the filing had the intention to return to England, he was not entitled to the protection of these laws."

By an Act passed in 1891, and coming into operation on the 1st July, 1891, the copyright statutes of the United States were amended, and it was provided that *the author*, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or

photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of fine arts, and the executors, administrators, or assigns of any such person should, upon complying with the provisions of the Act, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same, and in the case of dramatic composition, of publicly performing or representing it or causing it to be performed or represented by others; and authors or their assigns, should have exclusive right to dramatise and translate any of their works for which copyright should have been obtained under the laws of the United States (a).

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This was a great advance on the part of our neighbours on the other side of the Atlantic. The terms of the former Act were, "Any citizen of the United States or resident therein who shall be author, &c."

It was further provided, by the Act of 1891, that the author, inventor, or designer, if he were still living, or his widow or children if he were dead, should have the same exclusive right continued for the term of fourteen years upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term; and such persons should, within two months from the date of the said renewal, cause a copy of the record thereof to be published in one or more newspapers printed in the United States for the space of four weeks (b).

To whom
copyright
secured.

No person is entitled to a copyright unless he has before publication in the United States or any foreign country delivered at the office of the Librarian of Congress, or deposited in the mail within the United States addressed to the Librarian of Congress at Washington, District of Columbia, a printed copy of the title of the

Deposit of
title and
published
copies.

(a) Sect. 4952.

(b) Sect. 4954.

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book or other article, or a description of the painting, drawing, statue, statuary, or a model or design for a work of the fine arts, for which he desires a copyright, nor unless he also, not later than the day of publication in the United States or any foreign country, delivers at the office above, or deposits in the mail addressed as aforesaid, two copies of such copyright book or other article, or in case of a painting, drawing, statue, statuary, model or design for a work of the fine arts, a photograph of the same (a).

Copies to be
printed from
type set in
United States.

Then as an amendment on the former Act it is provided that in the case of a book, photograph, chromo or lithograph, the two copies required to be delivered or deposited shall be printed from type set within the limits of the United States, or from plates made therefrom, or from negatives or drawings on stone made within the limits of the United States, or from transfers made therefrom. During the existence of such copyright, the importation into the United States of any book, chromo, lithograph, or photograph so copyrighted, or any edition or editions thereof, or any plates of the same not made from type set, negatives or drawings on stone made within the limits of the United States are prohibited, except in cases specified in paragraphs 512 to 516 inclusive in sect. 2 of the Act entitled "An Act to reduce the revenue and equalize the duties on imports, and for other purposes," approved October 1, 1890; and except in the case of persons purchasing for use and not for sale, who import subject to the duty thereon, not more than two copies of such book at any one time; and except in the case of newspapers and magazines not containing in whole or in part matter copyrighted under the provisions of the Act, unauthorized by the author, which were thereby exempted from prohibition of importation. Provided, nevertheless, that in the case of books in foreign languages, of which only translations in English are copyrighted the prohi-

(a) See under sect. 4956 before amendment. *Merrell v. Tice*, 14 Otto Rep. (Amer.) 557.

bition of importance should apply only to the translation, and the importation of the books in the original language should be permitted (a).

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The delivery of copies of the title and work are not, as in this country, merely conditions precedent to sue, but the very existence of the copyright depends upon their fulfilment. No right attaches till these acts have been performed.

The question has been raised (b) whether a dramatic or musical composition is within the terms of the proviso so that the type must be set in the United States. It is probable that, looking at the whole Act and taking into consideration that "books" and "dramatic and musical compositions" are invariably referred to separately, that the clauses imposing penalties on infringement, which are separate in respect of the copyright in books and dramatic or musical compositions, the term "books" will be construed strictly and be restricted to literary compositions. And consequently that a composition of a dramatic or musical character though in the form of a book need not be printed from type set in the United States.

Not necessary
as to dramatic
or musical
compositions.

The great objection to the existing International arrangement is that books must be printed from type set in the United States. This is a matter of serious moment to printers, who fear that a practice may arise of printing a double edition in the United States, one for sale there and the other for sale in the United Kingdom. It is probable however that before long broader principles

(a) Sect. 3, amending sect. 4956. Foreign books are admitted of which only translations are copyrighted, and they are admitted free. The free list of the new tariff law includes (paragraph 512) works 20 years old (paragraph 513), "books and pamphlets printed exclusively in languages other than English," and books of music in raised print for the blind, (paragraph 514) works intended for use by the Government, (paragraph 515) books, &c., specially imported more than two copies in any invoice in good faith for societies, colleges, &c., and (paragraph 516) works owned, and in actual use for more than one year, by persons or families from foreign countries. The exception in the law suspends the rule against importing copyrighted works not reprinted in this country "in the cases specified in paragraphs 512 to 516 inclusive."

(b) Cutler, Eustace Smith & Weatherly on Musical and Dramatic Copyright, p. 151.

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and attested
copy.

will rule the American Legislature, and trade influences prove insufficient to maintain on their statute-book a provision of so objectionable a feature.

The Librarian of Congress is to record the name of every copyright book or other article in a book to be kept for that purpose. And he is to give a copy of the title or description, under the seal of the Librarian of Congress, to the proprietor whenever he may require it (*a*).

The charge for recording the title or description of any article entered for copyright, the production of a person not a citizen or resident of the United States, is fixed at one dollar, to be paid to the Treasury of the United States to defray the expenses of the lists of copyrighted articles provided to be made by the Act (*b*). And it is made the duty of the Librarian of Congress to furnish to the Secretary of the Treasury copies of the entries of titles of all books and other articles wherein the copyright has been completed, by the deposit of two such books printed from type set within the limits of the United States in accordance with the provisions of the Act, and by the deposit of two copies of such other article made or produced in the United States; and the Secretary of the Treasury is directed to prepare and print, at intervals of not less than a week, catalogues of such title entries for distribution to the collectors of customs and the postmasters of all post-offices receiving foreign mails, and such weekly lists are to be furnished to all parties desiring them at a sum not exceeding five dollars per annum.

Copies of new
editions of
works to be
furnished to
the Librarian
of Congress.

The proprietor of every copyright book or other article is to deliver at the office of the Librarian of Congress, or sent to him by post, a copy of every subsequent edition wherein any substantial changes may be made, provided, however, that the alterations, revisions, and additions made to books by foreign authors, theretofore published,

(*a*) Sect. 4957.

(*b*) Sect. 4, amending sect. 4958. The charge in the case of a person not a foreigner is 50 cents.

of which new editions may appear subsequently to the taking effect of the Act (*i.e.*, July 1, 1891), should be held and deemed capable of being copyrighted as above provided for in the Act, unless they form a part of the series in course of publication at the time the Act should take effect (*a*).

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A question has been raised as to how far English authors will be entitled to American copyright in alterations or revisions of, or additions to, their books previously published in the States, under this last section, and whether they will be entitled to this copyright in cases where they have absolutely parted with their English copyright in such alterations, revisions or additions, or in the books to which they relate. On this point the opinion of Sir Horace Davey and Mr. J. Rolt was taken by the Incorporated Society of Authors—a Society which has done so much for the benefit of British authors and no doubt has had considerable influence in obtaining protection for them in the United States. The opinion was as follows: “English authors will, in our opinion, be entitled to American copyright in alterations, revisions, or additions to their books previously published in the States, unless the additions form part of a series or of a work published in parts in course of publication at the time when the Act takes effect. Where an author has already parted with his English copyright in such alterations or additions, or in the books to which they relate, he would not, in our opinion, be entitled to American copyright, unless under some special agreement or reservation in his favour.”

How far English authors entitled to copyright in alterations.

For every failure to deliver or send as above either the published copies, or description, or photograph, the proprietor of the copyright is liable to a penalty of twenty-five dollars (*b*).

Penalty for omission to deliver copies.

The resulting or contingent term secured to the author in case he shall be living at the time of the expiration of

Assignment of copyright.

(*a*) Sect. 5, amending sect. 4959.
 (*b*) Sect. 4960.

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the first term, or if he be then dead to his widow, child or children if living, has been held not to pass under an assignment of "the copyright of the book," and it was also decided that the word "copyright" embraces only the term then capable of being secured, which at the time of the contract constituted the copyright of the book (a), and it is doubtful whether a general assignment by the author of all his interest in the copyright would deprive his widow and child or children living at that time in the event of the author's death (b).

Publication of
notice of
entry for
copyright
prescribed.

It is provided that no person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published on the title-page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some visible portion thereof, or of the substance on which the same shall be mounted, the following words, viz., "Entered according to Act of Congress, in the year —, by A. B. in the office of the Librarian of Congress at Washington;" or, at his option the word "Copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out: thus: "Copyright, 18—, by A. B." (c).

Penalty for
false publica-
tion of notice
of entry.

A penalty of 100 dollars is imposed upon any person inserting or impressing such notice or words of the same purport in or upon any book, map, chart, dramatic or musical composition, print, cut, engraving or photograph, or other article for which he has not obtained a copyright, half of such penalty to belong to the person suing for

(a) *Pierpoint v. Fowle*, 2 Wood & Min. 23.

(b) See cases decided under a similar provision contained in the 8 Anne, c. 19; *Carnan v. Bowles*, 2 B. C. C. 80, and *Kennet v. Thompson*, there cited; and *Rundell v. Murray*, Jacob, 315.

(c) Sect. 4962 and Act of 1874, s. 1.

such penalty, and the other half to the use of the United States (a).

The penalty for infringement of the copyright in a book is the forfeiture of every copy thereof to the proprietor, and the payment of such damages as he may recover in a civil action. The penalty for infringing the copyright in any map, chart, dramatic, musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, is the forfeiture to the proprietor of the copyright of all plates on which the same shall be copied, and every sheet thereof either copied or printed, and of one dollar for every sheet of the same found in his possession (b), either printing, printed, copied, published, imported or exposed for sale; and in case of a painting, statue, or statuary the forfeiture of ten dollars for every copy of the same in his possession or by him sold or exposed for sale (c).

The amendments introduced by the Act of 1891 are the inclusion in the prohibition of dramatizing and translating, both of which are infringement within the recent Act.

The right of representation in a dramatic work for which copyright has been obtained, is protected by section 4966 of the Revised American Statutes, and any performing rights granted by the author would, after publication, take effect under that provision (d). Consequently pub-

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Damages and forfeiture for infringement.

Right of representation of dramatic works.

(a) Sect. 4963, and sect. 6 of Act of 1891.

(b) *Thornton v. Schreiber*, 17 Davis's Rep. (Amer.) 612.

(c) Sect. 4964—5, as amended by sects. 7 & 8 of Act of 1891.

(d) A curious "copyright" case has been decided in the New York United States Circuit Court by Judge Lacombe. Miss Loie Fuller asked for an injunction against Miss Minnie Renwood Bemis to restrain her from dancing the "serpentine" dance during the summer on the roof of Madison Square Garden. Miss Fuller asserted that she originated the dance, and having had it copyrighted, it was her own exclusive property. Judge Lacombe thought otherwise, and refused to grant the injunction. He said: "It is essential to such a composition that it should tell some story. The plot may be simple, it may be but narrative or a representation of a single transaction, but it must repeat or mimic some action, speech, emotion, passion, or character, real or imaginary. When it does,

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How to secure
exclusive
right of per-
formance.

Damages for
printing or
publishing
manuscripts.

lication by an English author of a dramatic composition in the United States would not interfere with any performing rights previously granted by him.

The exclusive right to perform a drama can only be secured by first publication and registration as a literary composition. Copyright in a dramatic composition carries with it the right of representation, which cannot be secured in respect of any play in manuscript only (a). No special conditions or requirements are prescribed for securing the right of representation. If the production be a "dramatic composition," it attaches simultaneously with the copyright in the same manner and on the same conditions. Both rights begin with publication in print and continue for the same term. Neither is affected by public performance of the play before its publication in print.

A remedy is by the existing law (sect. 9 of the Act of 1891, amending sect. 4967) provided for the unauthorized publication of a manuscript. It is declared that "every person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, shall be liable to the author or proprietor for all damages occasioned by such injury."

It is provided by the recent Act that for the purposes of the Act, each volume of a book in two or more volumes when such volumes are published separately and the first one shall not have been issued before the Act shall take

its ideas thus expressed become subject of copyright. An examination of the description of the complainant's dance, as filed for copyright, shows that the end sought for and accomplished was the illustrating and devising of a series of graceful movements combined with an attractive arrangement of draperies, lights, and shadows, telling no story, portraying no character, depicting no emotion. The mere mechanical movements by which effects are produced on the stage are not subjects of copyright. Surely the dance described here conveyed and was devised to convey to the spectator no other idea than that of a comely woman illustrating the poetry of motion in a singularly graceful fashion, and, while such an idea may be pleasing, it can hardly be called dramatic."

(a) *Boucicault v. Hart*, 13 Blatchf. (Amer.) 47, practically overruling *Boucicault v. Wood*, 2 Biss. 34; *Roberts v. Myers*, 13 Monthly L. R. 396; *Boucicault v. Fox*, 5 Blatchf. 87; *Shook v. Rawkin*, 3 Cent. Law Jour. 210; 6 Biss. 477.

effect, and each number of a periodical shall be considered an independent publication (*a*).

If an English magazine is copyrighted in the United States, which means that it will have to be reprinted in the United States, an American periodical will not be allowed to copy from it—in fact it will be on precisely the same footing as a book. But each number will have to be entered number by number, as sect. 11 provides that each number of a periodical shall be considered as an independent publication.

As the term periodical is used in the section concerning independent publications but omitted in that relating to reprints, it is possible the point may be raised by an English periodical publisher against one reprinting a portion of his work.

In the case of the publisher of a magazine in this country who uses matter which is copyrighted in the United States, it is important that he should secure from the author an authority in writing not only to publish it in his magazine, but also an authority to export the magazine to the United States and sell there. This authority should be given in legal form and signed in the presence of two witnesses, and copies of the authority should be sent over to the American agents, so that in case questions should arise in the United States they may have positive proof that the author has given his authority to import and sell in the United States.

There is a difficulty in obtaining copyright in America for a story which is being published serially in this country, and it has been suggested that the difficulty may be got over by producing the book in America simultaneously with the first instalment being issued in England, and producing also in England, say eight copies of the book at a prohibitive price—five for the libraries, the rest for those who like buying scarce articles; this would be publication simultaneously of the whole book here

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Periodicals.

Practice to be adopted by publishers of English magazines using matter copyrighted in America.

Stories published serially.

(*a*) Sect. 11.

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and in America, but not a publication that would injure the run in the serial.

There is no doubt that the publication in the columns of a newspaper from type set within the limits of the United States would satisfy the American Act and afford a valid protection of the American copyright, and the author or his assigns would be left free to publish in book form if and when he desired. This is mentioned because undoubtedly in many cases new writers find it much easier to secure American publication in serial than in book form.

Benefit of Act
afforded to
countries
giving
reciprocal
protection.

The final provision of this important Act, and the most important for this country, is the 13th section, which provides that the Act shall only apply to a citizen or subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens: or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party to such agreement. The existence of either of the conditions is to be determined by the President of the United States by proclamation made from time to time, as the purposes of the Act may require.

Benefit
extended to
Great Britain,
&c.

Pursuant to this power the President of the United States on the 1st July, 1891, issued a proclamation, which, after reciting the 13th section of the Act of Congress of March 3, 1891, given above, and that satisfactory official assurances had been given in Belgium, France, Great Britain, the British possessions, and Switzerland, that the law permitted to citizens of the United States the same benefit of copyright as to their own citizens, declared that the first conditions specified in the said section 13 were now fulfilled in respect of the citizens and subjects of Belgium, France, Great Britain, and Switzerland.

The Treasury have issued the following regulations under the Act of 1891 :

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issued by
Treasury
under Act of
1891.

1. Copyrighted books and articles of importation which are prohibited by section 4956 of the Revised Statutes, as amended by section 8 of the said Act, shall not be admitted to entry. Such books and articles, if imported with the previous consent of the proprietor of the copyright, shall be seized by the collector of customs, who shall take proper steps for the forfeiture of the goods to the United States under section 3082 of the Revised Statutes.

2. Copyrighted books and articles imported contrary to the said prohibition without the previous consent of the proprietor of the copyright being primarily subject to forfeiture to the proprietor of the copyright, shall be detained by the collector, who shall forthwith notify such proprietor in order to ascertain whether or not he shall institute proceedings for the enforcement of the right to the forfeiture. If the proprietor institutes such proceedings and obtains a decree of forfeiture, the goods shall be delivered to him on payment of the expenses incurred in the detention and storage, and duties accruing thereon. If such proprietor shall fail to institute such proceedings within sixty days from date of notice or shall declare in writing that he abandons his right to the forfeiture, then the collector shall proceed as in the case of articles imported with the previous consent of the proprietor.

3. Copyrighted articles, the importation of which is not prohibited but which, by virtue of section 4965 of the Revised Statutes as amended by section 8 of the said Act, are forfeited to the proprietor of the said copyright when imported without his previous consent, and are, moreover, subject to the forfeiture of one dollar or ten dollars per copy, as the case may be, one-half thereof to the said proprietor and the other half to the use of the United States, shall be taken possession of by the collector, who shall take the necessary steps for securing to the United States half of the sum so forfeited, and shall keep the goods in his possession until a decree of forfeiture is