

in making an extract or a transposition into another key or register; (d) of utilising the work with the object of reproducing the same mechanically; (e) of utilising the work with the object of reproducing the same by cinematography. (Art. 14.) Copyright is not liable to execution without the author's consent. (Art. 10.)

The period of copyright granted by this law is thirty years from the author's death, or for not less than ten years after the date of first publication. When the publication does not take place until thirty years after the author's death, there is a presumption that the copyright has passed to the owner of the MS. (Art. 29.) (a). In the case of collaborations, the period is reckoned from the death of the last survivor. (Art. 30.) Anonymous and pseudonymous works are protected for thirty years from publication, but within that period the true name of the author may be revealed, and he will then become entitled to the full period of protection. (Art. 31.) So where copyright belongs to a *personne juridique*, thirty years is the period of protection. (Art. 32.)

Period of protection.

In the case of books published in volumes at intervals, each part is considered a separate book; in the case of works published in parts, the period of protection dates from the publication of the last part. (Art. 33.) All periods are to be reckoned from the end of the calendar year in which the author dies or the work is published, as the case may be. (Art. 34.)

During the above period the author enjoys the exclusive liberty of reproducing and multiplying copies of his work in the course of business; and so long as the essential contents of the work have not been communicated to the public the author has the sole right of making this communication. In the case of a dramatic or musical work the author's rights include the exclusive right of public representation and performance; and as long as a writing or speech is unpublished, the author has the exclusive right of recitation in public. (Art. 11.)

Rights of author.

The exclusive rights given by Art. 11 apply equally to adaptations of the work. In particular the author has the sole right (a) of translation, including transposition into verse; (b) of re-translation into the original language; (c) of reproducing a recitation in a dramatic form or a scenic work in the form of a recitation; (d) of making extracts from musical works and of

(a) This is, of course, shorter than the term recommended by the Revised Berne Convention.

PART V.
GERMANY.

arranging for orchestra or in parts; (e) of adapting the work to the parts of instruments used for reproducing the work mechanically, particularly by means of discs, plates, cylinders, and interchangeable rolls (b); (f) of utilising a written work for performance by cinematography or any like process. (Art. 12.)

What is piracy.

Any unauthorised reproduction is unlawful, whatever be the process employed, and it makes no difference whether a single copy or several copies be made; but single copies may be made for personal use only. (Art. 15.) Statutes and official documents may be reproduced (Art. 16), and, subject to the rights conferred on the author by Art. 12, a work may be freely used if a new work is produced. Nevertheless, the borrowing of a melody from a musical work in such a manner as to be recognisable, even though it serves as the basis of a new work, is expressly forbidden. (Art. 13.)

Not piracies.

The following are not piracies: (a) the reproduction in newspapers or reviews of speeches or discourses delivered in public deliberations; (b) reproduction of speeches or discourses delivered in the Courts, or at representative, political, and ecclesiastical gatherings. But speeches may not be reproduced in a collection containing mainly the speeches of one speaker. (Art. 17.)

Isolated articles in newspapers may be reproduced *in other newspapers*, unless the copyright is expressly reserved; but the source must be acknowledged and the sense not altered; but special articles of a scientific, technical, or amusing character may not be reproduced even if no mention is made of reservation of rights. News may be freely reproduced. (Art. 18.)

The following are not infringements of the copyright in literary works (but the source must be acknowledged, Art. 25):—

1. Citation of passages or small portions of a writing, speech, or discourse, after publication, in an independent literary work.
2. Reproduction of isolated articles of short length, or isolated pieces of poetry, after their publication, in an independent scientific work.
3. Reproduction of isolated pieces of poetry, already published, in a collection comprising works of various authors intended for musical performances.
4. Reproduction of isolated articles of short length, isolated pieces of poetry or small portions of a writing, in a

(b) This does not apply to musical works which have, prior to the 1st May, 1909, been lawfully adapted for mechanical reproduction (Art. 63a).

collection comprising various authors, intended for a work of an instructive, scholastic, or literary character. In this case, however, the consent of the author must be obtained, but such consent is to be deemed to be given if not refused within a month. (Art. 19.)

5. Reproduction of small parts of a poem, or pieces of poetry of short length, after their publication, as the libretto of a new musical work and in connection with it, provided the poems are not, by their nature, intended to be set to music; *but the first part of this paragraph is not to apply when words are intended to be reproduced along with the mechanical reproduction of a musical work.* (Art. 20.)

6. Taking isolated illustrations from a published work to explain the text. (Art. 23.)

The following are not infringements of the copyright in musical works (but the source must be acknowledged, Art. 25):—

1. Citation of passages from a musical work, in an independent literary work.
2. The insertion of published compositions of short length in an independent scientific work.
3. Reproduction of published compositions of short length in a collection comprising the works of various composers and intended for instruction in schools, other than schools of music. (Art. 21.)

The following clauses relating to the reproduction of musical works by mechanical instruments have been inserted in the new law of 1910 in substitution for the earlier provisions of the law of 1901:—

Whenever the author of a musical work grants a licence to another to reproduce a work commercially with a view to the same being mechanically performed (see Art. 12 (e)), any other person, either having his principal place of business or being domiciled in the country, shall have the right, as soon as the work has been published, to require a like licence upon payment of a fair compensation (e), whether the author has granted to the former the right of reproduction with or without an assignment of the exclusive right belonging to him. The licence shall be effectual only so far as regards circulation in Germany, and exportation to countries in which the author is unprotected against mechanical reproduction of his work. In the case of a State to which

(e) The German law does not make any attempt to fix the amount which should be regarded as "fair compensation."

PART V.
GERMANY.

reciprocity has been guaranteed by treaty, the Chancellor may declare, by publication in the Official Gazette, how far any third person having neither a place of business nor a domicile in the German Empire shall have the right to require such licence as aforesaid, and to declare that the same shall apply to exportation to the State in question. These provisions apply equally to any written words entitled to copyright which are associated with the musical work as the libretto, if the author thereof shall have agreed to their reproduction commercially with a view to mechanical performance. Provided always that the right and duty to grant such authority as aforesaid on behalf of the author of the words shall be vested in the author of the music, subject to his paying to the former a fair proportion of the remuneration. (Art. 22.)

The parts of instruments manufactured under any authority granted under the provisions of Art. 22 may, subject as hereinafter mentioned, be used for the public performance of the work without further permission, and when the author shall, prior to the date when this provision comes into force, have assigned the exclusive right of public performance to another he shall pay to the latter a fair proportion of the remuneration. This article applies also to the case where the author has of his own accord granted the right to adapt the work for mechanical reproduction. (Art. 22a (d).)

Notwithstanding a partial assignment of the exclusive right of mechanical reproduction the authority required to be given by Art. 22 hereof shall still be granted by the author, but in the case of an unlimited assignment, such authority shall be granted by the assignee. (Art. 22c.)

Public
performance.

The rights of reproduction above permitted of literary and musical works of another without the consent of the proprietor of the copyright include the liberty of multiplying, representing, performing, and reciting in public (Art. 26); but the person who reproduces the works of another under the provisions of Arts. 19 to 23, must not make any modification in the parts reproduced, except that, where necessary for the object of the reproduction, translations of a literary work and arrangements of a musical work consisting only of extracts or changes to another key or intended to adapt the work for mechanical reproduction are permissible. Modifications of extracts inserted in a collection for use in schools may also be made with the personal consent of the author. (Art. 24.)

(d) This Article applies to literary and musical works made prior to the law of 1910, so far as such works were at that date protected against mechanical reproduction (Art. 63a).

Where the proprietors of the copyright are numerous, the consent of each one is necessary, except that in the case of an opera or musical work with libretto, the consent of the proprietor of the copyright in the music alone shall be necessary. (Art. 28.)

Arts. 36—53 relate to the remedies of the proprietor of copyright. It may be said, generally, that a person who infringes the author's rights knowingly or negligently is liable to indemnify the author, and if he does so knowingly he is liable to a fine and to imprisonment if the fine cannot be recovered. Infringing copies and plant may be ordered to be destroyed or delivered to the plaintiff even though there be no negligence or culpable intention on the part of the defendant. Remedies.

Proceedings for damages or penalties must be taken within three years, but the destruction of infringing copies or plant may be ordered at any time. Limitation of actions.

No registration is compulsory under this law. By Art. 7 it is provided that there shall be a presumption that the person named in the title-page, the dedication, the preface, or the last page as the author, is the real author; but in the case of anonymous and pseudonymous publications, the real author can register his true name in a register kept at Leipsic, whereupon he will become entitled to the full period of protection. (Arts. 31, 56.) Registration.

It should be here mentioned that Germany has made an experiment in legislation by attempting to regulate the mutual rights of authors and publishers of literary and musical works by law. The law in question is the law of 19th June, 1901, slightly modified by a law of 22nd May, 1910. This law is too lengthy and elaborate to be here set out, but it may be noted that by the terms of this law an author who has agreed with a publisher that the latter shall publish his work may not, during the pendency of the contract, reproduce his work in a manner prohibited to third parties, but the law reserves to him the right of translation, dramatization, arrangement of musical works, mechanical reproduction, and reproduction by cinematography. The author may also reproduce the particular work, after twenty years from its first publication, in a complete edition of his works. In the absence of agreement to the contrary, the publisher has only the right to make one edition, and unless a different number be named, an edition consists of 1,000 copies. Authors and publishers.

Artistic copyright in Germany is governed by the law of 9th January, 1907, as modified by the law of 22nd May, 1910. The law applies to all works of figurative art and photographs, and the following is a summary:— Artistic copyright—law of 9th Jan., 1907.

The products of industrial art are included amongst works of Works protected.

PART V.
GERMANY.

figurative art, also architectural works, provided they are of an artistic character. Plans for industrial products and architectural works of the above-mentioned character are also to be regarded as works of art (Art. 2), and the law of 1901 does not apply to such. (Art. 4.)

Photographs include works manufactured by similar processes. (Art. 3.)

Collections,
collaborations,
&c.

If a work is composed of a collection of distinct works of several collaborators the publisher (*Herausgeber*) or, if none is named, the editor (*Verleger*), is to be deemed the author of the entire work. (Art. 6.)

If a work of figurative art is combined with a photographic work, then, notwithstanding the combination, each author retains his rights, and the same applies where a work of figurative art or photography is combined with a literary or musical work, or with a protected industrial design. (Art. 7.) Collaborators are considered as tenants in common in the shares provided under the civil law if their individual works cannot be distinguished. (Art. 8.)

Presump-
tions.

There is a presumption that the person whose name is indicated or distinctly marked upon a work is the author thereof. In the case of anonymous or pseudonymous works, copyright may be protected by the publisher, or, if none is indicated, the editor. (Art. 9.)

Assignment.

Copyright passes to the author's heirs, and may be freely assigned, but in the absence of agreement to the contrary, the assignment of the material object does not carry the copyright (Art. 10), and the assignee has no right to make any alterations either in the work itself or its title, or the name of the author, except such modifications as the author would have no right fairly to object to (Art. 12), nor may any third person place the name or mark of the author on the work without his consent. (Art. 13.) In the case of a work accepted for publication in a newspaper, review, or periodical, the author has the right to dispose of the work in any way he pleases, unless the circumstances indicate an intention that the publisher should obtain the exclusive right of reproduction, in which latter case, in the absence of contrary agreement, the author has the right of free disposal of his work at the expiration of one year after the end of the year of first publication. Similar provisions apply to works inserted in a non-periodical collection, if the author is entitled to no remuneration. (Art. 11.) Copyright is not liable to execution without the author's consent, and the same applies to moulds, casts, stones, and other instruments intended to be used exclusively for the reproduction of the work. (Art. 14.)

The rights conferred upon an author are defined in Arts. 15 and 15a, the latter Article having been added by the law of 1910. These Articles are as follows:—

PART V.
GERMANY.

Rights of
author.

“Art. 15. The author enjoys the exclusive right of reproducing the work, circulating the same commercially, and of exhibiting the same for profit by means of mechanical or optical apparatus, but this exclusive right does not apply to a loan. A simple reproduction is to be deemed a multiplication, as well as a rebuilding in reference to works of architecture or the plans therefor. The creator of a work of figurative art or photography by reproduction from another work, enjoys the like rights, provided always that he may not exercise the same without the consent of the author of the original work, if the author is entitled to the copyright in the latter work.”

“Art. 15a. If a work reproduced by cinematography or any analogous process is such that, having regard to the arrangement of the acting form or the combination of incidents represented, the same ought to be regarded as an original work, the copyright shall extend to the pictorial execution, in its modified form, of the action represented, and the author has the exclusive right of publicly exhibiting the work.”

Any reproduction of a work without the consent of the owner of the copyright is a piracy, whatever be the process employed, and whether the reproductions be few or many (Art. 17), but a work may be freely used if an original work is the result (Art. 16), and photographs, paintings, or drawings of works standing in public places may be copied, provided the copies are not applied to architectural works. As regards architectural works this right only extends to exteriors (Art. 20), and no unnecessary modification of the original work may be made. (Art. 21.)

It is no piracy to reproduce a work for personal use if it be made gratuitously, but this does not apply to a reproduction, upon a site, of a work of architecture. As regards portraits, the person who has ordered the same, or his representatives, may, in the absence of contrary agreement, reproduce the work, but if the picture be a work of figurative art, it may not be reproduced during the author's life otherwise than by photography, and, in any case, the name or description of the author of the original must not be placed on the reproduction in such a way as to cause confusion. (Art. 18.)

Again, it is no piracy to reproduce and circulate isolated works inserted in an independent scientific work or a literary work intended for use in schools or for instruction, if the object be merely

PART V.
GERMANY.

to explain the text, but this permission does not extend to works which have neither been published nor exhibited in any permanent manner, and the source must be clearly indicated. (Art. 19.) Moreover, no unnecessary alterations must be made. (Art. 21.)

Portraits.

Portraits must not be circulated or publicly exhibited except with the permission of the person portrayed, but, in doubtful cases, such permission is deemed to have been given when the person portrayed has received valuable consideration for sitting. After the death of the person portrayed, the permission of certain relatives must be obtained during a period of ten years after death. (Art. 22.) Nevertheless, the following may be circulated or publicly exhibited without any such permission as aforesaid:—(1) portraits illustrating contemporaneous history; (2) pictures in which the persons portrayed only appear as accessories to a view or landscape; (3) pictures of meetings, processions, and like events in which the persons portrayed have taken part; (4) portraits which have not been executed on commission, provided their circulation or exhibition serve some superior artistic purpose: provided that the liberty hereby accorded is not to apply in any case where the legitimate interests of the person portrayed or his relatives after his death would be injured thereby. (Art. 23.) Any portraits may be circulated and exhibited in the interests of justice or public safety. (Art. 24.)

Period of
protection.

The period of copyright protection for a work of figurative art is the same as in the case of literary and dramatic works, namely, the life of the author and thirty years after his death: in the case of corporations, for thirty years after first publication (Art. 25); but in the case of a photograph, protection is only given for a period of ten years after publication, or ten years after the death of the author if the same is not published during his lifetime. (Art. 26.) There are similar provisions as regards anonymous and pseudonymous works, as to collaborations, as to works published at intervals, and as to the reckoning of the periods of copyright protection, to those contained in the law as to literary copyright (*e*). (Arts. 27—30.)

Remedies.

Arts. 31 to 50 relate to the remedies of the copyright owner, and are similar to Arts. 36—53 of the law relating to literary copyright (*f*), with certain necessary modifications.

(*e*) See *ante*, p. 385.

(*f*) *Ante*, p. 389.

*Rights of Foreigners.*PART V.
GERMANY.

It is provided by Art. 54 of the law of 1901, relating to literary and musical copyright, that subjects or citizens of the Empire shall enjoy protection for all their works, published or unpublished, and by Art. 55 that authors who are not subjects or citizens of the Empire shall enjoy protection for any work published in German territory, if neither the work itself nor a translation thereof has been previously published abroad. The same Article further provides that, under the like conditions, any work of which a translation has been published in German territory shall enjoy protection, and in such case the translation is to be considered an original work. Similarly, it is provided with regard to artistic works, by Art. 51 of the law of 1907, that, whilst subjects or citizens of the Empire enjoy protection for all their works, published or unpublished, persons who are not subjects or citizens of the Empire only enjoy protection for such works as are published in the Empire, and have not previously been published elsewhere. A foreigner's work published simultaneously in Germany and abroad will, therefore, receive protection, and if a translation be published first in Germany it will be treated as an original work and not a translation, although the edition published abroad, whether simultaneously or later, may be the original edition.

In the
absence of
treaty or
convention.

Germany has, however, adhered to the Revised Berne Convention, without any reservations, so that that Convention has full legislative effect in the country. Germany is also a "proclaimed" country, entitled to the benefit of the American Copyright Act, 1909, and by proclamation of December 8th, 1910, reciprocal relations as to mechanical music reproductions have been proclaimed between Germany and the United States.

By treaty

Germany has also treaties with the following countries:—

Austria	30th December, 1899.
Belgium	16th October, 1907.
France	8th April, 1907.
Italy	9th November, 1907.
Russia	28th February, 1913.

AUSTRIA AND HUNGARY.

The laws relating to copyright are different in Austria and Hungary. Austria is governed by a law of the 26th December, 1895, as modified by a law of 26th February, 1907; Hungary

Austria and
Hungary
possess dis-
tinct laws.

PART V.
AUSTRIA.

by one passed on the 26th April, 1884. Since 1887 a treaty has existed on these matters between the two countries, by which authors of works of literature or art and their successors, including their publishers, reciprocally enjoy, in each of the two States, the advantages which are granted therein for the protection of works of literature or art (*g*). To this has been added a Protocol of 8th October, 1907, providing for the denouncement of the treaty in the event of either country adhering to the Berne Convention.

Earlier copy-
right laws.

Previously to the passing of the law of 26th December, 1895, copyright in Austria was governed by a law of 19th October, 1846, which gave a period of life and thirty years for literary and artistic works, and life and ten years for musical and dramatic works. On the 26th April, 1893, a transitory law was passed extending the term for the last-named works to life and thirty years, the cause of this temporary legislation being that the works of Wagner, who died in 1883, were on the point of falling into the public domain. The law of 26th December, 1895, which is retrospective in its operation (Art. 65), grants a similar period of protection to all works of literature, figurative art, and photography.

Law of 26th
Dec., 1895.

The following are the principal provisions of the law of 26th December, 1895 (*h*):

Protection is granted to works of literature, art, and photography published in Austria. (Art. 1.)

Copyright extends to the whole and every part of a work. (Art. 3.)

The following are included amongst works of literature and art (Art. 4):

- (a) Books, pamphlets, periodicals, collections of letters and all other writings (*i*), falling within the literary domain.
- (b) Dramatic, dramatic-musical, and choreographic works.
- (c) Designs, figures, maps, plans, plastic works, and sketches for literary purposes, where these works cannot, by reason of their destination, be considered works of art.
- (d) Speeches for instruction, edification, or amusement.
- (e) Musical works, with or without words.

Definition
of works of
literature
and art.

(*g*) Treaty dated 10th May, 1887. The treaty extends to photographs: "Droit d'Auteur," 1897, p. 40.

(*h*) Taken from the French translation in "Le Droit d'Auteur," 1896.

(*i*) Not everything written is a "writing." Apparently there must be intellectuality and originality: Supreme Court, 7th Nov., 1900; but a directory requires intellectual effort: Cour de Cassation, 24th Sept., 1901, *Ippoldt v. Erben*.

(f) Works of art, such as pictures, designs, plans, and sketches for architectural works, engravings, sculptures, and plastic works, with the exception of architectural works.

Statutes and other official documents and speeches delivered in public assemblies are not protected; nor are trade announcements nor artistic works upon articles of industry if reproduced with the same object (*k*). (Art. 5.)

Collaborations belong to the authors jointly, but any one of the joint authors may sue for infringement. (Art. 7.)

In the case of publications comprising distinct works of several authors, copyright in the entire work belongs to the publisher, but copyright in the distinct articles belongs to the several authors, who, however, in case they publish separately, must indicate the work in which their article previously appeared (Art. 8); and in the absence of stipulation to the contrary, writers in reviews, annuals, and almanacs cannot, without the consent of the publisher, publish their articles separately till the expiration of two years. (Art. 9.)

Primâ facie, the person named as the author of a work at its first appearance is the true author. When a work appears in many copies or reproductions, all must have the name inscribed upon the title-page, dedication, preface, or end of the work, and, in the case of publications composed of the works of several collaborators, at the beginning or end of each article. As regards works of art and photographs, it is sufficient to indicate the name upon the work itself or its mount. In the case of works performed, the name should be announced at the first performance. (Art. 10.) If a work appears without any indication of the true name of the author it will be considered an anonymous or pseudonymous work, and the publisher is authorised to exercise the author's rights. (Art. 11.)

The person who gives a commission is entitled to the copyright in commissioned works of art and photographs. Portrait photographs can only be reproduced with the consent of the person photographed or his heirs. The copyright in photographs taken for a commercial purpose belongs to the proprietor of the business. (Arts. 12 and 13.)

Copyright, so long as it is retained by the author or his heirs, is free from execution (Art. 14), passes to the author's heirs (Art. 15), and may be assigned, with or without restrictions, by

(*k*) This clause gives rise to difficulties; but it has been held that pictorial post-cards may not be copied from each other: Supreme Court of Vienna, 20th Jan., 1903, *Wetzel v. Fuchs*.

PART V.
AUSTRIA.

contract or will. A contract by an author to assign his copyright in all his future works, or all his works of a particular class, though a valid contract, may be repudiated within a year, unless a shorter time has been agreed. (Art. 16.)

Abandonment of a literary or musical work, or a work of art or photograph, to third persons without consideration does not, without special stipulation, pass the copyright, but if consideration is given a transfer of the copyright is implied, unless the circumstances indicate a contrary intention. (Arts. 17 and 18.)

If a publisher fails to fulfil his contract to publish within three years, the author can hold him to his contract and sue for damages or rescind the contract, without liability to repay anything he has received under the contract. (Art. 2.)

Art. 21 makes it an offence to unlawfully claim the rights of the author, and Art. 22 gives an author a right to damages and in some cases to an injunction if the title or appearance of his work is copied.

Extent of Copyright.(a) *Literary Works.*Meaning of
copyright.

Copyright in a literary work includes the exclusive right of publishing the work, multiplying copies, causing it to be sold, and translating it; in the case of a scenic work it includes the right of public performance; in the case of speeches, not yet lawfully published, it includes the exclusive right of reciting in public. Translations are protected as original works. (Art. 24.)

Piracy.

The following in particular are piracies (Art. 24):—

- (a) Publication of an unpublished work (*l*).
- (b) Publication of a collection of letters without the consent of their author or his heirs.
- (c) Publication of an extract or arrangement, unless it has the character of an original work.
- (d) Reprinting a work by an author or publisher contrary to a publishing agreement.
- (e) Manufacture by a publisher of a larger number of copies than agreed.

Public performance of a scenic work is piracy, even if it be an adaptation or unlawful translation of the original work. (Art. 30.)

(*l*) The Austrian Courts hold that public representation of a dramatic piece is not a publication of it: Cour de Cassation de Vienne, Oct., 1898, *Héritiers de Félix Bloch v. Stubenvoll*.

The following are not piracies (Art. 25):—

- (a) Verbatim quotation of small portions of a previous work.
- (b) Insertion of detached articles, sketches, or isolated designs in the body of a larger work of science, or in the body of a collection of the works of divers authors or collections for educational purposes; but the source must be acknowledged.
- (c) A simple account of a published work or a public speech.
- (d) Isolated copies not intended for sale.
- (e) Reprinting words to accompany a musical score, providing the reprint is along with the music or is made solely with the view of being utilised at the performance of the musical work, and this object is indicated. The libretti of oratorios, operas, operettas, and vaudevilles are excepted from this clause.

Isolated articles, telegrams, and news may be reproduced. Newspapers.
(Art. 27.)

If an author wishes to reserve his right of translation, he must Translations. state this clearly on the title-page, preface, or beginning of the work, and whether he reserves it in all or only in certain named languages. The right of translation reserved lapses if not exercised within three years. (Art. 28.) But without mention of reserve an author has the exclusive right of translation (a) as long as a work has not been lawfully published; (b) into a living language where the work has been originally published in a dead language; (c) into one of the languages in which a work has been originally published, where it was simultaneously published in several languages. (Art. 29.)

(b) *Musical Works.*

Copyright in musical works includes the exclusive right of Copyright. publishing a work, multiplying copies, causing it to be sold, and publicly performing it. (Art. 31.)

Art. 24 (above) applies by analogy to musical works, and the Piracy. publication of extracts, medleys, and arrangements is piracy (Art. 32); but the following are not piracies:—

- (a) The publication of variations, transcriptions, fantasias, studies, and orchestrations, if they have the character of original works.
- (b) Citation of isolated passages.
- (c) Insertion of detached compositions, with acknowledgment of source, in larger works of science or collections of

PART V.
AUSTRIA.

divers composers intended for use in schools other than schools of music.

(d) Making isolated copies not for sale.

Right of
performance.

The author of a scenic work has the exclusive right of public representation, but in the case of musical works the right of public performance must be expressly reserved and clearly indicated on every copy. (Art. 34.) Mechanical instruments for producing tunes are not infringements of the composer's rights. (Art. 36.)

(c) *Works of Art.*

Copyright.

Copyright in figurative works of art includes the exclusive right of publishing the work, reproducing it, and causing the reproductions to be sold. The author of a work created by a lawful reproduction of another work of art has copyright in his work as though it were an original work if it has been reproduced by a different artistic process from the original work, but it is not permissible to reproduce the reproduction without the authorisation of the author of the original work. (Art. 37.)

Piracy.

Art. 24 (above) applies by analogy to works of art, and it is piracy (a) to reproduce by another process the same work; (b) to copy indirectly from a reproduction; (c) to apply the work to a work of architecture or industry (Art. 38); but the following are not piracies (Art. 39):—

- (a) Creation of a new work in which a figurative work of art has been partly made use of.
- (b) Copies not intended for sale; but the name or signature of the author must not be placed on the copy.
- (c) Copies of a painting or drawing by plastic art or *vice versa*.
- (d) Copies of works of art permanently exposed to public view (*m*), with the exception of copies of plastic works by the same form of art.
- (e) Insertion, with acknowledgment of source, of copies of works of art to illustrate the text of a literary work.

(d) *Photographic Works.*

Copyright.

Copyright in photographs includes the right of publishing, multiplying copies, and causing the copies to be sold, but, except in the case of portraits, the photographs or their mounts must

(*m*) Probably this provision only applies to works in the public streets and squares. See cases under a somewhat similar clause in the Swiss Copyright Law, *post*.

have placed on them visibly (a) the name, description (if any), and residence of the author; and (b) the year of publication. (Art. 40.)

PART V.
AUSTRIA.

It is not piracy (a) to make isolated copies not for sale; (b) to insert, with acknowledgment of source, isolated photographs to illustrate the text of a literary work. (Art. 41.)

Piracy.

The above provisions do not apply to photographs of protected works. (Art. 42.)

(e) *Duration of Copyright.*

As a general rule copyright in works of literature and art expire thirty years after the death of the author. Posthumous works, if published within the last five years of this period, enjoy protection for five years. In the case of collaborations copyright expires thirty years after the death of the last survivor, but when the right of one author expires sooner, his share in the copyright passes to his co-authors. (Art. 43.)

Works of
literature
and art.

Anonymous works enjoy protection for thirty years from publication, but this can be extended, before the thirty years have elapsed, to the full period by entry of the author's true name in a register to be kept by the Minister of Commerce. (Art. 44.)

Corporations, societies, &c. are granted a period of thirty years from publication (Art. 46), and the exclusive right of translation expires five years after publication of a lawful translation. (Art. 47.)

Translation.

Photographs are protected for ten years. (Art. 48.)

Photographs.

When a work is published in several parts copyright dates from each part, but if the parts ought to be considered as forming one whole, it dates from publication of the last part, but the parts must appear at intervals of not less than three years. (Art. 49.)

Works pub-
lished in
parts.

Remedies for Infringement.

In the case of wilful infringements, the author can take penal proceedings in which the defendant may be fined or imprisoned (Art. 51), ordered to pay damages (Art. 57), and the infringements confiscated (Art. 56). A civil action for damages can be brought against a person wilfully infringing; also against all persons who in a culpable manner make unlawful reproductions or copies, for valuable consideration. (Art. 60.) Even if the defendant has acted innocently, the proprietor of the copyright can bring a civil action to establish his right, restrain future in-

Remedies.

PART V.
AUSTRIA.

fringements, and have the infringements confiscated. The defendant will also in this case be ordered to pay the plaintiff any profits he may have made. (Art. 61.) The law also imposes penalties for placing a name upon a work with a view to deceive (Art. 53), and for not acknowledging the source, when such source ought to be acknowledged. (Art. 52.)

Transitory provisions.

Arts. 66 and 67 are transitory clauses saving the rights of persons who have lawfully manufactured copies or lawfully represented musical and scenic works before the passing of this law.

HUNGARY.

Law prior to 1884.

Up to 1884, Hungary had no law of copyright, though the *judex curialis* published provisions in 1861 declaring that the products of the intellect were protected by law. The Austrian law of 1846 was never expressly applied, though the Hungarian Courts often acted on the provisions of that law (*n*). The law was, however, very uncertain, and in 1884 the law previously referred to was passed; this law is similar in many respects to the Austrian law of 1895, but grants a longer period of protection to the author. Its provisions are as follows (*o*):

Law of 1884.

Art. 1. The reproduction of a literary work by a mechanical process, its publication and offering for sale, constitute an exclusive right for the author during the period of protection fixed by law.

When the work has several authors, and the contribution of each cannot be distinguished, each author, in the absence of agreement to the contrary, has the right of reproduction, publication, and sale, after previously indemnifying the other authors.

The Court is to determine the indemnity according to the circumstances on the evidence of experts, if necessary. None of the authors can be compelled against their will to put their name on the work.

When the contribution of each author can be distinguished, the consent of each is necessary for the reproduction, publication, and offering for sale of the distinct portions pertaining to each.

Art. 2. In the case of literary works composed of articles by several persons and considered as forming one single whole, the editor takes the benefit of legal protection as an author.

Copyright in each separate article belongs to each collaborator.

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

(*o*) This translation is made from the French translation of M. Lyon-Caen.

In the case of collective works considered as forming one single whole, and composed of writings or articles which have not as yet been published and are not, therefore, protected by this law, the editor enjoys the same legal protection as the author.

Art. 3. Copyright can be transferred by contract or by will with or without reservation. In the absence of any disposition, the right goes to the legal heirs of the author.

The right of the Crown to unclaimed estates on failure of heirs does not extend to copyright.

When one of the authors of a work composed in collaboration dies without heirs, his rights pass to the surviving collaborators.

Execution cannot be levied on copyright as long as it belongs to the author or his heirs or legatees.

Execution can only be levied on the material profits coming to the author or his heirs or legatees from the publication or public representation of the work.

Art. 5. The reproduction of a literary work in whole or in part by a mechanical process, or its publication or offering for sale in whole or in part without the consent of the lawful owner (*p*), are considered an infringement of copyright and are forbidden. Infringe-
ment.

A copy by hand is to be treated as a reproduction by a mechanical process, when the copy so made is intended as a substitute for mechanical reproduction.

Art. 6. The following acts, in addition, are to be considered infringements:

(1) The reproduction, publication, and offering for sale without the consent of the author of an unpublished manuscript. The lawful possessor of a manuscript or of a copy of a manuscript cannot do these acts without the consent of the author.

The reproduction, &c. of verbal expositions or of lectures given for purposes of discussion or education.

Every publication made by either author or publisher contrary to the agreement between them or to the law.

Printing more copies of a work than agreed upon between the author and publisher.

The unlawful publication by one of the authors of a work written in collaboration.

The publication in one collection without the consent of the author of speeches delivered in debates or public deliberations in different circumstances on different subjects.

The unlawful insertion in any newspaper of telegrams and

(*p*) Arts. 1, 2, 3.

PART V.
HUNGARY.

information collected and reproduced solely for the purpose of being printed in newspapers. The provisions of Art. 9 (1) are to be applied to the insertion of such communications after their publication in any paper.

Translations.

Art. 7. A translation of an original work without the consent of the author is considered an infringement in the following cases:

When the work having appeared in a dead language is published in a translation into a living one.

When the work having appeared in several languages is published in a translation into one of those languages.

When the author has reserved the right of translation on the title-page or at the commencement of the original work, on condition that the (author's) translation has been commenced within a year from the publication of the original, and finished within three years. Protection ceases in the case of languages into which a translation has not been commenced in the first year. When the reservation is only made for certain languages, the work can be freely translated into any other.

In the case of original works appearing in several volumes or parts, each volume or part will be considered a separate work, and the reservation must be repeated on each volume or part. The periods relating to translations only run from the 1st of January after the publication of the original.

In the case of works intended for the stage, the translation must be finished within six months.

Information shall be given of the commencement and finishing of the translation for the purpose of being entered in a register in the period fixed by this law (*q*).

Translations of literary works not yet published and protected by this law (*r*), are to be considered an infringement of copyright.

Art. 8. Translations, like original works, are protected against unlawful reproduction and sale.

Art. 9. The following acts are not considered infringements:

The literal citation of some passages or small parts of a work already published, or the insertion of small works already reproduced or published, in a work of greater size which has from its contents an independent scientific purpose, provided this insertion is made within limited bounds explained by the purpose in view, or such insertion is in a collection composed of extracts from several writers for use in schools, for religious or educa-

Acts which
are not
infringe-
ments.

(*q*) Arts. 42, 44.

(*r*) Art. 6 (1), (2).

tional objects, on condition that the name of the author or the source be clearly shown.

PART V.
HUNGARY.

The insertion of isolated communications extracted from papers and reviews other than literary and scientific works, or important communications bearing at their head a prohibition against reproduction.

The communication of public decrees and debates.

The reproduction of speeches delivered in public debates and deliberations.

The reproduction of a few articles extracted from the collective works referred to in Art. 2, par. 3.

Art. 10. The 53rd law of 1880 applies to the reproductions of laws and orders (s).

Duration of Copyright.

Art. 11. Subject to the provisions contained in the following articles, the protection assured by the law against infringement lasts during the life of the author and fifty years after his death.

Duration of
copyright.

Art. 12. In the case of collaborative works, the period of protection runs from the death of the surviving collaborator.

In the case of collective works, the period of protection for each article varies according as the authors of the articles are named or not.

The collections mentioned in Art. 6 (6) enjoy legal protection for fifty years after the death of the author, but if a collection of speeches is not published during the life of the author or within five years from his death, publication cannot be made without the consent of his representatives.

Art. 13. Literary works which have appeared in the life of the author do not enjoy the protection fixed by Art. 11, unless the true name of the author or his recognised literary name appears on the title-page, under the dedication, or at the end of the preface.

In collective works it is sufficient for the protection of each article if the name of the author be indicated at the commencement or end of the article.

Pseudonymous or anonymous works which show the date of their first publication are protected for fifty years from this date. If, however, during this fifty years the name of the author has

Anonymous
works.

(s) By which the exclusive right of publishing laws, &c. is reserved to the State: "Lois françaises et étrangères," par M. Lyon-Caen.

- PART V.
HUNGARY.**
- Posthumous works.** been declared and registered, the period of protection is calculated according to Art. 11.
- Art. 14.* A posthumous work is protected for fifty years from the death of the author. If the work be published for the first time more than forty-five years from the death of the author, but within fifty years, it enjoys protection for fifty years from publication.
- Academies.** *Art. 15.* Academies, universities, corporations, and other persons legally constituted, as well as educational establishments, enjoy, in so far as they can be considered authors of works published by them, protection for thirty years from the first publication.
- Works in parts.** *Art. 16.* In the case of works appearing in several volumes or parts, the period of protection runs from the first publication of each volume or part.
- In the case of works which treat of one and the same subject in several parts or volumes, and which consequently must be considered as forming a single whole, the period of protection runs from the publication of the last part or volume. If, however, more than three years have elapsed between the publication of different volumes or parts, the parts or volumes already issued will be considered as an independent work, and the subsequent parts or volumes as a new work.
- Translations.** *Art. 17.* The prohibition against translation lasts, in the case of Art. 7 (2), for five years from publication of the original work, and in the case of Art. 7 (3) five years from the first publication of the authorised translation.
- Art. 18.* The period of protection fixed by the preceding articles runs from the 1st January after first publication or the death of the author.
- Remedies and procedure.** *Arts. 19 to 23* relate to remedies, and *Arts. 25 to 35* to procedure. Proceedings must, generally, be instituted within three years after the offence has been committed. (*Arts. 36, 37.*)

Registration.

- Registration.** *Art. 42.* The register, in which registration is to be made according to Arts. 7, 13, 55, and 65, is kept at the Ministry of Agriculture, Trade, and Commerce.
- Art. 43.* Registration is made on the verbal or written request of the interested without preliminary examination into the truth or lawfulness of the facts stated.

Art. 44. Any person may inspect the register, and require verified extracts to be delivered to him.

The registrations effected are to be published in a paper to be determined by such minister.

The registration of works appearing in Croatia-Slavonia, as also the works of persons within the jurisdiction of those countries appearing in a foreign country are also to be published in a paper appearing in Croatia-Slavonia to be selected by the Ban.

It is the duty of the Minister of Agriculture, &c. to make rules for the registration procedure.

CHAP. II.—*Musical Works.*

Art. 45. The provisions of Arts. 1 to 6, and 9 to 14, apply to authors of musical works in reference to their rights of reproduction, publication, and sale. Musical works.

Art. 46. The following are infringements: Every arrangement of a musical work published without the consent of the author which cannot be considered as a composition in itself, notably extracts from musical works; the transcription of a musical work for one or more instruments or voices; in addition, the reproduction without artistic variation of several motifs or melodies drawn from one and the same composition. Infringement.

Art. 47. The following are not considered infringements: The quotation of isolated passages from a musical work which has already been published; further, the insertion of musical works of small extent, within limited bounds fixed by the end in view, in an independent scientific work, or in a collection of different works put together exclusively for schools and education. In addition, the author, or the source from which the *morceau* is taken, must be indicated. If this is not done, Art. 24 applies.

Art. 48. Further, the use of a published work as a text for a musical composition, when the text is printed with the composition, is not to be treated as an infringement.

Words which by their very nature are only intended to be set to music, such as the words of an opera, an oratorio, &c., are excepted. These can only be set to music with the consent of the author. The author is considered to have given his consent if he has handed over the text to a composer without any reservation.

For the publication of the text without music, the special permission of the author of the text or his assign is necessary.

PART V.
HUNGARY.

CHAP. III.—*Representation or Performance of Theatrical Works and Operas.*

Theatrical works.

Art. 49. The exclusive right of representation or performance of theatrical or musical works, or operas, belongs to the author.

Art. 50. Theatrical and dramatic musical works cannot be represented on the stage without the consent of the author, even if they have been printed or are to be found on the market.

Overtures, entr'actes, or other parts taken from these works may be performed off the stage without consent.

Art. 51. Musical works which have been reproduced and put on the market can be represented or performed publicly, even without the author's consent, when the author has not reserved the right of performance on the title page or at the beginning of the work.

Art. 52. When a work has several authors, pars. 2 and 3 of Art. 1 may be applied to the public representation or performance, with the qualification that for the performance of musical works accompanied by words, including operas, the consent of the composer is in general sufficient, and for the performance of these works without music the consent of the composer is not sufficient.

Art. 53. The person who lawfully translates a dramatic work enjoys legal protection as to the public representation of his translation.

Art. 54. The public representation of an unlawful translation (*t*) or arrangement (*u*) is considered infringement.

Art. 55. Arts. 11 to 18 are applicable in relation to the duration of the right of public representation or performance.

Pseudonymous works or works performed without indication of the author's name (*x*), enjoy, when they have not yet been published, protection for fifty years from their first representation.

But when either the author or the assignee of a pseudonymous or anonymous work, has declared the true name of the author, for purposes of registration, within fifty years, or when the author publishes within this period, his work under his true name, the duration of protection is calculated according to Art. 11.

Art. 56. The person indicated as author in the announcements of the representation may be considered as the author of dramatic,

(*t*) Art. 7.

(*u*) Art. 46.

(*x*) Art. 13, par. 1.

musical, and dramatico-musical works not yet published, but already publicly represented or performed.

Art. 57. Any person who intentionally or negligently represents or performs publicly, without being entitled so to do, a dramatic, musical, or dramatico-musical work, in entirety or with unimportant alterations, is under the obligation to the author or his representatives of making good the damage, and is punishable with the fine fixed by Art. 19.

Art. 20 is applicable to the author of an unlawful representation or performance, but so that the amount of the confiscation shall be fixed in conformity with Art. 58.

Art. 58. The gross receipts from the unlawful representations or performances may be payable by way of damages, without deduction of expenses.

If the work has been represented or performed together with other works, the proportionate part of the receipts shall be taken as the amount of compensation.

When there have been no receipts, or their amount cannot be ascertained, the judge shall estimate the damages.

When there has neither been intention to infringe nor negligence on the part of the offender, no penalty is applicable, and he is only liable in damages to the extent of his profits.

Art. 59. Arts. 3, and 25 to 44, are also applicable to the public representation and performance of dramatic, musical, and dramatico-musical works.

CHAP. IV.—*Works of Art.*

Art. 60. The exclusive right of reproducing, in whole or in part, of publishing and selling works of the figurative arts, drawing, engraving, painting, and sculpture, belongs to the author. Works of art.

Art. 61. The reproduction of such works shall be considered an infringement, when it takes place without the author's consent, and the copies are intended for sale. Infringement.

Also, when the original work is reproduced in another art or style.

When the reproduction is not taken directly from the original, but from some copy.

When a work of the figurative arts is imitated in works of architecture, trade, or manufacture.

When the author or publisher makes a reproduction contrary to his agreement or the law.

PART V.
HUNGARY.What not
infringe-
ments.

When the publisher causes a larger number of copies to be made than he is entitled to make under his agreement.

Art. 62. The following are not infringements:—

- (1) An arrangement by means of which one derives several new works from one original.
- (2) Isolated copies not intended for sale. On such copies there must not be indicated the signature, the name, or the initials of the author's name, under the penalties fixed by Art. 19.
- (3) The reproduction in another art, of works placed in perpetuity in streets, public squares, and other public places of the same kind (*y*).
- (4) The reproduction of detached works of the figurative arts, within limited bounds fixed by the end in view, to explain a work essentially literary.

Art. 63. A person who lawfully reproduces the work of another in a different style will be considered an author in respect of the work created by him, even if the original work have become public property.

Art. 64. When an author alienates his work, the right of reproduction will not be considered as included in the alienation.

In the case of portraits and busts to order, this right belongs to the giver of the order.

The owner is not bound to send back the work to the author or his representative in order that he may reproduce it.

Art. 65. In other respects, Arts. 3, and 11 to 44, are applicable to creations of the figurative arts, to their authors, and to the publication of these works periodically or in a collection.

In respect to works already published, protection is allowed in conformity with Art. 13, varying with the rules according as the name of the author has been indicated on the work or not, and as the want of indication has been cured or not by registration.

Art. 66. The provisions of this law are not applicable to works of architecture or to works of the figurative arts transferred on to articles of manufacture.

(*y*) See cases decided under Art. 11 of the Swiss law of 1883, *post*.

CHAP. V.—*Geological or Geographical Charts, Drawings, and Diagrams of Natural History, of Geometry, of Architecture, and other Technical Drawings and Diagrams.*

Art. 67. Arts. 1 to 44 of this law apply to geological and geographical charts, drawings, and diagrams of natural history, of geometry, of architecture, when from their purpose they cannot be considered works of the figurative arts. But Arts. 60 to 66 of this law are applicable when from their purpose the works come under the latter head. Maps, technical drawings, &c.

Art. 68. The insertion of drawings and diagrams in a literary work when they only serve to explain the text are not to be considered infringements, provided that the author or the source be expressly indicated.

CHAP. VI.—*Photographs.*

Art. 69. The exclusive right of reproducing by a mechanical process, of publication, and of offering for sale a work obtained by photography, belongs to the author of the original work during the period fixed by Art. 70. Photographs.

For the existence of this exclusive right, there must be indicated on each copy of the impressions or reproductions (1) the name or firm and the address of the author or publisher of the original publication; (2) the year in which the impressions or reproductions were first published.

Art. 70. The protection secured by this law belongs to the author of a photographic work or his representatives during five years from the expiration of the year in which the original first appeared. Duration.

If the impression or reproduction has not been published, the period of five years runs from the end of the year in which the original of the photographic publication was obtained.

The provisions of Art. 16 apply to photographs of works which have come out in several volumes.

Art. 71. The reproduction of a photographic work by a mechanical process without the consent of the rightful owner, and for a commercial purpose, is considered an infringement.

Art. 72. The right of reproduction of portraits obtained by photography belongs exclusively to the person who gives the order.

Art. 73. The following are not considered infringements: (1) Using a photograph so as to create new works different from the original work. (2) The reproduction of a photographic work

PART V.
HUNGARY.

by applying it to an industrial product. (3) The reproduction of a photograph in another article.

Art. 74. A person who reproduces a photographic work of another in a different art is considered as the author of the work created by him, agreeably to Art. 63.

Art. 75. Arts. 3, 8, 19 to 44, and 68, are applicable to photographs.

By Art. 79 it is provided that the law shall apply to the works of Hungarian citizens, even though they have appeared in a foreign country.

Rights of Foreigners in Austria-Hungary.

Neither Austria nor Hungary is a party to either the original, or the revised, Berne Convention. The right of either country to do so, independently of the other, is recognised by the Protocol of 1907 to the treaty of 1884 (*z*), but it is obviously desirable that, if possible, the two countries should act in concert. There is considerable agitation in favour of adhering to the Convention, and a new Hungarian law has recently been framed with a view to bringing the legislation of that country into line with the provisions of the Revised Convention, but in Austria the meagre protection afforded to translations by the law of 1895 (*a*) is the main obstacle in the way of her adherence to the Convention.

In the meantime, by Art. 2 of the law of 1895, the rights of foreigners in Austria are to be regulated solely by treaty (*b*). As regards Hungary, Art. 79 of the law of 1884 expressly declares that that law is not to apply to the works of foreigners, except (*a*) works of foreigners published by native publishers, and (*b*) works of foreigners who have lived in Hungary at least two years continuously and have paid taxes without break.

Austria is a "proclaimed" country entitled to the benefit of the American Copyright Act, 1909.

Austria and Hungary have joint treaties with the following countries:—

France	11th December, 1866.
Germany	30th December, 1899.
Great Britain	24th April, 1893 (<i>c</i>).
Italy	8th July, 1890.

(*z*) *Ante*, p. 394.

(*a*) *Ante*, p. 397.

(*b*) There is a slight modification in favour of German works, but this is of no present moment, as there is a subsisting treaty between Austria and Germany.

(*c*) The text of this treaty will be found in Appendix B., *post*.

Austria has concluded separate treaties with the following countries:—

Denmark	18th July, 1907.
Roumania	2nd March, 1908.
Spain	13th April, 1912.
Sweden	17th May, 1908.
Switzerland	10th July, 1914.

The only separate treaty negotiated by Hungary is one with the United States (30th January, 1912), whereby mutual protection is granted, subject to the fulfilment of the conditions and formalities prescribed by the law of the country in which protection is sought, the term of protection being likewise regulated by the same law.

NORWAY.

The law of literary and artistic copyright in this country was till 1876 very incomplete, the enactments on the subject being numerous, fragmentary, and passed at various dates between the years 1839 and 1875. The law of 8th June, 1876, and the two laws of the 12th May, 1877, consolidated the whole; but in the year 1893 these were repealed, and a new law was passed with a view to enabling Norway to become a party to the Berne Convention. The law referred to is a law of 4th July, 1893, which repealed all previous laws. In order to bring the Norwegian legislation into line with the provisions of the Revised Convention of 1908, this law was amended by a law of 25th July, 1910, and, as amended, its principal provisions are as follows (*d*):—

Legislation
before 1893.

Within the limits of the present law, an author has the exclusive right of publishing his writings by copying his manuscript, by reproduction by means of mechanical or chemical process, including reproduction with the aid of mechanical instruments, by dramatic representation, and by cinematograph performance, or any other analogous performance, by recitation, or any other reproduction in aid of language. But if the work be published, an author must specially reserve the right of public recitation (other than of a dramatic character) by notice on the title page or commencement of the work. (Art. 1.)

Origin and
extent of
copyright.

Copyright also extends to (a) speeches; (b) musical compositions; (c) mathematical, geographical, and topographical designs,

(*d*) Taken from the French translation in "Le Droit d'Auteur," 1910, p. 146.

PART V.
NORWAY.

natural, technical, and other histories, also graphic and plastic representations which cannot be considered as works of art; (d) cinematograph and analogous productions, which by their arrangement or combination of incidents represented, constitute essentially new and original works. (Art. 2.)

Publishers of journals, periodicals, and works comprising contributions by several collaborators have the exclusive right of publishing the whole work, but, in the absence of agreement to the contrary, the author preserves his copyright in his contribution. (Art. 3.)

Translation.

Translation of a work is forbidden without the consent of the proprietor of the copyright. (Art. 4.)

Anyone who translates, dramatises or adapts a work in another manner, or who reproduces it by a cinematograph performance, or by the aid of mechanical instruments, obtains copyright in his translation, adaptation or reproduction, subject to the rights of the author of the original work. (Art. 5.)

Arts. 6 and 7 regulate the rights of co-authors *inter se*.

Copyright
in public
documents.

There is no copyright in laws, ordinances, judicial decisions, and public documents; nor in speeches delivered in representative assemblies, political speeches, and such like. (Art. 8.)

Assignment
of copyright.

Copyright may be assigned in whole or in part. Assignment of the right to publish a work in a particular manner does not imply a right to publish in any other manner, nor to dramatisate, translate, or adapt it. Nor may the transferee make alterations in the work without the author's consent. This clause also contains provisions regulating the rights of authors and publishers *inter se*. (Art. 9.)

A person to whom an author has granted the right of performing a dramatic or mimic or dramatico-musical work, or the right of public performance of a musical work, or the right of cinematograph exhibition, has, in the absence of stipulation to the contrary, the right to represent, exhibit or perform the work in what manner and at what times he pleases, but he cannot grant this right to others. In the like absence of stipulation to the contrary, the author preserves the right to grant similar rights to others and to represent, exhibit or perform the work himself. When an author grants the *exclusive* right of representation, exhibition or performance, if the assignee does not represent or perform, as the case may be, for five consecutive years, the author and his heirs can either themselves perform, exhibit or represent or grant these rights to others. (Art. 10.)

On the death of an author his copyright devolves in accordance

with the general law, and in the case of unpublished MSS. an author may, by will, give directions as to publication. (Art. 11.)

Creditors have no rights in respect of unpublished MSS., and only after the death of the author can they have the right to compel a re-edition. (Art. 12.)

Not only is the reproduction of an entire work a piracy, but also reproductions which take the form of abridgements, additions, or alterations, including dramatizations and adaptations, unless these result in producing an essentially new and original work. (Art. 13.)

The following are not piracies: (1) Insertions of short detached portions of published works in a work which, taken as a whole, constitutes an original work; (2) analogous utilization, after ten years, in collections from the works of various authors or composers intended for use in churches, schools, and for elementary or general education; (3) reprinting, as the libretti of musical compositions, or upon concert programmes, detached poems of short length, with a view to public performance of musical compositions, or of reproducing the same with the aid of mechanical instruments; (4) reprinting, as explanatory text to artistic illustrations, poems and short pieces of prose, provided the illustrations are the essential part of the work and that at least two years have elapsed since the first publication of the writing; (5) the public performance of songs, dance music, and isolated musical compositions of short length, otherwise than in a performance of a dramatic character, also gratuitous or charitable performances of other musical works.

In all the above cases the source must be clearly indicated. (Art. 14.)

Newspapers and reviews may reproduce, in the original language or in translation, detached articles or communications from other newspapers or reviews, unless the right of reproduction has been specially reserved (*e*). The source must be clearly indicated. (Art. 15.)

The penalty for not indicating the source as provided by Arts. 14 and 15 shall be a fine only. (Art. 20.)

Arts. 16 to 20 state the remedies against piracy, namely, a fine and destruction of copies and the instruments for manufacture thereof. If, however, the defendant has acted in good faith he can only be made to pay the amount of his profits, and infringe-

(*e*) It is not very clear whether this Article does or does not apply to short stories and tales.

PART V.
NORWAY.

ments are to be sequestrated during the continuance of the copyright.

Duration of
copyright.

The period of protection is during the life of the author and fifty years from the end of the year of his death. (Art. 21.) Anonymous and pseudonymous works are protected for fifty years from the end of the year of first publication, but the author can obtain protection for the full period by making known his true name in the manner prescribed. (Art. 22.)

Recitation of a work is lawful, provided it does not take the form of a dramatic performance, as soon as a period of three years has elapsed since the end of the year in which the work first appeared. (Art. 24.)

Artistic
copyright.

Within the limits of the present law, an artist has the exclusive right of selling or publishing reproductions of his work or any part of it. It makes no difference whether the reproduction requires an artistic faculty or is by a purely mechanical or chemical process. No one can, without leave of the artist, utilise for an architectural work original architectural designs any more than designs, models, &c. which have been executed according to original designs. (Art. 25.) Works of architecture themselves are not protected.

Any one lawfully reproducing a work of art in another artistic form, has the same copyright in his reproduction as in an original work of art. (Art. 26.)

Art. 27 relates to the rights of co-artists *inter se*.

Assignment.

An artist can assign his copyright in whole or in part. In the absence of agreement to the contrary, the assignment of a work of art does not imply a right to make copies, but this right still belongs to the artist. In the case of commissioned portraits, however, whether paintings or sculptures, the artist cannot exercise his right without the consent of the person who has given the commission. The right to reproduce in a particular manner does not imply a right to reproduce in any other manner. When a work of art has been published in a journal or periodical, in the absence of contrary stipulation, the artist preserves the right to publish in any other way. (Art. 28.)

Unpublished works of art are protected from the artist's creditors. (Art. 30.)

Piracy.

Reproduction or utilization of a work of art belonging to another is not rendered lawful by reason of its being reproduced in another size or with other materials than the original, nor is it lawful to reproduce from a lawful copy or to reproduce with

modifications, additions, or curtailments, unless an essentially new and original work is thereby produced. (Art. 31.)

PART V.
NORWAY.

On the other hand, it is not a piracy to reproduce works of art detached and inserted in critical works or works of artistic history in connection with, and to explain the text. But the name of the artist must always be mentioned. (Art. 32.) The penalties are the same as in the case of literary copyright. (Art. 33.)

The period of protection is the life of the author and fifty years from the end of the year of his death. In the case of collaborations the fifty years are reckoned from the death of the last survivor. (Art. 34.)

Duration.

Actions for infringement can only be brought by the injured party, but in the case of anonymous or pseudonymous works the publisher is, until the contrary is proved, authorised to sue on behalf of the author. (Art. 35.)

Copyright in photographs is regulated by a law of 11th May, 1909, repealing an earlier law of 12th May, 1877, of which the following are the main provisions:—

Photographic
copyright.

Copyright in a photograph gives the exclusive right to the author of reproducing the same by any process whatever, also of selling or otherwise circulating copies. In the case of photographs of works of art protected by the law of 4th July, 1893, the consent of the proprietor of the artistic copyright must be obtained. (Art. 1.)

Every copy must have either on the work itself or the mount the word "Eneret" (exclusive right) and the name of the proprietor of the copyright. (Art. 2.)

Conditions.

In the case of photographs executed to order, the person who orders the same obtains the copyright. Portraits can only be copied with the consent of the sitter. (Art. 3.)

Commis-
sioned
photographs.

If photographs are published in a collection the publisher has copyright in the complete collection, but the proprietor in the separate photographs, in the absence of contrary agreement. (Art. 4.)

The following are not piracies:—

Not piracy.

- (a) Utilization of a photograph so as to produce an essentially new and original work;
- (b) Reproduction for personal use only, but the copy must bear the word "Eneret" and the name of the proprietor of the copyright;
- (c) Reproduction of isolated copies in books published for the use of schools or with a scientific object, but the copy

PART V.
NORWAY.

must, if possible, bear the word "Eneret" and the name of the proprietor of the copyright. (Art. 5.)

Portraits.

Portraits over which no copyright exists cannot be reproduced without the consent of the person represented, but they may be exhibited by the photographer in the way of business, unless expressly forbidden. Other photographs executed to order may be reproduced unless expressly forbidden. (Art. 6.) Portraits of actual or general interest, pictures in which the persons represented only appear as accessories, and photographs of assemblies, open-air processions, or of situations and events of general interest may be reproduced without the consent of the persons represented (Art. 7): likewise where required in the interests of justice or public security. (Art. 8.)

Copyright may be assigned. (Art. 9.)

Duration.

The term of copyright is the life of the author and fifteen years from the end of the civil year in which the first proprietor of the copyright dies, but in the case of joint proprietors the fifteen years is to be calculated from the end of the year in which the last of such proprietors dies. If, however, the photograph is of an artistic work protected under the law of 1893, copyright lasts so long as the copyright in the artistic work subsists, if the latter period exceeds that conferred by this present law. The copyright in photographs published by a firm terminates fifteen years after the expiration of the year in which the work was first published. (Art. 10.)

Remedies.

Arts. 11 to 15 relate to procedure and remedies for infringement which are similar to those provided in the case of piracy of a literary or artistic work.

Limitation
of time for
proceedings.

All proceedings, under either Act, must be brought within a year of discovery of the piracy, and, in any case, within two years from the illegal act being committed in proceedings for a penalty or within three years in other proceedings, except that confiscation may be ordered so long as the copyright subsists.

Retro-
activity.

The laws of 11th May, 1909, and 25th July, 1910, both contain provisions relating to their retroactivity. The law of 11th May, 1909, applies to photographs produced both before and after the 1st January, 1910 (the date when the law came into force), but without prejudice to reproductions lawfully commenced prior to the passing of the law. The amending law of 25th July, 1910, came into force on the 9th September, 1910, and applies to works produced before and after that date, but the extended period during which the right of translation is now protected does not apply to books on sale more than ten years prior to the last-men-

tioned date: the provisions of Art. 14 (5) do not apply to musical publications previously published where the right of public performance is forbidden: and any work which had previously been adapted to mechanical instruments may be adapted by anyone in like manner, and copies may be sold, reproduced, and publicly performed (*f*).

PART V.
NORWAY.

Rights of Foreigners.

With regard to literary and artistic works, the 37th Article of the law of 4th July, 1893, as amended by the law of the 25th July, 1910, provides as follows:—

Literary
and artistic
works.

“The present law applies to all works of Norwegian subjects, and also to works of foreigners published by a Norwegian publisher. A publishing house is deemed Norwegian when all the partners or, in the case of companies, when all the directors are domiciled in Norway.

“Under conditions of reciprocity, the provisions of this law can be rendered applicable by royal decree to works published for the first time in other countries, to unpublished works of the subjects of such countries, and, according to circumstances, to all works protected in another country as though they were the works of natives.”

Art. 17 of the law of 11th May, 1909, contains a similar provision as to photographic works of foreigners.

Photographs.

Norway adhered to the Berne Convention on the 13th April, 1896, but she did not ratify the Additional Act of Paris. She ratified the Revised Convention of 1908 on the 9th September, 1910, subject to reservations as to works of architecture, newspaper articles, and retroactivity, in which matters she relies upon the provisions of the Berne Convention. She has a treaty with France of the 30th December, 1881, and with Italy of the 9th October, 1884. Denmark enjoys copyright in Norway by virtue of a Declaration dated the 27th November, 1879, Sweden by virtue of royal decrees dated the 16th November, 1877, and 4th February, 1887, and the United States by a royal decree dated the 25th May, 1905. Norway is a “proclaimed” country in the United States, and entitled to “the benefit of the United States Copyright Act, 1909, both generally and in respect of mechanical music.”

(*f*) The main alterations to the law of 4th July, 1893, made by the law of 25th July, 1910, are with regard to mechanical instruments, and to the right of translation (except into a dialect) being previously permitted after ten years from first publication (see Copinger, 4th ed. p. 607).

PART V.
SWEDEN.

SWEDEN.

Literary
copyright in
Sweden.

Copyright in this country was formerly perpetual. Literary copyright is now regulated by the law of 10th August, 1877, as modified by the laws of the 10th January, 1883, and 28th May, 1897, 29th April, 1904, and 17th June, 1908. The law resembles in many points the laws of Norway and Denmark. Artistic copyright is governed by another law of the 28th May, 1897, and photographs by a third law of the same date. The law of the 10th August, 1877, modified as above mentioned, applies to works already published before the date of its coming into force on 1st January, 1878, and repeals previous laws. Its principal provisions are as follows:—

What
protected.

Art. 1 (as modified by the law of 28th May, 1897). For the purposes of this law the following are assimilated to works of literature, viz., musical compositions, drawings of natural history, geographical and marine charts, maps, architectural drawings, and all works which, having regard to their principal object, cannot be classed as mere works of art.

Persons
protected.

The author has the exclusive right to reproduce his works by printing, including photo-chemical processes, whether the works are already published or in manuscript.

Art. 2. The author's right recognized by Art. 1, includes also the exclusive right of reproducing by printing a translation of his work from one dialect into another of the same language. Swedish, Norwegian, and Danish in this respect are considered different dialects of the same language.

Translations.

Art. 3 (as modified by the laws of 16th January, 1883, and 28th May, 1897, and 29th April, 1904). Works of literature published by the author simultaneously in various languages, to be indicated on the title-page or the beginning of the work, are deemed to be written in each of these languages. Publication by means of printing into any other language without the author's permission, is forbidden for a period of ten years from the date of the original publication (*g*).

Art. 4. The translator of a work into another language enjoys in his translation the same rights as the author of an original work, provided such translation can, under the provisions of this law, be published without the author's consent, and subject to the right of any other person to translate the same original work.

(*g*) This clause as finally modified by the law of 29th April, 1904, conforms with the provisions of the original Berne Convention. This law applies to writings published before the date of its coming into force (1st July, 1904) with a saving for rights acquired previously.

During the period when the translation cannot be published without the author's consent, a translator having such consent has the rights of an author in his translation, subject to any restrictions imposed by the agreement with the author.

PART V.
SWEDEN.

Art. 5. The publisher of a periodical or other work composed of distinct articles by different authors, is considered as an author, but has no right to reproduce such articles separately. One year (*h*) after the publication of each article the author may reproduce the same.

Publishers of periodicals.

Copyright lasts for the life of the author and fifty years 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. (*Art. 7.*)

Duration.

Works published by learned societies or other associations, also works first published after the death of their author, are protected for fifty years (*i*) 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, either upon the title-page of a new edition or by declaration with the Minister of Justice, or by triple insertion in the official "Gazette," acquire the full period of protection. Until the author so discloses his identity, he is represented in the exercise of his right, by the person designated on the title-page as the publisher. (*Art. 8, as modified by the law of 28th May, 1879.*)

Corporations.

In the case of writings published in several parts or connected divisions, the period of protection runs from the beginning of the year of publication of the last part. If one part has been published more than two years (*i*) after the preceding part, the period of protection for that and earlier parts runs from the year in which the last of the previous parts was published. (*Art. 9. A new clause under the law of 28th May, 1897.*)

Works published in parts.

There are no provisions as to registration in this law.

Registration.

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.

Alienation of copyright.

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 1,000 copies in that edition. (*Art. 6.*)

(*h*) Counting from the 1st January after publication. (*Art. 21.*)

(*i*) Counting from the 1st January following publication. (*Art. 21.*)

PART V. SWEDEN.	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 legalise such piracy.
Piracy and infringement.	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. (Art. 10.)
Piratical translations.	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, criticism, or illustration, provided the source be acknowledged. The reproduction of passages, or even a whole writing, if of short length, in a collection composed of extracts intended for religious purposes or elementary instruction, or for historic exposition, is no piracy, nor is printing words as the libretto of a musical composition. <i>But none of these matters is lawful if the original was intended to be included in a like collection intended for elementary instruction, and a notice prohibiting reproduction has been placed at the top of such original (1).</i> But when the writing of another is taken for profit, the author must be quoted when his name is given in the original work. Neither is it piracy to reproduce in a periodical publication extracts from another periodical, provided the source be acknowledged. But scientific articles and <i>ouvrages d'esprit</i> of considerable extent are excepted, if the reservation of copyright be expressed at the head.
What is not piracy.	No dramatic or musical dramatic work, either in the original or in a translation which may not be published without the author's consent, can be publicly 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, unless the work be unpublished or there be a reserve of the right of public performance on the copies of the work. An authorised translator exercises, in respect of his translation, the author's rights.
Representation of dramatic and musical works.	The person having a right of public representation 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 authorisation to others if there be no agreement to the contrary. When a proprietor has granted the exclusive right of representation to another,

(1) The words in italics were added by the law of 1908.

and such grantee has failed to make use of his privilege for five consecutive years (*m*), the proprietor is again at liberty to grant the right of representation to others. (Art. 13, as modified by the law of 1897.)

The above rights of the author or translator in respect of representation last for his life and thirty years (*n*) after his death. If the author or translator has not disclosed his identity, the representation is open to any one at the end of five years from the first representation or the first publication. (Art. 14.)

Persons guilty of piracy under this law are liable to a fine, to confiscation of pirated copies, and to make compensation in respect of copies sold, or in case of infringement of dramatic or musical rights, to pay over the gross proceeds of the representation to the proprietor of the copyright. If it is impossible to assess the damages on the basis mentioned, the amount is to be determined on equitable considerations, but the minimum damages are to be twenty-five crowns.

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.

Artistic copyright in Sweden is now governed by another law of 28th May, 1897, replacing the earlier law of 3rd May, 1867. The law of 25th May, 1897, provides:

Art. 1. 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.

Art. 2. Every person has the exclusive right of causing the reproduction, in whole or part, for sale or public exhibition, of original works executed by him by printing, photography, casting, or other analogous means. This right lasts till the end of the tenth year after the artist's death, and can be assigned, with or without conditions or restrictions.

Art. 3. Reproduction is permissible in a scientific journal or

(*m*) Dating from 1st January after the last representation. (Art. 21.)

(*n*) Reckoned from the 1st January following death. (Art. 21.) The period was life and five years until the law of 29th April, 1904, was passed.

PART V.
SWEDEN.

a journal intended for instruction, provided the source be acknowledged.

Art. 4. If a work of art be sold, the artist or his representatives do not lose their rights, unless the sale be to the State or a Commune. A commissioned portrait may not be reproduced by the artist without the authority of the person who has given the commission. The provisions of this clause may, however, be raised or negated by agreement.

Art. 5. Works of art exposed in public places or outside buildings may be reproduced (*o*).

The penalties and remedies provided by this law are similar to those provided in the case of infringement of literary copyright.

The law came into force on the 1st January, 1898, and is retrospective in its operation, subject to existing rights. All works of art acquired by the State or Communes before the 1st January, 1898, can be freely reproduced. (*Art. 13.*)

Photographs. Photographs were not protected in Sweden before the passing of a third law of 28th May, 1897:

Art. 1. Copyright for five years from the year of publication is granted to a photographer in respect of a photograph, but in order to obtain protection every copy of the photograph must have indicated upon it the name and address of the photographer and the year of first publication.

Art. 2. Reproduction is permissible in a scientific or educational work; but it must bear the same indications as provided in the last clause.

Art. 3. In the case of commissioned photographs (*p*), the copyright vests, in the absence of agreement to the contrary, in the person who gives the commission, and the photographer cannot reproduce it during the period of protection.

Similar penalties are provided by this law for infringement as in the cases of infringement of literary and artistic copyright.

This law came into force on the 1st January, 1898, and is not retrospective.

(*o*) The analogous clause in the repealed law of 3rd May, 1867, gave liberty to reproduce works of art belonging to the State or Communes. By *Art. 13* this right is preserved in the case of works of art acquired before 1st January, 1898. As to the meaning of a "public place," reference to the decisions under the similar clause in the Swiss law (*post*) may be useful.

(*p*) Not confined, apparently, to portraits.

*Rights of Foreigners.*PART V.
SWEDEN.

The three laws of 28th May, 1897, apply to literary, artistic, and photographic works of foreigners published for the first time in Sweden, and on condition of reciprocity may, by royal ordinance, be extended to works of foreigners published abroad.

In the year 1904 Sweden joined the Copyright Union, according to the Berne Convention of 1886 and the "Interpretative Declaration" of Paris, 1896, but not to the "Additional Act" of Paris of the same year. She has not yet acceded to the Revised Convention of 1908, and international relations between Sweden and the other countries of the Copyright Union consequently are still governed by the original Berne Convention and the "Interpretative Declaration" above referred to.

Sweden has special treaties with Norway and Denmark (1877, 1879, 1881), with France (1881), and with Austria (1908). In the year 1911 she was "proclaimed" as a country entitled to the benefit of the United States Copyright Act, 1909.

DENMARK.

Literary and artistic (other than photographic) copyright in Denmark is governed by a recent law of the 1st April, 1912, which re-enacts, with certain alterations, an earlier law of the 19th December, 1902. Photographic copyright is governed by a law of 13th May, 1911, which repealed an earlier law on the subject of the 24th March, 1865. The chief provisions of the law of 1912 are as follows:—

Art. 1. Within the limits of this law an author has the exclusive right of publishing his writings or oral addresses by means of (a) manuscript copy; (b) reproduction by mechanical or chemical process; (c) dramatic representation, including mimic or cinematographic representation; (d) reproduction by mechanical instruments; (e) reading, recitation, or other analogous means, provided that this shall be permissible when the representation is not of a dramatic character, and has not expressly been forbidden on the title-page or heading of the work.

Literary
copyright.

Art. 2. An author has the like rights in respect of (a) ballets, pantomimes, and other works of dumb show; (b) musical compositions (*q*); (c) mathematical, geographical, topographical designs, technical and other designs, which cannot be considered as works of art.

(*q*) But see Art. 14 (*g*) and (*h*).

PART V.
DENMARK.

Art. 3. The publishers of newspapers, periodicals, and other collective works, have the copyright in the entire work, but, in the absence of stipulation to the contrary, the author of a particular contribution preserves his copyright in the same.

Translations.

Art. 4. A work may not be translated, without the author's consent.

Art. 5. Translations, dramatisations, collections, adaptations, &c., are protected as original works.

Arts. 6 and 7 deal with the rights of joint proprietors, whether originally or by devolution, and the method of determining disputes between them.

Art. 8. Laws, ordinances, decisions of the Courts, and other public documents are not the subject of copyright, nor are written or oral debates of constitutional, municipal, ecclesiastical, or other public assemblies.

Assignment
of copyright.

Art. 9. Copyright may be assigned in whole or in part. Assignment for the purpose of publication in a particular manner does not imply a right to publish in another manner nor does it include the right to dramatise or to authorise translations or adaptations. The assignee may not publish in a modified form, without the author's consent, and a publisher has, in the absence of contrary agreement, the right to publish one edition only, not exceeding 1,000 copies.

Art. 10. Any one to whom is granted the right of public performance of a dramatic or musical work, including a mimic or cinematographic work, may, in the absence of contrary agreement, exercise his right when, and as often as he pleases, but he may not cede the right to others. In the like absence of agreement, the author may grant similar rights to others, or himself perform or execute his work. In any case, and even if he has granted the exclusive right, the assignment becomes void if no representation has been given for five years.

Art. 11. On an author's death his copyrights devolve according to the ordinary rules of law, and in the case of unpublished works the author may forbid, by will, their publication for a period not exceeding fifty years.

Art. 12. Unpublished works are protected from the author's creditors.

Infringe-
ments.

Art. 13. Besides reproduction of the entire work, abridgments, enlargements, or alterations, including dramatisations and adaptations, are piracies, unless they result in the production of an essentially new and original work. But advertisements (*anmeldelser*)

or succinct reports cannot in any case be infringements of the author's rights.

Art. 14. The following are not piracies: (a) insertion of short poems and detached fragments in a work constituting, on the whole, an original work; (b) utilization of short poems and detached fragments, two years after the end of the year of first publication, in reading and school books; (c) reprinting, for use in schools, of works previously published in foreign languages, or extracts therefrom, provided they be accompanied by translations of phrases or isolated words, or other annotations, and provided at least two years have elapsed since the work was first published; (d) reprinting, as the libretti of musical compositions, of isolated short poems, provided the same is not expressly forbidden; (e) reprinting, as the text of musical compositions or upon concert programmes, detached pieces of music of short length, to be used at the public performance of musical works; (f) reprinting poems and fragments of prose of short length to explain artistic illustrations, provided the illustrations are the essential parts of the work, and that at least two years have elapsed since the first publication of the work taken; (g) performances of dances or detached fragments of short length taken from published musical compositions, provided the performance does not partake of a dramatic character. The same as regards published songs when two years have elapsed since their first publication; (h) the performance, deprived of any dramatic character, of any published musical compositions when either the audience is admitted free, and the performance has not been organised for the purpose of exploitation, or when the receipts are to be devoted to charity and the performers are not paid. In all the above cases the source must be clearly indicated.

Art. 15. Newspapers and reviews may copy from others articles or detached communications, acknowledging the source, provided the copyright be not specially reserved, and the matter taken be not a serial story, or novel.

Arts. 16 and 17 provide for penalties and confiscation in the event of piracy.

Art. 18 provides that the unlawful performance or public exhibition of dramatic, dramatico-musical works, ballets, pantomimes, and other works of dumb action (*r*) shall, if done wilfully and intentionally, render the performer liable to fine and damages.

(*r*) It is believed that these words are intended to cover cinematographic works which are not otherwise protected against public performance.

PART V.
DENMARK.

Duration.

Art. 19. In cases where the defendant has acted in good faith, he is only liable to pay over his profits.

Art. 21. The period of protection is the life of the author and fifty years after the end of the year of his death. In the case of collaborations, the fifty years date from end of the year of the death of the survivor.

Art. 22. Anonymous or pseudonymous works and works belonging to institutions and scientific societies are protected for fifty years from the end of the year of first publication, but the author of an anonymous or pseudonymous work can obtain the full period of protection by revealing his identity in the prescribed manner, before the fifty years have elapsed.

Art. 23. In the case of works published in parts the fifty years run from the publication of the last part, unless more than three years elapse between the parts.

Artistic Copyright.

Art. 24. Within the limits of this law an artist enjoys the exclusive right of publishing his original work of art, including works of architecture, or parts of the same, as well as any reproductions of the like works. The right applies to every kind of reproduction, whether the same implies artistic genius or is simply mechanical or chemical.

Art. 25. Lawful reproductions of original works of art enjoy protection as original works.

Art. 26 relates to the rights of collaborators *inter se*. The consent of all is required for publication or reproduction of the work.

Assignment.

Art. 27. An artist may assign his copyright, but in the absence of contrary stipulations, the transfer of a work of art does not include the right to publish reproductions, the artist retaining this right. Nevertheless, portraits may not be reproduced without the consent of the person represented or his relatives. The grant of a right to reproduce by certain named processes or manner does not confer the right to reproduce by other processes or in any other manner. When a work of art has been published in a newspaper or periodical, the artist has, in the absence of contrary agreement, the exclusive right of publishing in any other manner.

Art. 28. Upon the death of the artist, the rules laid down in Art. 11 apply.

Art. 29. Artistic works are not liable to the debts of the artist

unless he has, by exposing the same for sale or otherwise, indicated an intention to make the work public.

PART V.
DENMARK.

Art. 30. A reproduction is not rendered lawful by reason that it is of different size or materials from the original, or that it has been reproduced from a reproduction, or by reason of modifications, additions, or curtailments, unless an essentially new work is produced.

Infringe-
ment.

Art. 31. It is not piracy to reproduce detached works of art, in connection with letterpress and with the object of explaining it, in works of criticism, popular instruction, and artistic history, or in press reports of events of general interest; but the name of the artist must be mentioned. Views of streets or public places, or the exterior of public buildings, are not piracies.

Art. 32. Arts. 16, 17 and 19 apply to infringements of works of art.

Art. 33. Works of art are protected for the life of the artist and fifty years after the year of his death, to be reckoned, in the case of collaborations, from the year of death of the longest liver.

Duration.

Art. 34. In the case of anonymous and pseudonymous works, the editor-publisher named on the work is *primâ facie* authorised to protect the author's interests, and there is a presumption a person who is indicated to be such in the usual manner is the author.

Art. 35. Proceedings for infringement of copyright must be brought within a year of the discovery of the offence, and in any case criminal proceedings must be taken within two years, and other proceedings within three years from the date of the offence.

Photographs.

Copyright in photographs is regulated by a law of 13th May, 1911, which only gives a period of ten years for the protection of these works.

Art. 1 of this law is as follows:—

Whoever shall make on his own account an original photograph either from nature or from a work of art which is not protected by copyright shall have the right, during a period of ten years, to prevent any other person from reproducing for sale the photograph so made, provided that he presents at the time and in the manner prescribed by the Minister for Education a declaration reserving this exclusive right, and that he places at the same time on every copy his name and the word "Eneberettiget"

PART V.
DENMARK.

(exclusive property). If the photograph is executed to order, the consent of the person who has ordered the same is necessary, not only for the acquisition of the above-mentioned right, but also the right of delivering copies of the photograph.

Art. 2 provides for penalties, damages and confiscation of plates in the event of any infringement, and Art. 4, that proceedings must be instituted within a year and a day.

Rights of Foreigners.

Rights in the
absence of
treaty.

Art. 36 of the law of the 1st April, 1912, provides that that law shall apply to the works of foreigners published by a Danish publisher. The same article also provides as follows:—

“Under condition of reciprocity, the provisions of the present law may be rendered applicable, in whole or in part, by royal ordinance, to works produced by the subjects of other countries, even if those works are not published by a Danish publisher. But no reciprocal arrangement involving pecuniary obligations can be concluded without the authorisation of the Diet.”

Similarly, Art. 4 of the law of the 13th May, 1911, provides, with regard to photographs, that under conditions of reciprocity that law may be applied by royal ordinance “to photographs produced by the subjects (s) of another country.”

Treaties and
Conventions.

Denmark first became a party to the Berne Convention in the year 1903, and in the year 1912 she adhered to the Revised Convention of 1908, subject to a reserve as to newspaper articles and reviews, as to which she elected to remain bound by Art. 7 of the Convention of 1886, as modified by the Additional Act of Paris, 1896. Denmark is a “proclaimed” country entitled to the benefit of the United States Copyright Act, 1909, and she has treaties with Austria, France, Sweden and Norway.

Colonies.

Iceland has a local copyright law, dated 20th October, 1905, based to some extent upon the Danish law. Presumably, the Danish colonies are subject to the copyright laws of the mother country. In adhering to the Revised Berne Convention, Denmark included in her notice of adhesion the Faroe Islands, but excluded Iceland, Greenland and the Antilles.

(s) Not, apparently, therefore, to photographs first published in a foreign country by a person who is not a subject of that country. The official view, however, is, it is believed, that all persons entitled to the benefit of the Berne Convention are included in the phrase.

SPAIN.

Literary
copyright.

Copyright in Spain is now regulated by a 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 the life of the author and fifty years after his death.

The new law protects all scientific, literary, and artistic works which are capable of being published by any means whatsoever (*t*). (Art. 1.)

What
protected.

The persons protected are authors, translators (*u*), 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 (*x*) (Art. 2), 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 provincial and municipal corporations, scientific, literary, artistic, and other institutions. (Arts. 3 and 4.)

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 may regain his rights of ownership. (Art. 26.)

Anonymous
and pseu-
donymous
works.

Intellectual property is governed by the common law, without other limitations than are fixed by that law. (Art. 5.)

Proprietors of newspapers may assimilate their publications to literary works, by annually presenting three complete files to the Registry of Intellectual Property. (Art. 29.)

Newspapers.

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 in 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

Works
published in
periodicals.

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

(*u*) Translators are protected if the original work is foreign and no international treaties forbid; but if the original is Spanish the translator is only protected if the work has become public property, or the consent of the author has been obtained.

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

PART V.
SPAIN.

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. (Arts. 30—32.)

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 (*y*). (Art. 32.)

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 (*z*). 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 the remaining period of fifty-five years (*a*). (Art. 6.)

Posthumous works are those which have not been published in the life of the author, or having been so published, 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 be disputed before the courts, the question shall be submitted to experts. (Art. 27.)

Laws, &c.

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. (Art. 28.)

Infringe-
ment.

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.

In the case of a musical work this prohibition extends also to the total or partial publication of melodies, with or without accom-

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

(*z*) *Herederos forzosos*, i.e., heirs who cannot be deprived of their rights by alienation.

(*a*) This is believed to be the official view.

paniment, transposed or arranged for other instruments, or with different words, or in short arranged in any other form than that published by the author (*b*). (Art. 7.)

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. (Art. 8.)

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. (Art. 9.)

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. (Art. 10.)

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 Chamber (*diario de la sesiones*) of which he is a member, and in political newspapers. (Art. 11.)

Parliamentary
speeches.

If a translation be first published in a foreign country, with which there exists a treaty on intellectual property, the provisions of the treaty shall be consulted in order to solve questions which may arise. This law shall apply to cases unprovided for by the treaty. (Art. 12.)

Foreign
translations.

Art. 13. The owners of foreign works, the claim to protection of which is established in conformity with the laws of their country, shall also enjoy copyright 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.

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.

Art. 15. The rights conceded in Spain by Art. 13 to the owners of foreign works shall only apply to nations who treat owners of Spanish works with complete reciprocity.

Arts. 16 to 18 relate to the publication of documents used in

(*b*) Perhaps this Article is wide enough to cover adaptations to mechanical instruments.

PART V.
SPAIN.Dramatic
and musical
works.

legal proceedings. The consent of the Court and of the parties interested must be obtained.

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. (Art. 19.)

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. (Art. 21.) 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. (Art. 22.) The author of the libretto and the composer of the music have each the right of publishing separately his part of the work. If the author of the libretto interdicts all representation, the composer may apply the music to a new dramatic work. (Art. 23.) 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. (Art. 24.) The unauthorised 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. (Art. 25.)

Duration.

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

Works of
art.

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.

Registra-
tion and
deposit.

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

Registers are also to be opened in the provincial libraries, or, if there be none, in the libraries of the Establishments of Secondary Education in provincial capitals. In these registers there shall be entered chronologically the scientific, literary, or artistic works presented for registration; 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. (Art. 34.)

There is no charge for registration. Duty on assignments is to be fixed by the law. (Art. 35.)

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.

In the case of manuscript musical or dramatic works which have been publicly performed, it is sufficient to deposit a single manuscript copy of the literary portion and a manuscript copy of melodies with musical accompaniment (*c*). (Art. 36.)

Art. 38. If a work be 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 manuscript dramatic, lyrical dramatic, or musical work after public performance and deposit at the registry.
- (2) When the proprietor proves 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 registry, and the government must then summon the owner to reprint it within one year.

Art. 43. In the case of works published in successive parts, the periods fixed by Arts. 38, 39, and 40, shall run from the completion of the work.

Art. 44. The provisions of Arts. 38, 39, and 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.

Arts. 45 to 49 relate to remedies for piracy. The person liable is, in the first instance, the author, and, failing him, the publisher and printer successively, unless they prove their innocence. Remedies and procedure.

(*c*) By Royal Decree of 31st Jan. 1896, registration is rendered not essential but optional in the case of foreign works.

PART V.
SPAIN.

pirate is liable to penalties, and the piracies may be confiscated and sold for the benefit of the proprietor of the copyright.

Rules for the execution of this law were published on the 3rd September, 1880, giving further definitions of authors and owners, and as to other matters. Royal Ordinances have also been issued from time to time varying these rules and giving official interpretations of the law. These rules and Ordinances are of considerable importance, but they are too lengthy for insertion in this work (*d*).

Rights of Foreigners.

By Art. 47 of the above law penalties are imposed upon (*inter alios*) persons who reproduce in Spain works which are private property first printed in Spanish in a foreign country, and upon persons who import from foreign countries pirated works, and upon persons who by any of these means injure foreign authors when there is reciprocity between Spain and their country of origin. In addition to these Articles and Arts. 12 to 15 above set out, there are the following clauses relative to the rights of foreigners (*e*):—

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 competent tribunal.

Art. 51. The government shall within a month determine the existing treaties in literary property with France, England, Belgium, Sardinia, Portugal, and Holland, and endeavour to conclude new treaties with as many nations as possible, in accordance with this law and on the following bases: (1) Complete reciprocity; (2) mutual obligation of the most favoured nation treatment; (3) an author properly entitled in the one country to have the same right in the other without any new formalities; (4) the unauthorised printing, sale, importation and exportation of works written in the language or dialects of the other country to be forbidden in either country.

Spain was one of the original parties to the Berne Convention,

(*d*) They will all be found in "Le Droit d'Autour," *passim*.

(*e*) According to a Royal Decree of 19th May, 1893, authors or publishers of works written in Spanish and printed abroad in this language who propose to import them into Spain should forward to the Director-General of the Ministry of Public Education, at Madrid, along with their request, three copies of the work, with a bibliographical notice.

and accepted the Act of Paris with its Interpretative Declaration. She has also adhered, without reservation, to the Revised Convention of 1908, such adherence being authorised by a law of 1st August, 1910; and in the year 1900 she published her adhesion to the Convention of Monte Video, but this adhesion has only been recognised by the Argentine Republic and Paraguay. She is a "proclaimed" country in the United States, and consequently entitled to the benefit of the American Copyright Act, 1909, and has treaties with Austria (1912), Belgium (1880), France (1880), Italy (1880), and Portugal (1830); and with the following South American States:—Columbia, Costa Rica (1893), Ecuador (1900), Guatemala (1893), Mexico (1903), Panama (1912), and San Salvador (1884).

PORTUGAL.

Literary copyright in Portugal was formerly regulated by the law of the 8th July, 1851, the provisions of which were given in the 2nd edition of this work: this law was repealed by the Civil Code of the 1st July, 1867, which contains a number of provisions on this subject, Part II., Book I., chap. ii., Arts. 570—612 (f).

Literary Work in general.

Art. 570. Any one may publish in print, or 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 authorised 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.

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

PART V.
PORTUGAL.

MSS.

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

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

Duration.

Art. 576. The Portuguese author of a work of literature 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 be a foreigner, he only enjoys 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 which has 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.

Heirs of
author,
copyright
for fifty
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 enjoys 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 run from the publication of each volume.

Works in
collabora-
tion.

Art. 581. Where there is more than one author of a work, and each of them has collaborated on the same terms and in his own name, the property in the work belongs to all the co-authors,

and the first period of the duration of this property extends 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 commences 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 commences from the death of such person.

Art. 582. The provisions of the preceding Articles as to authors apply to publishers to whom the property in the works has 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 identity 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 published 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. Expropriation.

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

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. Publishers' rights and obligations.

Art. 589. A publisher who has contracted to publish a work must, in the absence of agreement to the contrary, commence the

PART V.
PORTUGAL.

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 shows that there exists some insurmountable 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; any one 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.

Dramatic
works.

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

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 be 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 be 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 be represented at an unauthorised theatre, the net profits belong to the person whose permission was necessary.

Art. 597. The author's share of receipts cannot be seized by a creditor of a 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, shall 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 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 be come to within a year, the author may withdraw his work.

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

Artistic Property.

Art. 602. The author of a musical work, a drawing, a painting, 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 for literary property. Artistic 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 are admitted on payment.

Some Obligations common to Authors of Literary, Dramatic, and Artistic Works.

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

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 is to give a receipt for this deposit, which is to be entered on the register without payment. Registration.

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

If the work be a lithograph, an engraving; or a casting, or if it treat of any of these arts, the deposit and registration must be

PART V.
PORTUGAL.

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

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 are *primâ facie* evidence of title to the work with the results flowing therefrom, subject to proof to the contrary.

Remedies.

The remedies open to the proprietor of the copyright are to be found in Arts. 607 to 612 of the Civil Code, and Arts. 457 to 460 of the Penal Code of 1886. By Art. 610 of the Civil Code it is provided that 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 with reference to private letters.

Rights of Foreigners.

In the
absence of
treaty.

Art. 578 of the Civil Code of 1st July, 1867, provides that a foreigner shall enjoy in Portugal the same rights as a Portuguese writer if in the foreigner's country Portuguese writers enjoy the same rights as natives; but in practice this provision is rendered nugatory by reason of the necessity for registration *before* the publication of a literary, dramatic, musical, or artistic work. (Arts. 603, 604.) Further, a foreign author's rights in the matter of translations are curtailed by Art. 577 above set out.

Treaties.

Portugal did not join the Copyright Union until the 18th March, 1911, after the establishment of the Republic. On that date she adhered to the Revised Berne Convention, 1908, without reserve, and by a governmental decree of the same date declared that all works referred to in Arts. 2 and 3 of that Convention, not already protected by Art. 602 of the Civil Code, were to be deemed to be included thereunder. She is entitled to the benefit of the American Copyright Act, 1909, and has treaties with the following countries: France (1866), Belgium (1866), Italy (1906), Spain (1880) and Brazil (1889).

(g) These treaties can all be found, translated into French, in a collection recently published by the International Copyright Office at Berne. The treaty with Spain is more favourable to authors than that with either France or Belgium, but the treaties with these latter countries do not contain most favoured nation clauses.

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.

Early
legislation.

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 authorised 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.

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

Author's
rights.

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 objects 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.

(*h*) Price lists and catalogues will not be protected. Milan, 10th Dec. 1895, *Prada v. Della Torre*. Cinematographs are regarded as "works of intellect," but the law as to deposit of copies is particularly burdensome in the case of such works.

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

PART V.
ITALY.

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 (*lc*).

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.

Joint works. *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.

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.

Collective
works.

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.

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.

(*lc*) The Italian Courts hold that gramophones and similar mechanical contrivances are infringements of the copyright in musical works.

The provisions as to duration of copyright in Italy are peculiar. Arts. 8 and 9 are as follows:—

PART V.
ITALY.

Duration.

“*Art. 8.* The exercise of the author’s right over the reproduction and sale of a work begins at its first publication and lasts for the life of the author, and forty years after his death, or for eighty years in conformity with the provisions of *Art. 9.*”

“Successive editions of a work, although increased in size or modified, do not form new works.”

“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 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: this first period having come to an end in one or other of the ways above indicated, there 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 proprietor thereof, but on condition of paying to him 5 per cent. on the published price of each copy, which price must be plainly printed on each copy, and declared according to the form prescribed in *Art. 30.* The debt hereby created is privileged and a first charge upon the copies reproduced.”

The effect of these two articles is to create two distinct periods of copyright. The first period lasts for the life of the author or forty years, whichever shall be the longer. During this period the author has the exclusive copyright. The second period begins when the first period comes to an end and lasts for forty years. During this second period the author has not the exclusive copyright, but anyone may reproduce his work, subject, however, to the obligation to pay the author 5 per cent. on the published price of each copy (*l*).

By *Art. 12* of the same law the author has the exclusive right of authorising translations of his works for ten years from the date of their first publication (*m*). A translator has the same rights as an author. (*Art. 13.*)

Translations.

(*l*) Compare sect. 3 of the British Copyright Act, 1911. Anyone availing himself of this liberty must not alter the original work, and, in particular must not alter the principal exterior elements of the work, such as the cover, the frontispiece, and the date. Milan, 23rd Dec. 1896, *Carrara v. Sonzogno.* (See *Art. 30.*)

(*m*) The Italian Courts have held that public performance is not publication.

PART V.
ITALY.

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

By Art. 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.

Art. 15. 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.

Art. 16. An author may alienate his rights, but a mere authorisation to publish a work does not transfer the copyright. In such case the judge is to fix a period during which any new reproduction shall be forbidden. (Art. 19.)

Execution
and expro-
priation.

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

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

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 provided this right belongs to the possessor of the article assigned.

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

Expropria-
tion.

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.

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

Compensation is to be paid.

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 (*n*), 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.

Registration.

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 newspaper or any other periodical publication, must declare, at the head of the work, or of the first article, that he intends to reserve the copyright.

Newspaper articles.

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 may 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 termination of the publication made first in a paper or in any other periodical. If the work so published is in several volumes, he must 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

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

PART V.
ITALY.

valid, unless, during the period elapsing 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 are to determine any disputes arising on this provision.

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

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

In addition to this deposit, under a law of the 7th July, 1910, three copies must be delivered to the *Procureur du Roi* of the district by the printer or publisher for the use of certain libraries. Failure to make this latter deposit is visited by a fine.

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 thereto a royalty equal to $\frac{1}{20}$ of the price multiplied by the number of copies (o).

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 is to be prepared of the declarations made during that period, which are to be published after 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 is to decide the disputes 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, are to 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.

(o) There appears to be no express penalty attached to making a false declaration, nor is actual payment of the royalties in any way secured to the author.

Conditions
of sale by
third
parties.

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 in any manner a work over which the author's exclusive rights 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 period for which the right of translation is reserved to the author.

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 (*p*).

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, may be reproduced if the source be indicated. But the reproduction of the insertions mentioned in Art. 26 constitutes the offence of piracy when it is prohibited.

Infringers are liable to pay penalties and damages. Pirated copies and implements for producing the same may be ordered to be destroyed or delivered to the owner of the copyright for a fixed sum in reduction of damages. In the last year of copyright destruction will not be ordered, but sequestration during the unexpired portion of copyright. (Arts. 33—39.) Fines are also imposed for omitting to make the declaration required by Art. 30, without prejudice to the right to damages. (Art. 41.) Incorrect and false information in the declarations prescribed by Arts. 21, 23, 26, and 30 is also punishable with a fine. (Art. 42.) Criminal proceedings are to be taken officially. (Art. 35.)

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

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 have 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.

(*p*) It has been held that compilers of anthologies, chrestomathies, and works of a like character must obtain the consent of the authors.

PART V.
ITALY.

If the copyright has been assigned for a fixed time, and the period of protection accorded by this law has not then expired, the author or his representatives may resume their right for the remainder of that period.

The purchaser, on the other hand, takes 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.

Duration.

Art. 10. The right of public performance of a work proper to be publicly performed, of an *action chorégraphique*, and of a musical composition falls into the public domain eighty years after the first performance or publication.

Dramatic
and musical
works.

Art. 14. No one may represent or perform a work intended for public representation, a choreographical 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, must prohibit representation or performance (*q*).

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

Art. 23. The declarations in respect of works suitable for public representation, choreographical 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 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.

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

Artistic
copyright.

In works of art the duration of the copyright is the same as in

(*q*) An official circular, dated 20th July, 1885, to the prefects enjoins them to be diligent in the performance of their duties under this Article and reminds them that no special form of demand by the owner of the copyright is necessary for prohibition. A further circular was issued on the 5th June, 1913.

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, consists 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 (*r*).

It will be noticed that this law makes no provision as to copyright in photographs, yet there seems to be no doubt that some photographs are protected. The position seems to be similar to that in France and Belgium, viz., photographs are only protected if they be artistic (*s*). Photographs.

A circular by the Minister of Public Education, dated the 6th August, 1893, declares that the reproduction by photography of monuments exposed in public places is free to all the world, but, with this exception, monuments of art, fixed or movable, belonging to the State, or antiquities preserved in the artistic, scientific, or literary State institutions, may only be photographed after permission from the authorities by whom these monuments or antiquities are guarded (*t*).

By the regulations of the 19th September, 1882, further details as to registration are prescribed and forms of application are given (*u*).

Rights of Foreigners.

Art. 44 of the law of 18th May, 1882, which is identical with a provision in the earlier law of 25th June, 1865, is as follows:— Provisions of the law of 1882.

“This law applies to authors of works published in a foreign country 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 be 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 authorised to accord

(*r*) Do photographs come within this provision?

(*s*) See an article by M. Henri Rosmini in “Le Droit d’Auteur” for 1889.

(*t*) “Le Droit d’Auteur,” 1894, p. 81.

(*u*) *Ibid.* 1895, p. 90.

PART V.
ITALY.

both by royal decree on condition of reciprocity, provided they be limited in time and do not differ essentially from the rights and securities given by this law.

“If deposit or declaration at the time of publication be 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 be prescribed, the deposit and declaration prescribed by this law may be effected either in Italy or with Italian consuls in a foreign country” (x).

Treaties and
Conventions.

Italy was one of the original signatories to the Berne Convention and she has ratified the Additional Act of Paris, with the Interpretative Clause, but has not yet adhered to the Revised Convention of 1908 (y). Italy is entitled to the benefit of the American Copyright Act, 1909, and she has also adhered to the Convention of Monte Video, but only the Argentine Republic and the Republic of Paraguay have assented to this adhesion. The following countries have special treaties with Italy: Germany, 9th November, 1907; Austria, 8th July, 1890; Colombia, 27th October, 1892; Spain, 28th June, 1880; France, 9th July, 1884; Mexico, 16th April, 1890; Montenegro, 14th November, 1900; San Marino, 28th June, 1897; Sweden and Norway, 9th October, 1884; Portugal, 16th September, 1906; Nicaragua, 25th January, 1906; Roumania, 5th December, 1906.

REPUBLIC OF SAN MARINO.

How far
works are
protected in.

There is no distinct law of copyright in this country, but in the treaties with Italy, dated 22nd March, 1862, and 27th March, 1872, respectively, the Republic bound itself to prevent, within its dominions, any reproduction of works of literature or art published in the kingdom of Italy. This engagement has been repeated in the more recent treaty of 28th June, 1897, but with an enlargement, for the Republic thereby undertook to prevent

(x) Art. 3 of the Italian Civil Code admits foreigners to the enjoyment of the civil rights of natives without any limit or conditions, but the above Article is evidently in derogation of this. Under the original Berne Convention by which Italy is bound, compliance with the formalities (if any) prescribed by the country of origin of the work is sufficient.

(y) Since the above was written, Italy has adhered to the Revised Convention: see *Addenda*. It may be noted here that under the original Order in Council made under the Copyright Act, 1911, Italian gramophones and similar instruments were excluded from the benefit of the Act. The British Government having received assurances that British instruments of a like character are protected in Italy, an amending Order in Council has been issued: see Appendix C.

piracies not only of works published in Italy, but also of all works which are protected in that kingdom. Under this treaty, therefore, British and other foreign works entitled to protection in Italy would appear to be also entitled to protection in San Marino.

PART V.
SAN MARINO.

SWITZERLAND.

Switzerland is one of the few countries belonging to the Copyright Union which has not yet brought her legislation into line with the requirements of the Berlin Convention, with the consequence that, as she has adhered to that Convention without reserve, native authors are, in some respects, worse off than foreign authors. A new law of copyright may be shortly expected.

Copyright in
Switzerland.

Up to the passing of 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.

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:—

Art. 1. Literary and artistic property consists in the exclusive right of reproduction or performance of literary or artistic works (*z*). 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.

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 from publication.

Posthumous
works.

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

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

(*z*) There is no definition of a "literary work" or an "artistic work." It would seem, however, that a work to be protected must be original and intellectual. An arithmetic book is entitled to protection, but not necessarily every part of it (Tribunal fédéral, 13th Nov. 1899). Likewise maps and plans may be the subject of copyright (Cour de Justice de Genève, 24th Jan. 1903), but not a railway-guide (Tribunal fédéral, 30th Nov. 1894).

PART V.
SWITZER-
LAND.

Registration.

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

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

The payment for registration must not exceed two francs.

The Federal Council is to 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*).

Work of art,
right of pur-
chaser of.

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

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

Portrait.

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 restrained (*c*).

(*a*) Regulation issued 28th Dec. 1882.

(*b*) Code Fédéral of 1882.

(*c*) It would be idle for us to attempt a construction of this clause, when the Swiss commentators are at hopeless variance as to its effect. We can only mention some of the problems to which it gives rise: Does the article include unprinted musical works, or can the owner of music in manuscript fall back on Art. 1 and restrain the performance of his music, even if the percentage is offered? What are the nature of the "special conditions" which must be published at the head of the work? Are they confined to "money" conditions, or must there be a reserve of the right of public performance? What is the effect of omitting mention of such conditions? How is the percentage to be "assured" to the proprietor? How is the person who proposes to perform to know beforehand what his "gross receipts" are going to be? Yet if the proprietor of the performing right is not satisfied with the assurance, can he prohibit performance? If numerous copyright pieces are performed at one concert, must 2 per cent. be paid in respect of each? So far as we are aware these problems all remain unsolved by the Swiss tribunals, except that we

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

PART V.
SWITZER-
LAND.

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

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

(b) The duration of copyright is five years from registration.

If it be 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 any stipulation, five years are to be the period, after which the artist and his representative resume all their rights.

(c) When a photograph has been executed to order, the photographer may not 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.

Art. 11. The following are not infringements of copyright in literary works:— Not infringements.

(1) 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.

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

(3) The publication of reports of public meetings.

(4) 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.

(5) The reproduction of news of the day, even although the source be not indicated.

The following are not infringements of artistic copyright:—

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

(7) The reproduction of works of art standing in or upon the streets or public places, provided that the reproduction is not in the artistic form of the original (*d*).

believe it has been held that only 2 per cent. is payable in respect of a single concert to be divided amongst the claimants. For a further restriction on the rights of proprietors of performing rights, see Art. 11 (*x.*), *post*.

(*d*) In a case in which it was decided that the frescoes in the chapel of

PART V.
SWITZER-
LAND.

(8) The reproduction or carrying out of plans or drawings of buildings or parts of buildings already built, in so far as these buildings have not an artistic character.

The following are not infringements of dramatic and musical copyright:—

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

(10) The performance or representation of dramatic, musical, or dramatic-musical works, organised without a pecuniary aim, even when admission is by payment to cover expenses or for a work of charity (*e*).

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

Penalties.

Arts. 12 and 13 deal with the penalties for infringements, which vary according to whether the piracy is committed knowingly or by gross negligence, or without gross negligence. In the former cases damages and fines are payable, in the latter only an injunction and payment of profits may be demanded. Imitation of the firm name or mark of the author may be visited with fine or imprisonment.

Art. 16. As soon as proceedings are commenced, the judge may order such 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.

Art. 18. The judge may at his discretion, order confiscation

William Tell, which is closed on three sides but can be seen into from the street, could be reproduced by any one as being in a "public place," the Court of Cassation remarked that "the fundamental idea of this provision is that works of art which, from the manner in which they are erected or placed, form an integral part of the panorama of a town or landscape and which can be seen by any one upon public places or in public streets, have fallen into public domain." (*Benziger v. Schlumpf*, 20th July, 1899). The Swiss Courts seem to consider the preposition "in" to belong to streets and "upon" to public places, so that it is not lawful to reproduce works of art standing on private property, though the public may have general access to a place from whence they can be viewed (Court of Cassation, 15th Dec. 1898, *Union Photographique v. Brunner*).

(*e*) This clause seems to open a wide door to piracy. What are the "expenses" to cover which payment may be received?

(*f*) According to the commentators æolians and pianolas are not "analogous instruments."

of pirated works, both against the infringer, the importer, and the retailer, and also of implements specially intended for piratical purposes.

PART V.
SWITZER-
LAND.

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.

Retrospec-
tive 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 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 other hand, 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. Registers.

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

PART V.
SWITZER-
LAND.

Works of art
belonging to
Confedera-
tion.

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 publishing agreements: Arts. 372 to 391.

A regulation of 3rd April, 1897, declares that no one may copy works of art belonging to the Confederation without authorisation, and prescribes rules for obtaining such authorisation.

Rights of Foreigners.

Art. 10 of the law of 22nd April, 1883, is as follows:—

Provisions
of law of
1883.

“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.”

“The author of a work made or published abroad who is not domiciled in Switzerland, enjoys the same rights as the author of a work made in Switzerland, if this latter be treated, in this foreign country, on the same footing as the author of a work made in the said country.”

Switzerland was an original party to the Berne Convention of 1886, and she also ratified the Additional Act of Paris and the Interpretative Declaration of 1898. She has adhered, without reserve, to the Revised Convention of 1908, which, so far as foreign works are concerned, has full effect in the country, and she is a “proclaimed” country entitled to the benefit of the American Copyright Act, 1909. Her only treaties are with Austria (1914) and Colombia (1908) (*g*).

MONACO (PRINCIPALITY OF).

The copyright law of Monaco is governed by a Royal Ordinance of the 27th February, 1889, as modified by an Ordinance of the 3rd June, 1896, whereby all “literary and artistic works” are protected during the period of the author’s life and fifty years after his death (*h*). The author has the exclusive right of translation (Art. 4), and the exclusive right of public performance

(*g*) The treaty with Japan of 1896 was denounced in the year 1911 by mutual agreement.

(*h*) But by Art. 10, in the case of anonymous and pseudonymous works, the publisher is deemed to be the author, so that, apparently, copyright is regulated by the life of the publisher. The terms of the Royal Ordinances are set out rather more fully in the fourth edition of this work.

of dramatic and dramatico-musical works (Art. 6), but musical performances are permissible if given at civil or religious meetings, or in the open air gratuitously to the public, or for charitable objects duly authorised by the government. (Art. 11.) Alienation of a work of art does not, except in the case of a portrait or bust executed on commission, *primâ facie*, carry the copyright in the work (Art. 14), but the owner of the work cannot be compelled to place the same at the disposal of the artist to enable him to reproduce it (Art. 15). No formalities need be complied with in order to gain copyright (Art. 16), and the usual penalties of fine and confiscation are imposed for infringement of copyright. (Arts. 19—31.) By Art. 2 it is declared that literary and artistic works include books, pamphlets, and writings of all kinds, dramatic or dramatico-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.

Art. 17 relates to piracy, and is as follows:—

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. 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 (*i*).

Rights of Foreigners.

Art. 33 provides as follows:—

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 Foreigners.

(*i*) This is in accordance with Art. 3 of the Protocol to the Berne Convention, 1886, but see now Art. 13 of the Revised Convention.

PART V.
MONACO.

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 give 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. The rights of foreigners are only conditional upon the accomplishment, in the country of first publication of the work, of the conditions and formalities imposed by the legislation of that country, but in case of dispute a certificate by the competent authority that these have been complied with may be required.

Monaco was one of the original signatories of the Berne Convention, 1886, and she also ratified the Additional Act of Paris and the Interpretative Declaration. She has adhered to the Revised Convention of 1908 without reserve, and by Royal Ordinance of the 10th December, 1910, "full and complete effect" is to be given to the same in the Principality. She does not appear to be a "proclaimed country" in the United States, and consequently is not entitled to the benefit of the American Copyright Act, 1909.

TURKEY.

Works
protected.

Prior to the passing of the recent law of 8th May, 1910, the copyright law of Turkey was of a rudimentary character. It depended upon a law of 1872, and certain regulations of 28th March, 1875 (*k*). By the new law above referred to, copyright is conceded to "literary and artistic productions of any kind" (Art. 1), which include "books, works, designs, pictures, writings, engravings, statues, plans, maps, geographical, architectural, topographical and other technical designs, in the flat or in relief, also fragments and pieces of music." (Art. 2.) It will be noticed that neither architectural works themselves nor photographs are included in this category.

Nature of
copyright.

The copyright confers the right to publish, make public, sell, translate or dramatise literary and artistic works, and also speeches, lectures and discourses delivered with an educational or recreative

(*k*) See Copinger, 4th ed. p. 658.

object, except those delivered at public meetings and so forth. (Art. 3.) The right of public performance of dramatic pieces and operas is conferred by Art. 10. Newspaper articles are only protected if they bear the words "rights reserved" or "all rights of publication and translation reserved." (Art. 4.) The titles of books, newspapers, &c. are protected. (Art. 5.)

The period of copyright is, in the case of literary and musical works, the life of the author and thirty years after his death, and, in the case of artistic works, the life of the author and eighteen years after his death. (Arts. 6 and 7.) In the case of posthumous works the copyright period runs from the date of publication (*l*). (Art. 9.) The copyright in anonymous or pseudonymous works belongs to the publisher until the true author is disclosed. (Art. 41.)

Period of copyright.

Letters may not be published without the consent of their composers if alive, or their families after their death. (Art. 13.) A lawful translator enjoys copyright in his translation, but only for his life and fifteen years after his death.

Letters and translations.

Exclusive licences for a period of from ten to fifteen years can be granted by the Minister of Public Education of published works of which there is no copyright proprietor, or of unpublished works in the public domain. (Arts. 17 and 18.) The same Minister may himself, after the death of the author, republish a work of repute or one possessing general interest, upon failure by the author's representatives to do so. (Art. 19.)

Licences to publish.

Three copies of a work, other than one of which there is only a single copy, should be deposited with the Minister of Public Instruction, and particulars of name, title of work, &c. registered with the same Minister, who will give a certificate, which will be *primâ facie* evidence of title, upon payment of a fee of half a pound (Turkish). Failure to make the deposit aforesaid appears not to forfeit the copyright, but to bar proceedings. (Arts. 20—24.)

Deposit and registration.

Copyright is assignable, but assignments must be registered. (Arts. 24, 25.)

Assignment.

The following will be considered piracies:—publication of a book; performance of operas or theatrical pieces; publication of pieces of music, maps, designs, pictures, &c.; making copies of writings or designs of any kind by means of photography or any other means whatsoever; in short, the production by any

(*l*) *I.e.*, *semble*, thirty years for literary and musical works, and eighteen years for artistic works.

PART V.
TURKEY.

industrial process whatsoever of moulds or plates of an artistic or musical work (*m*). (Art. 20.)

Piracy is punishable criminally by fine, imprisonment, and confiscation of the infringing works; and civilly by action for damages. (Arts. 32, 33.)

Rights of Foreigners.

The above law apparently has no application to foreigners in the absence of treaty, and at present Turkey has entered into no copyright treaties, nor has she adhered to any of the Copyright Conventions. It must be remembered, however, that according to the law of the Capitulations, disputes between two foreigners in Turkey are decided by the consular Court of the defendant's country. It appears, therefore, that copyright is capable of being protected in Turkey upon similar principles to those applying in Egypt (*n*).

RUSSIA.

In Russia copyright was, until the year 1911, regulated by the Penal Code of 1832, and the *ukases* of the 26th January, 1841 and of the 7th May, 1857, which were re-issued in 1887. On the 20th March, 1911, a new law was passed of an elaborate character upon the subject. The following is the substance of that law (*o*):—

Subjects of
copyright.

The following are subjects of copyright: (a) literary works, written or oral, such as speeches, lectures, sermons, &c. (*p*); (b) musical works, including musical improvisations; (c) artistic works, such as paintings, engravings, works of sculpture and architecture; (d) photographs and similar works protected under the provisions contained in Chapter VI. (Art. 1.) Unpublished works are protected equally with published works. (Art. 27.)

Literary and
musical
copyright.

The author is given the exclusive right of publishing and circulating his works by any possible means (Art. 2); but there are various acts which are not to be considered infringements of literary or musical copyright, *e.g.*:—

Not infringe-
ments.

(a) The use of another's work for the purpose of creating a new work differing essentially from the old. (Art. 3.)

(*m*) The words seem sufficiently wide to cover gramophone discs.

(*n*) See "Egypt," *post*, and "Le Droit d'Auteur," 1895, p. 165. The Law of Capitulations has, however, recently been denounced by Turkey.

(*o*) Translated from the French translation in "Le Droit d'Auteur," 1911, p. 86. Articles on this law will be found in No. XXVI. of the Journal of the Society of Comparative Legislation (1912), p. 302, and 133 L. T. Jo. p. 600.

(*p*) See also Arts. 13 and 30.

(b) Making copies of another's work for private use, and, in the case of copies of artistic works, containing neither the signature nor monogram of the author of the original. (Art. 3.)

(c) Making extracts of short passages from, or even the whole of short literary works, provided the extracts are to be inserted in works which form an independent whole, or in chrestomathies or other collections published with a scientific, technical, or educational object. (Art. 39.)

(d) The like as regards musical works. (Art. 43.)

(e) The copying in newspapers, reviews, and periodicals from other publications of a like character of news, information, &c., including telegraphic and telephonic communications, even though contributed by special correspondents. Other articles may also be copied, if not specially forbidden, but continuous reproduction from the same publication is prohibited, and telegraphic and telephonic communications cannot be reproduced by the local press during a period of eighteen hours from their publication, if specially forbidden. (Art. 40.)

(f) Publication in periodicals of speeches delivered in legislative and other public assemblies, or in the Courts, but the author retains the right of publishing the speeches separately or in a collection. (Art. 38.)

In all these cases the source from which copy has been taken must be acknowledged. (Art. 19.)

Copyright passes on the death of the author to his heirs (Art. 6), and, in default of heirs, ceases on the author's death; but in the case of collaborations the copyright will, in such case, pass to his co-authors, unless the deceased made any disposition in his lifetime. (Art. 7.) Assignments must be in writing (Art. 8), but assignments of future works are only valid for five years. (Art. 9.) Copyright cannot, without consent, be taken in execution as against the author or his heirs, but this does not apply as against third persons. (Art. 10.)

The period of copyright in a literary, musical, or artistic work (*q*) is during the life of the author and for fifty years after his death. (Art. 11.) In the case of posthumous works the period of protection runs from the death of the author in any case (Art. 11), and in the case of collaborations, the post mortem

(*q*) As to photographs, see Art. 61.

PART V.
RUSSIA.

period commences on the death of the last surviving author. (Art. 12.)

Authors of collections of folk songs and melodies, proverbs, children's tales, popular legends, and like works, enjoy copyright for a period of fifty years from publication, without prejudice to the rights of others to make similar original collections. (Art. 13.) The publishers of newspapers, reviews, and other periodicals, of dictionaries, almanacks, and other collections composed of distinct works of different authors, enjoy copyright for twenty-five years, but, in the absence of contrary agreement, each contributor retains the copyright in his separate contribution. (Art. 14.)

Collaborations.

In the case of collaborations the work belongs to all the authors jointly (Art. 5), and *primâ facie*, in the case of collaborations composed of distinct parts, having a scientific, literary, musical, or artistic value, all the authors must concur in exercising the copyright, but each contributor has the copyright in his separate contribution. (Art. 15.)

Works published in volumes or numbers.

In any case where copyright dates from publication, the period of protection is to be reckoned, as regards works published in volumes, separately for each volume, and, with regard to periodicals, separately for each number or part, provided no more than two years elapses between the publication of the first and last number or part. (Art. 16.)

Anonymous and pseudonymous works.

Anonymous and pseudonymous works enjoy copyright for only fifty years from publication, unless the author or his representatives claim the full period. (Art. 17.)

All periods of copyright are to be reckoned from the 1st January of the year in which the author died or his work was published. (Art. 18.)

Alterations.

An assignee of copyright may not make alterations in the work, unless they be either essential or such as the author could not reasonably object to. (Art. 20.)

Letters.

Private letters not intended by their writer for printing may not be published without the consent of both writer and receiver, or, after the death of either, of his heirs; but fifty years after the death of the survivor the consent of the spouses (if still living) and the children of the persons aforesaid will be sufficient to authorise publication. (Art. 28.) Somewhat similar provisions apply to memoranda and private notes not intended for printing. (Art. 29.)

Ancient MSS.

The publisher of an ancient manuscript enjoys copyright therein for fifty years, without prejudice to the rights of others to publish the same manuscript in an original form. (Art. 30.)

To transform a novel into a play, and *vice versâ*, is forbidden. (Art. 31.)

PART V.
RUSSIA.

The question of translations has always been a vexed one in Russia. It is provided by Art. 34 that works published simultaneously in various languages are to be considered as original in each of these languages. Art. 33 further enacts that the author of a work published in Russia, or of a work of a Russian subject published abroad, and his heirs enjoy the exclusive right of translation into other languages, provided the right be reserved on the title page or in the preface; but this right, it is provided, shall only last for a period of ten years from the publication of the original work, and then only if a translation has been published within five years from such publication, provided, nevertheless, that a re-translation into the original language shall be unlawful throughout the entire period of copyright protection. The works of foreigners published abroad are only protected against translation if the right of translation has been expressly granted by treaty. (Art. 35.) A translator enjoys copyright in his translation, subject to the rights of others to make similar translations. (Art. 36.)

Dramatiza-
tion.
Translations.

The copyright in musical works includes the exclusive right of making and publishing abridgments, extracts and medleys, also of transposing them for the voice, to other keys, or for instrumentation, or for reproducing the work mechanically by means of discs, plates, cylinders, &c. necessary for performances by means of gramophones, phonographs, pianolas, and the like instruments. If the composer has himself published the musical work, with a view to a sale, in a mechanical form adapted for use in phonographs, gramophones, or like instruments, or has granted such right to another person, who has made use of his right, any third person having a manufactory in Russia specially established for this purpose may enter into an arrangement with the composer for the acquisition of a similar right of adaptation, and in case of refusal may apply to the Court for the grant of such right upon payment of fair compensation to be fixed by such Court. (Art. 42.)

Musical
works and
mechanical
contrivances.

A composer is at liberty to use as the libretto to his composition any literary work previously published, but the libretto may not be published except in conjunction with the music, or in a concert programme, provided always that no composer may use a literary work specially intended as the libretto of a musical composition, unless he obtains the consent of the author of the literary work. (Art. 46.) The copyright in a musical work accompanied

Literary
works as
libretti.

PART V.
RUSSIA.

by a libretto written to the order of the composer of the musical work belongs entirely to him, but the writer of the libretto has, in the absence of contrary agreement, the right to publish the libretto separately from the music. (Art. 47.) Similarly, public performance of a musical work with the libretto may be authorised by the composer alone. (Art. 49.)

Public per-
formance.

Copyright in a musical, dramatic, or dramatico-musical work includes the exclusive right of public performance (Art. 47) (*r*), but in the case of musical works the right must be specially reserved on every copy. (Art. 49.) Public performance is permissible (a) when no gain is, directly or indirectly, sought; (b) at public fêtes; (c) for charitable objects, when the performers' services are given gratis. (Art. 50.)

Artistic
works.

The transfer of a work of art does not, *primâ facie*, carry the copyright. (Art. 51.) In the absence of contrary agreement the artist retains the copyright in works executed on commission, except in the case of portraits and busts, the right to reproduce, exhibit, or publish which belongs exclusively to the person represented and his heirs. (Art. 52.) The owner of the work of art cannot be compelled to place the same at the service of the artist in order to enable him to make copies. (Art. 53.) Works of art *acquired directly from the artist* for churches, public institutions, &c. may, however, be copied by anyone with the consent of the competent authority. (Art. 54.)

Infringement
of artistic
copyright.

The copyright in an artistic work is infringed by reproduction, multiplication, or publication of whole or part of the work (a) by any means which fall within the same class of art (*s*), (b) by making use of either the original work or a copy thereof (Art. 56): but the following are expressly stated not to be infringements of copyright:—(1) reproduction of a painting by sculpture, and *vice versa*; (2) reproduction of works of art situate in streets or other public places by a different form of art from the original; (3) reproduction of isolated works of art in an independent scientific study, or in an educational work, to explain the text; (4) utilisation of separate parts of a work of art for industrial purposes; (5) exhibition of works of art in public exhibitions. (Art. 56.) The source must in all these cases be acknowledged. (Art. 19.)

Plans of
architects,
&c.

Anyone is at liberty to erect buildings or structures from the published plans, drawings, or tracings of architects, engineers, and

(*r*) Cinematographic works are not mentioned in the law. They appear only to be protected as photographs.

(*s*) This seems to have the effect of seriously curtailing an artist's copyright. Presumably a photograph of a copyright picture is permissible.

mechanicians, unless the right has been expressly reserved at the time of publication, and in the absence of contrary agreement any person acquiring technical plans, drawings, or tracings may use them for the purpose of erecting buildings or other structures, but cannot grant the like right to others. (Art. 57.)

A photographer has the exclusive right of reproducing, multiplying, and publishing his photographic work by any analogous process (*t*), but in the case of portraits and other photographs made to order this exclusive right belongs to the person to whose order the photographs were made. (Art. 59.) Moreover, in order to preserve the copyright in photographs every copy must bear the name, in full, and address of the photographer or the publisher, with the year of the publication of the work. (Art. 60.) Photographs are only protected for ten years from the date of publication, except that this period will be extended to twenty-five years in case the photographs are published in a collection or a series of pictures having an artistic, scientific, or historical value; and if the photographs are published as part of a literary work, the copyright is to last for the same period as the literary work itself. (Art. 61.)

The following do not infringe the copyright in a photograph:— (1) copies made for personal use; (2) exhibition in a public exhibition; (3) reproduction in an independent scientific study or in a work of an educational character, the photograph only being used to explain the text; (4) utilisation for industrial purposes. (Art. 62.)

The rules as to photographs apply equally to works obtained by analogous processes. The source must be acknowledged. (Art. 19.)

The penalties for infringement of copyright are to be found in Arts. 21 to 26 of the law. The infringer is liable in damages, and infringing copies—except in the case of artistic and architectural works (Art. 58)—may be confiscated and destroyed.

The Russian law, like the German law, contains provisions regulating contracts between authors and publishers, and their mutual obligations. Generally, the publisher must publish within three years (Art. 68); an "edition" of a literary or artistic work is limited to 1,200 copies, and of a musical work to 200 copies. (Art. 69.) The grant of the right to publish a dramatic, musical, or dramatico-musical work includes neither the right of public performance nor the right of adaptation to instruments of mechanical

(*t*) This Article apparently restricts the copyright of a photographer to the prevention of piracy by photographic methods.

PART V.
RUSSIA.

reproduction (Art. 74); and the grant of the right to publish a literary work does not include either the right of translation or the right of dramatising a literary work, or *vice versâ*. (Art. 75.)

Rights of Foreigners.

By Art. 4 of the above law it is provided:—

Copyright is recognised (a) in the case of works published (*u*) in Russia, in favour of all authors and their representatives, whatever be their nationality; (b) in the case of works of Russian subjects published abroad, in favour of their authors or their representatives, of whatsoever nationality; (c) in the case of unpublished works, in favour of all authors and their representatives, whatever be their nationality.

By Arts. 32 and 44 respectively, the piracy in Russia of literary and musical works published abroad is forbidden, unless the consent of the persons entitled to the copyright by virtue of the law of the country of first publication be obtained, and subject to the condition that the period of protection shall not exceed that accorded by the Russian law. There is, however, no similar provision with regard to photographs.

The protection thus accorded to foreign literary and musical works is, however, much curtailed by Art. 35, already alluded to (*x*), relating to translations, the effect of which is that, as regards literary works published in a foreign country, these may be freely translated unless the consent of their authors is required by reason of any treaty between Russia and a foreign State, which treaty must not grant to the subjects of foreign States any more extensive rights of translation than those accorded to Russians by Art. 33 of the law (*y*).

Foreign authors have suffered considerably in the past from piracy of their works in Russia. Russia is not a party to either the original or the revised Berne Convention, and her early admission to the Copyright Union is, perhaps, not very probable. But the law of 1911 marks a considerable step towards granting increased protection to foreign works, and although, previously to that law, Russia refrained from entering into any treaty obligations on the matter of copyright, she has now copyright treaties with France (29th November, 1911) and Germany (28th February, 1913). Negotiations have been opened up with a view to a like

(*u*) The law does not apparently require that they shall be *first* published in Russia.

(*x*) *Ante*, p. 463.

(*y*) *Ante*, p. 463.

treaty between Great Britain and Russia, but for the moment the negotiations are in abeyance.

PART V.
RUSSIA.

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. The following is the substance of this law:—

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. Literary
copyright.

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

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. Definition.

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 recognised by Art. 1 lasts during the author's life and fifty years after. 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

PART V.
FINLAND

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.

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 be 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 unauthorised 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.
- (c) 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.

- (d) The reproduction of a fragment of poetry already published jointly with or as words to a fragment of music, unless the verses were exclusively intended to serve as words for an opera or oratorio.
- (e) 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.

PART V.
FINLAND.

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.

Art. 12. No dramatic work not yet published in print, may 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.

Anyone 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 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

Posthumous
dramatic
works.

PART V.
FINLAND.

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 be assigned and the assignee does not exercise it during five consecutive years, the right returns to the person to whom copyright belongs under the foregoing provisions.

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.

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 versa* is permissible.

Photographs.

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 for five years the exclusive 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.

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

Not piracy.

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

- (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 reproductions of works of art by pupils for the purposes of study.

PART V.
FINLAND.

The penalties for infringement are fine, damages and confiscation of piracies (Art. 19), and criminal proceedings must be taken within two years from the offence. (Art. 27.)

Remedies.

Assignments must be in writing, and a simple licence to publish only carries the right of publishing, without alteration, a single edition of 1,000 copies. (Art. 28.)

Assignments.

All periods fixed by the law to run from death, publication or representation are to be reckoned from the 1st January following. (Art. 29.) As against the author, his widow and his heirs, unpublished manuscripts may not be taken in execution, but when a work has been published or the copyright assigned, creditors may take the profits in execution. (Art. 30.)

Rights of Foreigners.

Art. 32 of the above law is as follows:—

“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. The law 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.”

It does not appear that the Russian treaties with France and Germany (z) extend to Finland.

GREECE.

Copyright in Greece is, except as to dramatic works, regulated by Arts. 432 and 433 of the Penal Code of 1833, and by the provisions as to deposit contained in the law of 24th November, 1867, as modified by the law of 29th March, 1910. Art. 432 of the Penal Code is as follows:—

Art. 432. Any person who reproduces by printing or in any

Penalties
for piracy.

(z) *Ante*, p. 466.

PART V.
GREECE.

Duration. 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 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 2,000 drachmas, except when the privilege in question declares a special penalty.

In every case the circulation of the pirated articles is to 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.

By Art. 1 of the law of 1910, replacing Art. 3 of a law of the 24th November, 1867, two copies of every book must be deposited by the printer for the use of the National Library, one copy for the library of Parliament, and one copy for the local public library. Failure to make these deposits does not, however, invalidate the copyright, but is visited with a fine.

Dramatic works.

A law of the 11th December, 1909, has been passed for the protection of theatrical works. Under this law the author of an original theatrical work, or the translator or adapter of a foreign or classical work, has the sole right of publishing or publicly performing the work during the life of the author and for forty years after his death (Arts. 1 and 2), or in the case of collaborations for forty years after the death of the last surviving author. (Art. 3.)

Piracy.

Copyright in a dramatic work is infringed (a) by the representation of the whole of the theatrical work, whether published or not, in a theatre or public hall, by a troupe of actors or amateurs, without the previous written consent of the author, or his heirs or assigns, or (b) by the representation of a theatrical work organised by the performers when the title or the book has been appropriated or modified, or the names of the characters altered, or the name of the author has been omitted from the programmes. (Art. 9.)

In the event of infringement by performance the owner of the copyright can claim 12 per cent. of the receipts (Art. 7), and the performers and managers are liable to fine and damages. (Arts. 10 and 12.) An injunction may also be granted. (Art. 11.)

*Rights of Foreigners.*PART V.
GREECE.

Foreigners.

Art. 433 of the Code Penal is as follows:—

“The dispositions of the previous article (*i.e.*, 432, *ante*) apply further (1) 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 products of science or art, in so far as they are protected by privileges granted in Greece, against all injurious imitation.”

Art. 14 of the law of 11th December, 1909, is as follows:—

“The protection granted by this law may be extended to theatrical works belonging to foreign authors and played in Greece in a foreign language upon the basis of reciprocity established by special international treaty and ratified by royal decree.”

Theoretically, Art. 433 of the Penal Code ought to have the effect of protecting the works of the citizens of several European countries, but it is believed that, practically, foreigners can obtain little or no protection against piracy of their literary and artistic works in Greece. As regards the right of public performance under the law of 11th December, 1909, France concluded a treaty with Greece on the 22nd April, 1912, but Greece has no other treaty obligations on the subject of copyright.

ROUMANIA.

Some doubt existed at one time as to whether the Roumanian Constitution of 1866 had not the effect of repealing the Press law of the 13th April, 1862, which contained provisions protecting copyright. This doubt was, however, set at rest by a decision of the Court of Cassation in the year 1893, which held that the Press law of 1862 still remained in force, and it is by this law that copyright in Roumania is governed at the present day. This law is almost identical with the French law of the 19th July, 1793, and its chief provisions are as follows:—

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, the right being recognised by the laws in force. Duration.

(*a*) Roumania is now a kingdom.

- PART V.**
ROUMANIA.
- Newspapers.** *Art. 2.* Their heirs or assigns shall enjoy this right for ten years after the death of the author or composer (*b*).
- 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.
- Dramatic compositions.** *Art. 4.* Dramatic compositions cannot in the periods mentioned be represented in any theatre, or published, without the consent of the author.
- Translations.** *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 infringements of the rights of another.
- Penalties.** The penalties for infringement are: (1) confiscation of piracies for the benefit of the author; (2) a fine to be paid by the pirate equal to the price of 1,000 copies of the original edition; and (3) a fine to be paid by every vendor of the piracy, equal to the price of 100 copies. (Arts. 6, 7, and 8.) The Penal Code of 1864 also makes piracy a criminal offence.
- Formalities.** *Art. 9* of the law of 1862 required a deposit of copies in order to secure copyright, but this Article has been repealed by a law of the 19th March, 1904, which, whilst requiring deposit of five copies in all for the benefit of certain libraries, visits failure to do so with a fine, and not with forfeiture of the copyright.

Rights of Foreigners.

By Art. 11 of the Press law of 1862 it is enacted:—

“All these rights are secured to authors, composers, draughtsmen, and translators of foreign countries which reciprocally secure literary property within their territory.”

The probable effect of this Article is to secure protection to the works of foreigners only in the event of a treaty subsisting between their country and Roumania. Such treaties have been effected by Italy (5th December, 1906), France (6th March, 1907), Austria (2nd March, 1908), and Belgium (10th April, 1910).

(*b*) Ten years after the death of the author every work becomes public property, and anyone may reproduce the same by printing, sculpture, or lithography.

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 has a treaty with France on the subject of copyright dated the 5th January, 1907.

BULGARIA.

Bulgaria has no law on copyright, nor has she entered into any copyright treaties. Bulgaria.

MONTENEGRO.

This country has no special law on copyright, but literary and artistic property is protected under the common law and the Civil Code of 1888. In the year 1893 Montenegro became a party to the Berne Convention, but she retired in the year 1900, "from motives of economy." She, however, has a copyright treaty with Italy, dated the 27th November, 1900, and another with France, dated 24th January, 1902.

CHINA.

The first and only copyright law in China is dated the 18th December, 1910 (c), the law being modelled somewhat on the lines of the Japanese law on the subject.

Art. 1 of this law defines copyright as the exclusive right of reproducing any object covered by the expression "work," and the same Article contains a list of objects which may be regarded as "works," namely, "writings, pictures, models, photographs, engravings, prints, and plastic works." Subjects of copyright.

The law does not expressly grant "performing rights," and, apparently, dramatic and musical works are only protected as "writings." Performing rights.

Registration, with deposit of two copies of the work with the Minister of the Interior, is necessary in order to secure the copyright. (Arts. 2, 3, 4.) Formalities.

The period of copyright protection is for the life of the author, and upon his death it passes to his heirs for a period of thirty Period of protection.

(c) "Le Droit d'Auteur," 1912, p. 117.

PART V.
CHINA.

years, provided the heirs register their claim. (Arts. 5, 14, 20.) In the case of photographs, however, the period of protection is only ten years, except for photographs inserted in "writings." (Art. 10.) In the case of collaborations, the copyright belongs to each author during his life, and after his death passes to his heirs for thirty years (*d*). (Art. 6.) Posthumous works, and works published in the names of authorities, educational bodies, companies, and corporations, are protected for thirty years. (Arts. 7, 8.) The same period is allowed for anonymous publications, unless the identity of the author is revealed. (Art. 9.) Annual periods are to be reckoned from the date of registration. (Art. 11.) The law contains rules as to the procedure to be followed to register a work. (Arts. 16 to 23.)

The owner of
the copy-
right.

In the case of commissioned works for valuable consideration, the copyright belongs to the person giving the commission. (Art. 26.) In the case of a speech or lecture, the copyright belongs to the person who delivers the same, even if he is not its author, but the person who delivers the speech or lecture may agree to the contrary. (Art. 27.) In the case of translations from foreign works into Chinese, the copyright belongs to the translator, but he cannot prevent others from making similar translations. Translations which do not essentially differ are not entitled to any protection. (Art. 28.) An adapter likewise obtains the copyright in his adaptation. (Art. 29.) Various works are excluded from the benefit of copyright, such as laws and official publications: articles and items published in newspapers relating to politics or news of the day: and speeches made at public meetings. (Art. 31.) Copyright ceases (a) upon the expiration of the period of protection, (b) upon the death of the author without heirs, (c) if the author permits free reproduction of his work. (Art. 32.)

Works not
entitled to
copyright.

Cessation of
copyright.

Infringe-
ments.

Copyright in any registered work is infringed by any act of copying, reproducing, or falsifying the work (Art. 33), and the publication, without authority, of a key to any school book is forbidden. (Art. 37.) It is, however, permissible (a) to collect extracts from various authors, to be used for schools or for general use as memory aids; (b) to make extracts from the works of another for the purpose of explaining or criticising such works; (c) to make engravings, prints, or plastic copies from pictures, and *vice versa*. In all these cases, however, the source must be acknowledged. (Art. 39.) An infringer is liable to a fine and

(*d*) It is difficult to see how this provision can work.

payment of damages, and all proceedings for infringement of copyright must be commenced within two years. (Arts. 40 to 50.)

PART V.
CHINA.

Rights of Foreigners.

The above law seems to make no distinction between Chinese and foreigners, and any person publishing a work in China and complying with the formalities prescribed by the law can, apparently, obtain copyright protection in China. Works published in foreign countries do not appear to receive any protection under the Chinese law. In the open ports the mixed tribunals can be invoked, but it is doubtful how far they would protect authors. If, however, the offenders are foreigners established in China, they can be sued before the consular Court of their country. A British Order in Council of 1904 (replacing an earlier Order of 1899), as modified by a further Order in Council of the 11th February, 1907, provides that any act which if done in the United Kingdom or in a British possession would be an infringement of copyright shall, if done by a British subject, or by a native in China or Corea, be an offence against that Order, and be punishable with fine or imprisonment, provided the offence be committed against the property of a British subject or of a native or the subject of a foreign State with which reciprocal relations exist (*e*). The United States, in the year 1903, concluded a copyright treaty with China, but the same is believed to be of little value (*f*). In 1908 the United States, and in 1909, France, concluded treaties with Japan whereby Japan's copyright law is extended to places where that country has extra-territorial jurisdiction.

JAPAN.

Copyright in Japan is regulated by a law of 3rd March, 1899, as amended by a law of 14th June, 1910, replacing an earlier law of 28th December, 1877. The principal provisions of the law are as follows (*g*):—

Art. 1. The exclusive right of reproducing writings, speeches, paintings and designs, sculptures, works of architecture (*h*), plastic works, photographs, and other works in the literary, scientific, or artistic domain belongs to the author.

Law of 3rd
March, 1899.

(*e*) Such reciprocal relations exist between France and Great Britain.

(*f*) See United States of America, *post*.

(*g*) From "Le Droit d'Auteur," 1899.

(*h*) Works of architecture were added by the law of 1910.

PART V.
JAPAN.

Copyright in a literary or scientific work includes the right of translation, and in a dramatic or musical work the right of publication, representation, and performance.

Art. 2. Copyright is transferable.

Duration.

Art. 3. Copyright in a published work lasts for the life of the author and thirty years after his death. In the case of collaborations it lasts for thirty years from the death of the survivor.

Art. 4. Copyright in posthumous works lasts for thirty years from the first publication, representation, or performance. The period is the same in the case of anonymous or pseudonymous works, except that they are entitled to full protection if the authors register their true names.

Art. 6. Works belonging to public bodies, educational or religious establishments, companies or corporations, are protected for thirty years from first publication, representation, or performance.

Translations.

Art. 7. The right of translation lapses if the author or his assigns fail to publish a translation within ten years. If during this period an author publishes a translation in a language for which protection is claimed, his right of translation does not lapse so far as concerns that language.

Calculation
of period of
protection.

Art. 8. The term of copyright in the case of works published in a series of volumes, is reckoned from the date of each volume; but in the case of works published in parts the term is reckoned from the last part, unless three years or more elapse between the parts.

Art. 9. In calculating the periods above referred to no account is to be taken of the residue of the year in which the author dies, or of the year in which the work is published, represented, or performed.

Art. 10. Copyright is lost in default of heirs.

Not subject
of copyright.

Art. 11 (as amended by the law of 1910). The following are not the subject of copyright: (1) laws, ordinances, and official publications; (2) information and news of the day inserted in newspapers; (3) speeches and arguments before the courts or in deliberative assemblies and political meetings.

Art. 12. The publisher or performer of an anonymous or pseudonymous work safeguards the rights of the author and his assigns, unless the author's true name be registered.

Rights of
collabo-
rators.

Art. 13. Copyright in collaborations belongs to all the authors. In case the parts of the work are not distinct, the right of any one opposed to the publication, representation, or performance can, on payment of its value, be acquired by the others, in the absence of

contrary agreement, but the name of the opposing author may not then be put on the work against his will. If the several parts of the work be distinct, the several authors may each publish, represent, or perform their distinct parts in case any of the others are opposed to the publication, representation, or performance of the common work, and in the absence of contrary agreement.

Art. 14. Any one making a lawful compilation from the works of various authors is to be considered the author of the compilation and to have copyright in the whole work, without prejudice to the copyright of the various authors in their respective portions. Compila-
tions.

Art. 15 (as amended by the law of 1910). In default of legal registration the rights of successors, assignees, and mortgagees cannot be exercised as against third persons. The author of an anonymous or pseudonymous work may register his true name. Rules as to registration are to be made by ordinance (*i*). (Art. 16.) Registration.

Art. 17. Unpublished works are not subject to execution by creditors without the consent of the author or his assignee.

Art. 18. An assignee may not, without the author's consent, alter the name or appellation adopted by the latter or modify the title of the work or correct the work itself.

Art. 19. Neither the addition of the marks called "Kun-ten" (*k*), interlineary translations, punctuations, critical notes, appendices, plans, designs, and other corrections, additions, suppressions, and alterations of the original work, nor the adaptation of the work, create copyright specially in these modifications, unless works of this character can be considered new works. Notes, cor-
rections, &c.

Art. 20 (as amended by the law of 1910). Articles in newspapers, with the exception of stories and novels, and works belonging to the domain of literature, science, or art, can be reproduced, with acknowledgment of source, unless the right of reproduction is expressly reserved. Newspaper
articles.

Art. 21 (as amended by the law of 1910). Any one lawfully translating a work enjoys copyright in his translation, without prejudice to the rights of the author of the original. Translations,
reproduc-
tions, &c.

Art. 22. Whoever lawfully reproduces an artistic work by a different art to that employed in the original has copyright in his reproduction.

(*i*) See *post*.

(*k*) "Kun-ten" are marks facilitating the reading of Chinese texts. Likewise the interlineary translations and punctuations only apply to Chinese characters.

PART V.
JAPAN.
Photographs.

Art. 23. Copyright in a photograph lasts for ten years, calculated from the date of publication, or from the taking of the negative if it be not published.

Any one lawfully reproducing a work of art by photography enjoys copyright as long as the copyright subsists in the original work, without prejudice to any agreement between the parties concerned.

Art. 24. If photographs be made specially for the purpose of being inserted in a literary or scientific work, the copyright belongs to the author of the work and subsists as long as the work itself is protected.

Art. 25. The right to reproduce photographic portraits belongs to the person who has ordered them.

Art. 26. The provisions as to photographs are applicable to works obtained by an analogous process.

Art. 27. Regulations may be made with regard to the publication, representation, and performance of unpublished works the proprietors of which are unknown (*l*).

Piracy and
the remedies
therefor.

Art. 29. Any one infringing copyright must make reparation in accordance with the provisions of this law and those of the Civil Code, Book II., chap. 5.

Art. 30. The following are not piracies of published works: (1) reproduction otherwise than by a mechanical or chemical process and without any intention of publishing the reproduction; (2) making extracts and citing passages, provided the quotations are kept within legitimate limits; (3) selecting and collecting small portions within legitimate limits, intended for the use of schools, for a reading book or a course of ethics; (4) introducing phrases extracted from a literary or scientific work into a dramatic work, or to serve as the libretto of a musical work; (5) inserting in a literary or scientific work artistic productions to explain the text, and *vice versâ*; (6) reproducing by plastic art a painting or work of draughtsmanship, and *vice versâ*.

In the above cases the source must be clearly indicated.

Art. 31. Any one importing piracies with the object of selling and circulating the copies within the Empire is to be treated as a pirate.

Art. 32a. Any one publishing a collection of solutions of problems intended for classical exercises is to be treated as a pirate.

(*l*) By ordinance of 28th June, 1899, any person desiring to take advantage of this provision must advertise his intention in the "Official Gazette" and in at least four principal Tokio newspapers and in a newspaper of the author's domicile, if known. Publication can then be made if the author be not discovered within six months.

Art. 32b (new Article under law of 1910). Any one reproducing or publicly performing the work of another by means of cinematography shall be guilty of piracy.

Art. 33. Any one who, in good faith and without fault on his part, commits a piracy and makes profits to the detriment of third persons, must make restitution of these profits.

Art. 34. One of several co-proprietors of copyright may sue for infringement without the consent of the others, and recover his proportion of damages or profits.

Art. 35. In a civil action there is a *primâ facie* presumption that the person whose name appears on the work as such is its author, and in the case of an anonymous or pseudonymous work, that the publisher named on the title-page of the work is the true publisher. In the case of an unpublished dramatic or musical work, the person who is named as its author in the announcement of the performance, or, if no one is named, the organiser of the performance is, *primâ facie*, the author of the piece.

Art. 36. When a civil or criminal action has been commenced for piracy, the Court may, at the request of the plaintiff, with or without taking security, forbid the sale and circulation, or seize or suspend the execution or performance of a work suspected of being a piracy. If at the trial the work is pronounced to be no piracy, the plaintiff will be civilly liable in damages.

Arts. 37 to 43 provide penalties of varying amount for the several offences under the statute. Piracies and all plant used exclusively in the production of infringements are to be confiscated, but only if they belong to the infringer, the printer, or the person who sells or circulates the piracies.

Civil or criminal proceedings must be commenced within two years (*m*). (*Art. 45.*)

Arts. 47 to 50 contain the transitory provisions.

An ordinance of 15th June, 1910, prescribes the formalities necessary for registration under *Art. 15*. A request for registration must be addressed to the Minister of the Interior, and be in the prescribed form.

The registers are to be kept by the Minister of the Interior, and may be consulted and extracts obtained on payment of a fee.

Rights of Foreigners.

The Japanese law of the 3rd March, 1899, provides for international protection only in the case where there is a treaty or

(*m*) The law does not state when this period is to begin to run.

PART V.
JAPAN.

convention. Any foreign author, however, can obtain copyright by publishing first in Japan. Art. 28 of the above-mentioned law is as follows:—

“The provisions of this law shall apply to foreigners, so far as concerns the protection of their copyright, subject to the special stipulations, if any, contained in treaties and conventions: in the absence of such stipulations, the protection of this law shall be accorded to those persons who shall make the first publication of their works in the Empire.”

Corea.

By Imperial Ordinances of 18th June and 29th August, 1910, the Japanese law was extended to Corea.

Japan and
the Copy-
right
Union.

Japan joined the Copyright Union in the year 1899 (*n*). At the meeting of the Powers held in Berlin in the year 1908, to consider what modifications in the original Convention of Berne were advisable, the representatives of Japan were instructed to oppose any increase in the stringency of the rules against translations; in fact their proposition was to be that under the Convention the translation into Japanese of a European work, and *vice versâ*, should be free. The contention of Japan was that she stood in a unique position; her manners, customs, religion, and traditions all differed from those of European nations, and the best means of enabling her to understand Western culture was through Western literature; and the Japanese language differed so essentially from other languages as to render satisfactory translations difficult to obtain. The representations of Japan were, however, overruled, and the majority of the Powers agreed to an increase of the protection of authors against the translation of their works (*o*). Consequently, although Japan has adhered to the Revised Convention, she has done so subject to a reserve as to rights of translation, in respect of which she remains bound by Art. 5 of the Convention of 1886, as revised by the Additional Act of Paris, 1896. She also makes a reserve as to the right of public performance of musical works, as to which she remains bound by para. 3 of Art. 9 of the Convention of 1886.

Japan is a “proclaimed” country in the United States, and entitled to the benefit of the American Copyright Act, 1909, but she has no treaty relations, other than the treaties already referred to (*p*), with France and the United States with regard to her extra-territorial jurisdiction in China.

(*n*) Thereupon all British consular jurisdiction in Japan as regards copyright ceased.

(*o*) *Ante*, p. 317.

(*p*) *Ante*, p. 477.

SIAM.

PART V.
SIAM.Law of 12th
Aug., 1901.

On the 12th August, 1901, the first law on the subject of copyright was promulgated in Siam. This law relates only to literary copyright. It commences with a preamble which recites that when an author, with the resources of his imagination, intelligence, and knowledge has devoted his efforts to composing a work, and has caused it to be printed and published with a view to making a profit, it happens, particularly when the work has a considerable sale, that other persons do not fear to print and expose it for sale, and by these means cause the author to lose the profit to which he was justly entitled: that this practice is prohibited in the majority of foreign countries where all persons other than the author, or any person authorised by him, is forbidden to make extracts from his work or to copy it or publish it: consequently, Her Majesty has deemed it necessary to make a law which shall have force and vigour throughout her dominions, to protect the interests of authors in a manner conformable to justice. The main provisions of this law, which came into force on the 12th August, 1901, are as follows:—

Art. 3. Any one publishing a work in the form of a book or pamphlet, and complying with the conditions of this law, possesses, with respect to his work, identical rights with those he has in any other property belonging to him. Books only protected.

Art. 4. Copyright includes the exclusive right of abridging, translating, circulating, or selling the work.

Art. 5. The term of copyright is the life of the author and seven years from his decease, with a minimum of forty-two years. Duration.

Art. 6. The author's heirs can acquire copyright in his posthumous works for a period of forty-two years from the author's death.

Art. 8. The copyright in works intended for instruction and composed at Government expense vests in the Government.

Art. 10. In order that a book may acquire copyright it must be printed and submitted to the proper official for registration within twelve months from publication. If the author die before having acquired his right, the heirs must seek the right within twelve months from his death. A copy of the work must also be presented to the official having charge of the register (Art. 12), and three copies must be deposited for certain libraries. (Art. 15.) Transferences may be registered. (Art. 15.) There is a fee payable on registration. (Art. 17.) Formalities.

PART V.
SIAM.Infringe-
ment and
remedies.

Art. 16. It is forbidden to make extracts from copyright works, or to translate, copy, or sell them, whether for profit or not. It is likewise forbidden to sell piracies without the authorisation of the proprietor of the copyright.

The proprietor of the copyright can recover damages for infringement, and all copies printed in violation of his rights belong to him.

Rights of Foreigners.

Foreigners.

The above law does not contain any provisions of an international character. According to Art. 7 it applies only to works printed and published for the first time in Siam, but apparently a foreigner so printing and publishing would be entitled to receive protection.

British
consent or
jurisdiction.

By the Siam Order in Council, 1906 (*q*), it is provided that any act which if committed in the United Kingdom or any British possession would constitute a violation of (*inter alia*) any statute, law, or Order in Council for the time being in force relating to copyright, shall, if committed by a British subject in Siam, be punishable in the consular Courts of that country, provided, nevertheless, that no proceedings instituted by any complainant, other than a British subject, shall be admitted, unless the Court is satisfied that effective measures have been taken for the punishment, in the consular or other Courts in Siam, of the like acts committed by the subjects of the State or Power of which the complainant is a citizen, with regard to the interests of British subjects.

EGYPT.

Native
Courts.

The situation in Egypt with regard to copyright is somewhat peculiar. Art. 323 of the Egyptian Penal Code, first promulgated in 1884 and extended in 1889 to the whole of Egypt, forbids piracy of books. This applies to the native Courts (*r*).

Jurisdiction
of the Mixed
Courts.

Protection is also afforded to literary and artistic property by the Mixed Courts, which have jurisdiction in the case of civil disputes between natives and foreigners and between foreigners of different nationalities; the criminal jurisdiction of these Courts is very limited. These Mixed Courts, three in number, with a Court of

(*q*) Made under the powers conferred by the Foreign Jurisdiction Act, 1890.

(*r*) No general law applicable to all persons is possible in Egypt without the consent of the Powers, and, so long as the Capitulations subsist, it would seem impossible for Egypt to adhere to the Berne Convention with any advantage.

Appeal, were established under the Convention of 1875. Regulations have been established for these Courts, and under Art. 34 the new Courts in the exercise of their jurisdiction in civil and commercial matters, and within the limits given to them in criminal matters, are to 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 as to copyright, but the Courts have decided that under the principles of natural justice and the laws of equity, copyright ought to be recognised.

At the date of the third edition of this work five decisions had been given by these Courts and a considerable number have since then been added, the plaintiffs in the decided cases having been generally either Frenchmen or Italians. These decisions relate to the reproduction of novels in Egyptian newspapers, the unauthorised performance and execution of European musical, musical dramatic, and dramatic works, and infringement of photographs.

The principle laid down by the Court of Appeal in what may be termed the leading case of the *Société des Gens de Lettres v. The Egyptian Gazette* (s) is that "copyright is a veritable right of property, founded on labour," and that the absence of any special law on the subject in Egypt ought not to have the effect of destroying this right, but that it ought to receive protection by virtue of Art. 34 of the Regulations above referred to. All property ought to be respected, including literary and artistic property, and therefore an author ought to be entitled to bring an action for damages for infringement of his rights. In conformity with the principle here laid down, it has been held that no formalities are needed to obtain copyright in Egypt, and that authors of musical and dramatic pieces cannot be compelled to allow their performance on payment of a reasonable sum. The Mixed Tribunal at Cairo has also held that the copyright in a picture remains in the artist after sale of his work, unless there has been an agreement to the contrary (t).

By the side of the civil jurisdiction thus exercised by the Mixed Courts is the criminal jurisdiction of the consular Courts of the various Christian countries. These Courts primarily deal with litigation between subjects of one and the same nation, but a

Consular
jurisdiction.

(s) Reported in "Le Droit d'Auteur," 1889, p. 101.

(t) *Schiffi v. Lekizian*, 16th May, 1896. In *Enoch v. Granato-Mezzacopo* (5th Dec., 1903), an injunction was granted against a vendor in Egypt of piratical copies of a musical composition printed in Bucharest.

PART V.
EGYPT.

subject of one country is also at liberty to proceed against the subject of another country in the consular Court of the country of the latter, the law to be applied being the law of the defendant's country. An important judgment was delivered on the 12th March, 1896, by the consular Court of France, at Cairo, and affirmed by the Court of Aix, on the 11th February, 1897, which declared that "by virtue of the principle of extritoriality recognised by international conventions, Frenchmen in Egypt are subject to the French penal law for all crimes and offences covered by that law. . . . This privilege of extritoriality has the effect of subjecting Frenchmen to the local jurisdiction in Egypt in penal matters, and, as a necessary corollary, imposes the duty upon the French consular tribunals of trying matters deemed to be offences by French law"; and the defendant was fined under Arts. 425, 428, and 429 of the French Penal Code for infringement of the plaintiff's dramatic copyright (*u*).

M. Darras, in an able article contributed to "*Le Droit d'Auteur*" (*x*), contends that not only Frenchmen domiciled in Egypt are called upon to respect the rights of authors and artists exactly as though the parties were actually in France, but that Englishmen, Germans, Belgians, Dutch, &c., are under equal obligation to respect in Egypt not only the rights of their fellow countrymen, but also the rights of all others whose rights they would be obliged to respect in their own country; so that, for example, Englishmen in Egypt may be sued in the consular Courts for infringing the copyright of authors belonging to any country of the Copyright Union. However this may be with regard to the other European countries, it is not clear that the British consular Courts have jurisdiction in the matter of copyright. The English consular jurisdiction rests entirely upon Orders in Council made under the Foreign Jurisdiction Act, 1890, which codified the earlier laws on the same subject (*y*), and when the Mixed Courts were established in Egypt the jurisdiction of the consular Courts was, by Order in Council of 5th February, 1876, suspended as to such matters "as come within the jurisdiction of the Mixed Courts." It might be contended, therefore, that as the

(*u*) *Société des Auteurs et Compositeurs Dramatiques v. Jules Morvand*. "Le Droit d'Auteur," 1897, p. 129. (*x*) 1895, p. 165.

(*y*) See Piggott on Extritoriality. Foreign jurisdictions exercised in consular Courts exist at the present time: (1) in civilized independent States, by virtue of express treaty, as in Turkey, Persia, and China; (2) in protected States, with a settled form of government, as in the protected African communities, where the relation of suzerain and dependent State involves such a jurisdiction; (3) in countries with no settled form of government, as in the African spheres of influence, or in the Pacific islands.

Mixed Courts have undoubtedly some jurisdiction in the matter of copyright, the British consular jurisdiction is ousted.

PART V.
EGYPT.

LIBERIA.

Liberia has a copyright law dated the 22nd December, 1911. By this law authors of literary, scientific, and artistic works are granted in the Republic of Liberia the exclusive right of reproducing, selling, or authorising the reproduction of their works. (Art. 1.)

Law of 22nd
Dec., 1911.
Works
protected.

Literary works include books, pamphlets, and other writings: dramatic or dramatico-musical works, choreographic works and pantomimes, musical compositions, works of design and painting, architectural drawings, works of sculpture, engraving, and lithography, illustrations, geographical charts, plans, sketches and plastic works relative to geography, topography, architecture or science, translations, adaptations, arrangements of music, and other reproductions in an altered form of literary or artistic works (z). (Art. 2.)

Meaning of
"literary
works."

The period of copyright is for the life of the author and twenty years.

Period of
copyright.

In order to secure copyright one copy of the work must be deposited with the State Department, and the Secretary of State must be satisfied that the work is an original one, and thereupon issue a certificate to the person demanding the same (a). (Arts. 5 and 6.)

Formalities.

No mention is made of performing rights, mechanical music, or cinematographs in the law, which must, at best, be regarded as incomplete.

Rights of Foreigners.

Art. 4 of the above law provides that "the exclusive right of selling a work includes the right to forbid the sale in Liberia of reproductions manufactured in a foreign country without the consent of the author."

Liberia has adhered to the Revised Berne Convention of 1908 without reserve.

(z) Cf. Art. 2 of the Berlin Convention. Photographs are not mentioned.

(a) Presumably these formalities are not required in respect of works published in any country of the Copyright Union.

PART V.
TUNIS.

TUNIS.

French Pro-
tectorate.

By a treaty of 12th May, 1881, a French protectorate was established over Tunis.

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 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 is 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 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 (*b*).

Copyright does not exclude the right of making quotations for purposes of criticism, argument, or education.

Newspapers.

Every paper may reproduce an article published in another paper, on condition of indicating the source, unless this article carries a special warning that reproduction is forbidden.

Translations.

Art. 4. Copyright in a literary work includes the exclusive right of making or authorising a translation of it. Copyright in musical compositions includes the exclusive right of making arrangements on the motifs of the original work.

Penalty for
infringe-
ment.

Art. 5. No literary or artistic work not become public property may be publicly performed in the regency, without the formal consent in writing of the author or his assigns, under penalty of a fine of fifty piastres at least, and confiscation of receipts for the benefit of the authors or their assigns.

(*a*) The law is translated from "Le Droit d'Auteur," 1889.

(*b*) This follows the definition in the Berne Convention, 1886, but not that in the Revised Convention, 1908.

Art. 6. Piracy in the territory of the regency constitutes a misdemeanor; and so also the sale, exportation, and consignment of pirated works, as well as their importation into Tunisian territory.

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. Piracy.

Arts. 8 and 9 refer to the penalties in the event of any infringement. The French Courts are alone competent to take cognizance of all claims or disputes under this law. (*Art. 11.*) *Art. 463* of the French Penal Code (*c*) applies. (*Art. 10.*)

Rights of Foreigners.

Rights of foreigners under the law of 15th June, 1889, are limited by *Art. 1* above set out: (1) to works published for the first time in Tunis, whatever may be the nationality of the author; and (2) to works published abroad, and for the protection of which a diplomatic convention can be invoked. Foreigners

By the treaty of 12th May, 1881, before referred to, Tunis undertook not to conclude any international act without the assent of France, but, with that assent, she has ratified the Revised Berne Convention, subject to a reservation as to works of applied art.

It is the opinion of M. Darras (*d*) that the law of 15th June, 1889, is applicable only to Tunisians who are not under the protection of some European Power. He contends that as regards France, the effect of the treaty of 12th May, 1881, is that the French tribunals are competent to punish offences against Frenchmen, and that inasmuch as a French law of 28th May, 1836, has enacted that "offences, delicts, and crimes committed in the Levant shall be visited with the penalties provided by the French laws," Frenchmen in the Levant are subjected to the penal provisions of the French laws; and that, though by a French law of 27th March, 1883, consular jurisdiction in Tunis has been suppressed, this has not had the effect of abrogating the provisions of the law of 28th May, 1836. According to M. Darras there is this special peculiarity about Tunis, that this latter law does not apply to Frenchmen only, but ought to be extended to all Europeans, because, since the establishment of the French protectorate over Tunis, all the European Powers have renounced the benefit of M. Darras' opinion

(*c*) *Ante*, p. 366, n. (*c*).

(*d*) "Le Droit d'Auteur," 1901, p. 91.

PART V.
TUNIS.

the Capitulations (*e*), and this, he contends, has had the effect not only of attributing competence to the French tribunals at Tunis over all Europeans, but of rendering applicable the provisions of the French penal laws. This opinion is, to some extent, confirmed by a judgment of the Tunis Court delivered the 29th December, 1900 (*f*), by which certain Italians were fined under Art. 463 of the French Penal Code, though the decision of the Court was based not upon the grounds suggested by M. Darras, but erroneously, no doubt (*g*), on the provisions of the Berne Convention.

Tunis was, in the year 1912, "proclaimed" by the United States as a country entitled to the benefit of the American Copyright Act, 1909.

SOUTH AND CENTRAL AMERICA.

None of the States of South or Central America is a party to the Berne Convention, but these States have endeavoured to establish a separate Convention according mutual protection to their literary and artistic works. These Conventions, known as the Pan-American Conventions, have already been referred to earlier in this work (*h*), but by no means all the States have adhered to these Conventions, and although most of the States have domestic legislation on the subject, authors generally receive only scanty protection for their works in South and Central America.

ARGENTINE REPUBLIC.

Old law.

Prior to the passing of the law of the 23rd September, 1910, hereinafter referred to, the law of copyright in the Argentine Republic was uncertain and unsatisfactory. Art. 17 of the Constitution of 1869 had provided that every author or inventor should be the exclusive proprietor of his work "for the period allowed by law." No law was, in fact, passed until the law of 1910, and, in the meantime, it was a matter of controversy as to whether the effect of the absence of any special law on the subject was to give an author unlimited copyright or no copyright at all. The better opinion, however, appears to have been that native authors had unlimited copyright in their works, and, probably, foreigners

(*e*) See British Order in Council, 31st Dec., 1883. Piggott on Exterritoriality.

(*f*) "Le Droit d'Auteur," 1901, p. 57.

(*g*) According to the provisions of the Berne Convention it is the law of the country where the piracy is committed that is applicable.

(*h*) *Ante*, p. 328.

resident in Argentina also; but it is believed that no works of foreigners published abroad were ever held by the Courts to be entitled to protection.

PART V.
ARGENTINE
REPUBLIC.

The situation has now been to some extent cleared by the passing of the law of the 23rd September, 1910, although that law can only be described as meagre and unsatisfactory. This law seems to admit the previous existence of copyright, inasmuch as, in recognising "scientific, literary, and artistic property" in all works made public or published in the Argentine Republic, it declares that the same shall be regulated by "the common law under the conditions and restrictions stated in this law." (Art. 1.)

Law of 23rd
Sept., 1910.

A wide definition of "scientific, literary, and artistic property" is given by Art. 2, which provides that this shall include "writings of any nature or extent, theatrical and musical compositions of any kind, works of painting, sculpture, architecture, and engraving, geographical maps, plans, designs, and photographs, in short, any production of a scientific, literary, or artistic character, whatever be the mode or form of reproduction."

Works
protected.

Copyright consists of the right "to arrange, publish, perform, exhibit in public, assign and translate the work, to authorise translation, and to reproduce the same in any form." (Art. 3.)

The pro-
tection
accorded.

In the absence of contrary agreement, the copyright belongs to the author, and if there is more than one author the copyright belongs to them all in equal shares (*i*). After the author's death the copyright passes to his heirs; but this copyright may be assigned *inter vivos*. (Arts. 4 and 5.) In the case of anonymous contributions to a collective work, supplied at request, the authors do not, in the absence of contrary agreement, retain their copyright (Art. 4), and, presumably, in such a case the copyright belongs to the proprietor of the collective work. By Art. 6, however, it is provided that, in the absence of contrary agreement, the author is understood to reserve the right to reproduce his work in any form whatsoever without any express reservation.

Owner of the
copyright.

The period of copyright protection is during the life of the author and for ten years after his death: in the case of collaborations the ten year period runs from the death of the last surviving author: and in the case of posthumous works the period of protection is twenty years from publication. (Art. 5.) No express provision is made for the case of anonymous or pseudony-

Period of
copyright.

(i) In a case of *Fernandez-Gomez v. Gheraldo* (Buenos Aires, 27th Feb., 1912), the Court refused to restrain the performance of a play at the request of one of two co-authors unless the plaintiff produced a consent of his co-author. But the correctness of this decision has been questioned. "Le Droit d'Auteur," 1912, p. 49.

PART V.
ARGENTINE
REPUBLIC.

mous works, and, although Art. 4 declares that anonymous or pseudonymous authors are "represented" by the lawful publisher, it does not seem to follow that the period of copyright is to be regulated by the life of the latter.

Formalities.

Although no express mention of reserve of copyright is necessary, copyright is dependent upon the deposit of two copies with the National Library within fifteen days if the work appears in the capital, or within thirty days if it appears elsewhere in Argentine territory. The period of fifteen days applies also to works printed abroad and published by a publisher in the Republic, but the time runs from the first day when the work is placed on sale in Argentine territory. In the case of works of painting, architecture, and sculpture, the deposit is to consist of a sketch of the original work, with such additional particulars as may be necessary to identify the work. The deposit is to be made by the printer or publisher, but the penalty falls upon the author, for, although copyright is only suspended in the first instance, if deposit is not made within two years the work falls into the public domain. (Art. 7.)

Newspaper
articles.

Provided the source be acknowledged, newspaper articles—except those which treat of sciences or arts, or those the reproduction of which is expressly forbidden—may be reproduced. (Art. 8.)

Remedies.

The remedies for piracy are a civil action for damages, seizure of infringing articles, or injunction against illegal performance of a theatrical work—the last two remedies at the peril of the plaintiff. (Art. 9.) There are no criminal remedies (*k*).

Retro-
activity.

The law contains no express provisions with regard to works published prior to the passing of this law, but it is presumed that, as the Act is only a modification of the common law, such works receive the same protection as those published after the passing of the law.

Rights of Foreigners.

Provisions of
the law as
to foreign
works.

The rights of foreigners are regulated by Arts. 10, 11, and 12 of the law of 1910. Art. 10 provides that all the provisions of the law, with the exception of those contained in Art. 7 (relating to deposit), apply to works published in a foreign country, whatever be the nationality of the authors, provided they belong to nations which have either adhered to international Conven-

(*k*) The Federal Court of Buenos Aires, by a decision of the 23rd June, 1912, have held that questions of infringement of copyright fall within the jurisdiction of the local tribunals. "Le Droit d'Auteur," 1913, p. 66.

tions on the subject, or have concluded special treaties with the Argentine Republic. To obtain copyright for a foreign work no formalities are required to be observed, beyond those prescribed by the laws of the country of first publication (Art. 11), but the period of protection accorded by the Argentine law is not to exceed that conferred by the laws of the country of first publication. (Art. 12.) No express provision is made to the effect that the period of protection is not to exceed that conferred by the Argentine law, but this seems to follow from the opening words of Art. 10, stating that "the provisions of this law" are applicable to foreign works.

It will be noticed that copyright is only accorded to the works of foreigners published abroad, provided their authors belong to a country which has adhered to international Conventions or has concluded a special treaty with the Republic. If the authors are subjects of such a country it seems to be a matter of indifference what is the country of first publication, provided the formalities prescribed by that country have been observed. It is thought that the "international Conventions" referred to in Art. 10 include only those Conventions to which the Argentine Republic has adhered. The Republic has adhered to the Monte Video Convention, to which Belgium, France, and Spain are also parties. Belgian, French, and Spanish authors are therefore entitled to protection of their works in Argentina (*l*), but Great Britain is not a party to that Convention, nor has she any special treaty with Argentina on the subject of copyright. At the present time, therefore, it does not appear to be possible for a British subject to obtain copyright for his works in Argentina, except by publishing his works in that country. As previously pointed out, copyright is accorded to all works "made public, or published, in the Argentine Republic." It will be noticed that this does not expressly require the works to be "first" published in the country, though it is possible that this may be the construction placed upon the law by the Argentine Courts.

Effect of
these
provisions.

BOLIVIA.

On the 29th October, 1909, the Bolivian Congress passed a new law on the subject of copyright. This law supersedes a ministerial decree of the 13th August, 1879, based largely upon

(*l*) It is believed that authors belonging to these countries have met with some success in the Argentine Courts. "Le Droit d'Auteur," 1914, p. 71.

PART V.
BOLIVIA.

the Portuguese Code of 1867, by which copyright in Bolivia was previously regulated, and the new law, both in respect of period of protection and in other respects, is less liberal to authors than the old law (*m*).

Works pro-
tected.

By this law of 1909 intellectual property includes "scientific, artistic, and literary works" (Art. 1), and this property is exerciseable by (1) authors, (2) translators, (3) publishers who publish works previously unpublished, (4) persons who abridge or summarise the works of another with his consent, (5) heirs succeeding to an author's property, (6) authors of maps, plans, and scientific designs, and (7) composers of music, painters, sculptors, &c. (Art. 2) but the law contains no other definition of the works to be protected.

Period of
protection.

The general period of copyright protection is the life of the author and thirty years after his death (*n*). (Art. 4.) The benefit of the law is granted to the State and to artistic, scientific, and literary societies, to institutions and to educational bodies legally established (Art. 3), but no statement is made as to the period during which such bodies are to enjoy protection. In the case of a posthumous work, the publisher enjoys protection for thirty years from the date of publication, without prejudice to the rights of the heirs of the author, if the author is known: if he is not known, then for a period of twenty years only from the date of publication (*o*). (Arts. 6 and 7.)

In order to acquire copyright it is necessary to register the work with the Ministry of Education, and to deposit "in the public libraries" (*p*) a signed copy of the work, but works of painting, sculpture, &c. are not subject to the obligation as to deposit. Registration must be effected within one year from the date of publication, failing which the work falls into the public domain. (Arts. 9, 10, 11, 12.)

Infringement
of copyright.

"Amongst other things," (1) any change in the title or substance of a work made with a view to publication, and (2) illegal reproduction abroad of the work of a native, are to be considered infringements of copyright (Art. 15), but the law is no more precise than this upon the question of infringement of copy-

(*m*) A fact which, as "Le Droit d'Auteur" (1910, p. 102) justly observes, is "unique in the modern history of copyright."

(*n*) Under the decree of 1879 copyright continued for fifty years after the author's death.

(*o*) The periods under the old law were respectively fifty years and thirty years.

(*p*) The number of copies to be deposited, therefore, depends upon the number of the "public libraries" for the time being.

right. The State is given the right to expropriate any work which has once been published, if the same is out of print and the author or his heirs will not reprint the same, notwithstanding that the work has not fallen into the public domain. (Art. 18.)

PART V.
BOLIVIA.

A pirate is liable to pay as a penalty the value of copies illegally sold or, if the number sold is unknown, the price of 500 copies. (Art. 14.) If the piracy has been committed abroad the pirate may be proceeded against in accordance with the provisions of the Penal Code or international arrangements. (Art. 15.)

Remedies.

Rights of Foreigners.

Under the decree of 1879, foreign authors were granted the same advantages as were accorded to Bolivian authors, resident in the foreign country, subject to some modification in the case of translations. The new law contains no provisions whatsoever as to the rights of foreign authors, and such authors can only claim protection for their works under some treaty. Bolivia has a treaty with France, dated the 8th September, 1887, by which the subjects of either country enjoy in the territory of the other the same rights of copyright as natives. Bolivia is also a party to the Monte Video Convention.

BRAZIL.

Legislation in Brazil on the subject of copyright is of modern growth, for, with the exception of some crude provisions in the Criminal Code of 1830, the monarchy was entirely opposed to any such legislation.

History of
copyright
legislation.

When the form of government was altered to a republic in 1889, a new Penal Code was promulgated (11th October, 1890), which contained a special chapter on literary and artistic property, which is still in force; and the Constitution of 24th February, 1891, by Art. 72, s. 26, provided that "authors of literary and artistic works are guaranteed the exclusive right of reproducing their works by printing or any other mechanical process. The author's heirs shall enjoy this right for the period that the law shall determine." No law was, however, passed until the 1st August, 1898, when the law which now mainly regulates copyright in this country came into force. This law repeals "all contrary provisions" in other laws, and this, it is conceived, practically amounts to a repeal of the provisions of the Penal Code of 1890, so far as they relate to copyright, except as to penalties.

PART V.
BRAZIL.Law of 1st
August,
1898.Duration of
copyright.Assigna-
bility.

The law of 1st August, 1898, is as follows (*q*):—

Art. 1. The rights belonging to the author of a literary, scientific, or artistic work consist of the exclusive liberty of reproducing or authorising the reproduction of his work by publication, representation, performance, or any other means whatsoever.

Art. 2. Defines literary, scientific, and artistic works nearly in the words of Art. 4 of the Berne Convention as comprehending “books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions with or without words; works of painting, sculpture, architecture, engraving, lithography, photography; illustrations of all sorts; charts, plans, and sketches; in fact, every production whatsoever in the literary, scientific, or artistic domain.”

Art. 3. The following are the periods of protection: (1) For the right of reproduction in any form whatsoever, fifty years from the 1st January of the year of publication; and (2) for the right of translation, public representation, and performance, ten years, dating in the case of translations from the 1st January of year of publication, and in the case of public representations and performances from the first authorised representation or performance (*r*).

Art. 4. Copyright is personal property, assignable and transmissible in whole or in part, in conformity with the following rules: (1) Assignments *inter vivos* shall only be valid for thirty years, after which the copyright, if still subsisting, shall revert to the author; (2) at every new edition the author has the right to either correct and revise his work or regain his copyright on making compensation to the assignee as prescribed by this law.

Art. 5. An assignee of copyright may not modify the work for sale or exploitation.

Art. 6. In the absence of a legal publishing agreement the copyright is presumed to remain vested in the author, and the pub-

(*q*) Translated from the French translation in “Le Droit d’Auteur,” 1898, p. 101.

(*r*) Art. 345 of the Penal Code of 11th October, 1890, forbids the reproduction of 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 leave heirs; and as to translations, Art. 347 simply forbids to translate and sell any writing or work without the author’s leave; and Art. 348 likewise forbids public performance of musical and dramatic works. It will be noticed that the provisions of the law of 1898 are conceivably less favourable to the author than those of the Penal Code of 1890, for, under the former, copyright might possibly cease whilst the author was still living. As Art. 72 of the Constitution has enacted “that the *heirs* of authors shall enjoy this right during the period that the law shall determine,” could the provisions of the Code of 1890 (as we have seen, not necessarily repealed) be invoked if they were more favourable to the author than those of the law of 1898?

lisher must pay the author at least one half of the sale price of the whole edition.

Art. 7. Copyright is protected from the author's creditors.

Art. 8. Posthumous works are protected for the same periods as prescribed in Art. 3, but the right of translation and public performance runs from the 1st January of the year in which the author dies.

Posthumous works.

Art. 9. Collaborators, in the absence of agreement to the contrary, enjoy equal rights, and the authority of all of them is necessary for reproduction. Disputes are to be determined by the Courts.

Collaborations.

Art. 10. The consent of one collaborator is sufficient to authorise the stage production of a theatrical work, but the others are to be indemnified.

Art. 11. In the case of anonymous and pseudonymous works the copyright is vested in the publisher until the author makes himself known.

Anonymous and pseudonymous works.

Art. 12. Translations are protected as original works, but the translator can only prevent other translations during the period mentioned in Art. 3 (2).

Art. 13. In order to obtain copyright, it is indispensable to register and deposit at the National Library within a period of two years expiring on the 31st December of the year following that in which the term fixed by Art. 3 commences to run: (1) one perfect copy of a work of art, literature, or science, printed, photographed, lithographed, or engraved; (2) a perfectly clear photograph of minimum dimensions of 18 by 24 centimetres of works of painting, sculpture, architecture and design, sketches, &c. (s).

Formalities.

Art. 14. The right of performance of a literary work is regulated by the provisions as to musical works.

Performing rights.

Art. 15. No public performance or execution, in whole or part, of a musical work may take place without the author's consent; but after a work has been published and put in sale it is understood that the author gives his consent to its performance where no payment is exacted.

Musical compositions.

Art. 16. Copyright in a musical work includes the exclusive right to make arrangements and variations in the *motifs*.

Art. 17. The transfer of an artistic work does not carry the

Artistic works.

(s) Regulations as to registration and deposit were issued on 11th June, 1901. A demand for registration must be addressed to the director of the National Library, and the demand must indicate nationality, profession, domicile of the author, title of work, place and date of first publication, reprinting, representation or performance, and all essential elements of the work. A fee of two milreis is charged for registration.

PART V.
BRAZIL.

right of reproduction for the profit of the proprietor of the work; but the artist may only reproduce it if he acknowledges that the work is not original.

Art. 18. The reproduction of a work of art by industrial processes, or the application of a like work to industry, does not deprive a like work of its artistic character; but it remains subject to the provisions of this law.

Piracy.

Art. 19. Any deceitful or fraudulent infringement of copyright constitutes the offence of piracy. Any one knowingly selling piracies, exposing them for sale, having them on his premises for sale, or importing them into the country for commercial purposes, is guilty of the same offence.

Art. 20. Accomplices are subject to the same penalties as the authors of these offences.

Art. 21. The following are to be considered piracies: (1) translations of foreign works; (2) reproductions, translations, representations, and performances, without the consent of the author, if necessary, when modifications, additions, or suppressions have been made to the works without the author's consent.

Not piracy.

Art. 22. The following will not be considered piracies: (1) reproduction of passages or fragments of published works, or the insertion, entire, of short writings in the body of a large work, provided the latter be a scientific work or a compilation of writings of various authors, composed for the purpose of public instruction, the source to be acknowledged; (2) reproduction in journals or periodicals of news, political articles, extracts from other journals and periodicals, or the reproduction of speeches at public meetings of whatever nature. The journal from which the extracts are taken should be named, and the author alone has the right to publish an article or a speech separately; (3) reproduction of official and state documents; (4) reproduction, in books and journals, of passages for criticism or polemics; (5) reproduction, in the body of a writing, of works of figurative art to illustrate the text, on condition of expressly naming the author; (6) reproduction of works of art found in streets or public places; (7) reproduction of portraits or busts executed on commission, when made to the order of the proprietor of the object.

Penalties.

Arts. 23 to 47 relate to the penalties for infringement and procedure for recovery thereof. Under the Code Penal fines were inflicted and confiscation of piracies decreed, but the fines were ridiculously small and operated rather as an encouragement than a deterrent to piracy. The provisions of the Code Penal as to penalties are expressly retained by Art. 23 of the law of 1898, but, in addition to the fines, the pirate is now made liable in

damages, and the piracies and all instruments of piracy are liable to confiscation. Unauthorised performances of musical and dramatic works are punished by forfeiture of the receipts and imprisonment. One collaborator may sue for infringement without joining the others.

Rights of Foreigners.

The strong hopes that have been entertained that Brazil would be the first of the Latin States of America to join the Copyright Union have, for the moment, been dashed.

The law of 1898 is conceived in a strictly national spirit, Art. 1 providing that the rights thereby accorded are conferred "upon natives and foreigners residing in Brazil (*t*), according to the terms of Art. 72 of the Constitution, provided they fulfil the conditions prescribed by Art. 13."

Provisions of
law of 1898.

There is, indeed, one clause in the law of 1898 that seems to afford some protection to foreign works. Clause 21 (1) is in the following terms: "Translations of foreign works in the Portuguese language, not expressly authorised by the authors and made by foreigners not domiciled in the Republic, and not printed there, are to be considered piracies. Authorised translations must bear the inscription 'translation authorised by the author,' and such alone may be imported, sold, or performed in the territory of the Republic." Though the object of this Article is, admittedly, simply to exclude the wretched translations that had been previously freely imported from Portugal in large quantities, it may operate indirectly to give some protection to the foreigner (*u*).

In the year 1912 a law was passed (*x*) providing that all the provisions of the law of 1898, with the exception of Art. 13 (*y*), should apply equally to scientific, literary, and artistic works published in foreign countries, whatever might be the nationality of their authors, provided that they belonged to nations which have concluded with Brazil treaties guaranteeing reciprocal protection to Brazilian works (Art. 1), but the period of protection must not exceed the period allowed to the works by the laws of the country where the same are first published, and the provisions of the law are not to apply to works published, or in course of publication, at the date of the promulgation of the law. (Art. 3.) In order to enjoy the benefit of this law, it is only necessary that

Law of 17th
January,
1912.

(*t*) The necessary period of residence is not stated.

(*u*) See "Le Droit d'Auteur," 1898, p. 114.

(*x*) Law No. 2577, 17th January, 1912; "Le Droit d'Auteur," 1912, p. 34.

(*y*) Relating to registration of works.

PART V.
BRAZIL.

Present state
of interna-
tional pro-
tection in
Brazil.

the author of the foreign work should comply with the formalities required by the laws of the country of first publication. (Art. 2.)

This law follows the Argentine law of the 23rd September, 1910, and only grants protection to foreign works on the basis of same treaty, but the passing of the law raised hopes that Brazil would adhere to the Berne Convention. These hopes were confirmed when the negotiations which France had opened up with Brazil, with a view to entering into a treaty for the mutual protection of works published in either country, were momentarily broken off, upon the ground that Brazil desired to consider whether the better course would not be for her to join the Copyright Union. A clause was actually introduced into the Budget law of the 4th January, 1913, expressly authorising the Government to ratify the Revised Convention of 1908, but the Government failed to take advantage of the permission thus accorded, and, as the clause had not re-appeared in the Budget of 1914, it is not clear whether the permission given by the Budget of 1913 has not lapsed. At any rate, there does not seem any immediate prospect of the hopes that have been raised coming to fruition, and, in the meantime, the negotiations for a treaty between France and Brazil were re-opened, and resulted in the signing of a treaty between the two countries, dated the 16th December, 1913, guaranteeing protection to the authors of either country in the other upon the "most favoured nation" footing (z). The only other country which has a copyright treaty with Brazil is Portugal (1st November, 1889)—this treaty being of a rudimentary character. Brazil was one of the parties to the Monte Video Convention of 1889, but she appears never to have ratified the same. She is, however, bound by the Pan-American Convention of Rio de Janeiro, 1906 (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 1,000 pesos may be inflicted on any person who commits any fraudulent act relating to literary or artistic property, and that copies, implements, or

(z) "Le Droit d'Auteur," 1914, p. 4.

(a) *Ante*, p. 328.

(b) Enforced residence in a fixed locality.

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.

The law of 24th July, 1834, provides as follows:—

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 *des belles lettres* belongs, shall have the exclusive right during their lives 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. Duration.

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. Posthumous 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 ordinary Court in the year following the death of the author, and clearly proves that they are his.

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, during which latter period the copyright 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 forty 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.

PART V.
CHILI.

Art. 11. The government may grant an exclusive privilege for five years to persons reprinting interesting works, provided the reprint be correct and handsome.

Art. 12. If the author or publisher do not desire to enjoy copyright, and do 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 Procureur 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.

Piracy.

Art. 15. If any person reprint, engrave, or imitate the work of another, or contravene in any way the provisions 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.

Rights of Foreigners.

Foreigners.

Art. 6 of the law of 24th July, 1834, provides "that 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." This clause seems a model of bad draftsmanship. Literally construed, foreigners publishing at any time in Chili would obtain copyright, and the foreigner publishing a new edition would apparently not need to be the proprietor of the copyright in the author's native country. Whether such a literal construction would prevail is not, however, certain. At any rate, the foreigner must make the deposit required by Art. 10. Chili has signed the Convention of Monte Video and the Pan-American Convention, but, hitherto, she has ratified neither. She is a "proclaimed" country entitled to the benefit of the United States Copyright Act, 1909, and by a treaty with the same country, dated the 6th December, 1898, it was agreed that publications made in violation of the copyright laws of the country of destination should not be allowed to be carried as postal packages between the two countries. Negotiations between France and Chili for a copy-

right treaty have recently been opened up, but at present Chili has no express treaties on the subject.

PART V.
CHILI.

COLUMBIA.

Copyright in Columbia is governed by a long law of the 20th October, 1886, based largely upon the Spanish law of 10th January, 1879. Its main provisions are as follows (*c*):—

Art. 1. Literary and artistic property, or copyright, consists in the privilege accorded to authors by law of 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 abridgment 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. Who entitled to copyright.

Art. 4. Any person who first publishes an unpublished work, of which nobody is the owner, from a manuscript of which he is the proprietor, is regarded as 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. 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

(*c*) "Le Droit d'Auteur," 1914, p. 129.

PART V.
COLUMBIA.

regulated by the ordinary law without other limits than those resulting from the law.

Duration.

Art. 10. Literary and artistic property belongs to authors for life, and after their death to persons lawfully acquiring it for eighty years.

Assignability.

Copyright may be assigned (*Art. 14*), but if the copyright be assigned *inter vivos* twenty-five years after the author's death, it reverts to the author's heirs of necessity, if he has such. (*Art. 15*.)

Formalities.

Registration must be effected at the Ministry of Public Education, and three copies deposited for the use of the Ministry of Public Education and the National Library, but there is no necessity for deposit of works of art of which only single copies exist, and, in the case of dramatic works which have been publicly performed, but not printed, a single MS. copy must be deposited. (*Art. 29*.) Such registration must be effected within one year from the date of publication. (*Art. 30*.) If the author fails to register, the work becomes public property for a period of ten years, and within a year from the expiration of that time the author may recover the copyright by registration, but publishers may sell their stock lawfully printed during the period of forfeiture. If the author does not take advantage of his second opportunity, the copyright is lost altogether. (*Arts. 21, 22*.)

Special subjects of literary copyright.

The law provides that the copyright in letters shall remain in the sender. (*Art. 33*.) Translations and abridgments, unless they be of foreign works, are prohibited (*Art. 39*), but translators and abridgers have the copyright in their translations and abridgments. Except, however, in a case where they have obtained the authority of the author of the original work, they cannot oppose similar translations or abridgments being made by others. (*Art. 41*.) Similarly, compilations are protected if their method or arrangement is original. (*Art. 42*.) Documents preserved in archives and public libraries may only be copied with the permission of the proper authority (*Art. 45*), but laws, regulations, and official documents may be freely copied. (*Arts. 54, 55, 56*.)

Anonymous, pseudonymous and posthumous works.

The copyright in anonymous and pseudonymous works is protected by the publisher, until their authors disclose their identity. (*Art. 46*.) It is provided that works published orally during an author's life, as well as works published after his death, are to be included amongst posthumous works (*Art. 47*), but the law, apparently, gives no special period of protection for such works.

Collective and joint works.

The copyright in a collective work belongs to the author or editor, and a contributor must expressly reserve his copyright, if

he desires to do so. (Art. 50.) In the case of collaborations copyright endures for eighty years from the death of the last surviving author. (Art. 50.)

As regards articles contributed to periodicals, the proprietors have only the right of once publishing articles supplied by paid contributors. The writers have the right to publish their works in any manner they think fit. (Art. 51.) Productions published in periodicals may be reprinted in other periodicals, unless the copyright is specially reserved, and in any case the source must be acknowledged. (Art. 52.)

It is permissible to make quotations from another author, provided the passages taken are not so numerous or consecutive as to be considered as a literal imitation (Art. 37): it is also permissible to make selections from the works of others for school books, except against the express wishes of the authors of the originals. (Art. 38.)

Dramatic and musical works may not be publicly performed without the consent of their authors (Art. 58), but if the authors do not fix the amount of royalty, they can only claim the amount of royalties fixed by regulations. (Art. 58.) Musical compositions, as well as arrangements, variations, &c., on a theme or air which is public property may be the subject of copyright. (Art. 60.)

Any person has the right to prevent his portrait or bust being exhibited or sold without his consent, but he cannot deprive a *bonâ fide* dealer of his possession without making him fair compensation. The permission of the family is necessary for the reproduction or sale of a bust or portrait of a deceased person. The absolute right of publishing a portrait can only be obtained by formal contract. (Art. 61.) The question whether a painter or sculptor preserves the exclusive right of reproduction by engraving or analogous process of his work after alienation must generally be answered in the negative, and depends upon the terms of the contract. (Art. 62.) (d)

Piracy committed in a foreign country is an offence if the products be sold in Columbia (Art. 64), but, as doctrines, opinions, and systems do not constitute literary property within Art. 7, a person who reproduces ideas, while changing their form, arrangement, or performance, is not guilty of piracy. (Art. 71.)

The penalties for piracy are fine and confiscation of pirated copies (Art. 68), and, if the author of the piracy is not known,

(d) The law contains no express provisions as to photographs.

PART V.
COLUMBIA.

the publisher, printer, and vendor are to be successively liable, subject to their proving good faith. (Art. 69.) Importers of piracies are liable to hand over to the proprietor of the copyright all copies in their possession and the value of copies sold.

French and Spanish law to be followed.

By Art. 73 it is provided that, if any contest shall arise 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, is to specially adhere to the principles sanctioned by French and Spanish law in relation to literary and artistic property.

Rights of Foreigners.

Foreigners belonging to Spanish-speaking colonies.

In treating the rights of foreigners the law of 1886 draws a distinction between Spanish-speaking countries and others, as appears from the following clauses:—

Art. 25. Authors, natives of countries where the Spanish language is spoken, and the legislation of which accords literary copyright, shall, within the limits of this law, enjoy in Columbia the rights hereby given by means of a civil action before a judge having jurisdiction, without the necessity for any treaty or diplomatic intervention.

Art. 65. It is also piracy to reproduce in Columbia copyright works, printed in Spanish in countries with which reciprocity exists in respect of literary property (*d*).

Other foreigners.

Authors of countries not falling within the above category, can only obtain protection in Columbia by virtue of treaties; but treaties are difficult to arrange, by reason especially of Art. 26 of the same law, which declares: "No reservation of the right of translation can be made in International Conventions entered into by the 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, printed in Spain." Again, Art. 39, which forbids unauthorised translations, adds: "But works of a foreign author, printed in a country with a foreign language, may be freely translated wholly or partially on the single condition that the author's name is not concealed"; and yet again, Art. 57, forbidding unauthorised performances of dramatic and musical works, adds: "If the work be

(*d*) The works of Columbian authors are protected even though they be published in a foreign country: see Art. 3, *supra*.

a foreign one, originating from another country where the Spanish language is spoken, and with which reciprocity exists in respect of literary property, the above prohibition shall refer only to works the authors of which expressly reserve the right of representation." There is, it will be noticed, a marked distinction between the language of Art. 39 and Art. 57, the former expressly stating that foreign works may be freely translated, but the latter making no such express statement as to the right of performing foreign musical and dramatic works. From this difference in language it might perhaps be contended that foreigners are to be protected in their performing rights, but such a construction is rather strained. Columbia has signed, but not ratified, the Pan-American Convention. She has also a treaty with Spain, dated the 28th November, 1885, containing the most-favoured-nation clause, one with Italy, dated 27th October, 1892, and one with Switzerland, dated the 14th March, 1908. A treaty with San Salvador, signed on the 24th December, 1900, does not appear to have been ratified by Columbia.

COSTA RICA.

Costa Rica possesses a complete law on the subject of copyright, the date of the law being the 26th June, 1896. Its main provisions are as follows (e):—

Art. 1. Intellectual property is of the same character and subject to the same rules as movable property.

Art. 2. It includes all kinds of scientific, literary, and artistic works, by whatever means produced.

Art. 3. Copyright lasts for the life of the author and fifty years after his death (f). Duration.

Art. 4. In case of alienation, the alienee becomes the proprietor of the copyright during his life and then his successors are entitled for twenty years after, but after that period the copyright re-vests in the author or his heirs or legatees for a period of thirty years. Title of alienee.

Art. 5. In case of failure of heirs, the property falls into the public domain.

Art. 6. The State, communes, official and private corporations, are entitled to the benefits of this law, but, except in the case of private corporations, copyright will last for twenty-five years only.

Art. 7. Literary and scientific works belong to their authors, and may not, under any pretext, be published or translated without their consent. Literary copyright.

(e) "Le Droit d'Auteur," 1896.

(f) But see Arts. 63 *et seq.*

PART V.
COSTA RICA.

Art. 8. Private letters cannot be published without the authorisation of the writers.

Art. 9. No one may reproduce the works of another without the permission of the proprietor.

Art. 10. It is permissible to publish commentaries, supplements, notes, and critical observations on the subject of the work, provided no more of the text be taken than is necessary for this purpose.

Performing
rights.

Art. 11. Unauthorised publication is forbidden of scientific or literary productions recited, played, or performed in public or private, and noted, stenographed, or obtained by phonograph or any other means; and (*Art. 12*) the same applies to professional lectures in universities, colleges, and schools: but (*Art. 13*) these provisions are not to prevent the publication of extracts.

Official re-
cords, news-
papers, &c.

Art. 14. It is permissible to publish in journals, pamphlets, books or sheets, public documents emanating from the government, provided they have been officially published, and the reproduction conforms to the official text; but (*Art. 15*) complete or partial collections of speeches delivered in Congress or in an official capacity may not be published without consent.

Art. 16. Periodicals may reproduce publications inserted in other periodicals, unless forbidden (*g*).

Art. 17. Authors and translators of productions inserted in journals or reviews may, in the absence of contrary agreement, publish them in collections.

Translations.

Art. 18. A translator enjoys copyright in his translation, but without the right to prevent other translations.

Art. 19. The possessor or publisher of a work may not alter it without the author's consent.

Art. 20. Unlawful works are not protected.

Anonymous
and pseu-
donymous
works.

Art. 21. The publisher of an anonymous, pseudonymous, or posthumous work has the rights of the author, but (*Art. 22*) the author, translator, or proprietor of an anonymous or pseudonymous work may obtain the copyright on proving his title.

Art. 23. The property in posthumous works belongs to the author's heirs or legatees for a term of fifty years (*h*).

Art. 24. Amongst posthumous works are included: (1) works

(*g*) The Supreme Court of Justice in Costa Rica held, on the 14th July, 1903, that telegrams published in the Official "Gazette" could, by virtue of *Art. 14*, be reproduced by newspapers, though the "Gazette" purported to forbid such reproduction. *Art. 14* is not confined to "official" documents. "Le Droit d'Auteur," 1904, p. 32.

(*h*) The law does not state whether this term runs from the author's death or from publication.

which have never been published in the author's lifetime; (2) abridgments, transformations, annotations, or corrections amounting to a new work and left by the author at his decease.

Art. 25. When a work has been alienated, the Courts are to decide whether the modifications are sufficient to make the work a new work within Art. 24 (2).

Art. 27. The provisions as to literary copyright all apply equally to musical and dramatic works, save that (Art. 28) the exemption mentioned in Art. 10 does not apply to musical works.

Dramatic
and musical
works.

Art. 28. The author's consent is necessary for altering a musical composition in any way by introducing accompaniments, making transpositions, arrangements, changing the text, &c.

Art. 29. No dramatic or musical work may be performed in whole or in part in a theatre or public place without the authorisation of the author or proprietor, and (Art. 30) this prohibition extends to performances given by societies so constituted as to receive a money contribution.

Art. 31. Authors or proprietors of musical and dramatic works must determine the rights of performance, otherwise they can only claim those fixed by the executive power.

Art. 32. In the absence of contrary agreement, half of the rights belong to the author of the music and half to the author of the libretto.

Art. 33. Copies of unpublished dramatic or musical works may not be made, sold, or lent on hire, without the author's permission.

Art. 34. Authors of a lyrico-dramatic work may publish and sell their work separately.

Art. 35. If the author of the libretto of a lyrico-dramatic work forbids performance the author of the music may substitute another libretto, and *vice versa*.

Art. 36. When a dramatic or musical work is performed in public the title may not be altered or the text curtailed, changed, or added to without the author's consent.

Art. 37. The rights belonging to the author or proprietor of a dramatic or musical work are not subject to the creditors of the manager of the performance.

Art. 38. The author of a work of art has the exclusive right of reproduction by any means, without exception.

Artistic
copyright.

Art. 39. Authors of plans, sketches, designs, maps, and other like works enjoy the benefits of this law.

Art. 40. The provisions relative to literary works apply equally to artistic works.

Arts. 41 to 48 relate to patents.

PART V.
COSTA RICA.
Registration
and deposit.

Arts. 49 to 62 relate to the formalities necessary to obtain copyright. Authors must register at the Office of Public Libraries, and deposit three signed copies of their works within a year from the day when the printing of the work is finished (*i*), without which no copyright can be obtained (*k*). (Art. 53.) In the case of musical and dramatic works which have been performed but not printed, it will be sufficient to deposit a signed manuscript copy (Art. 55), and in the case of artistic works, such as pictures, statues, architectural models, and such like works, it will be sufficient to deposit an engraving, design, or photograph of the work. Registrations will be published in the official journal within eight days.

Retrospec-
tive opera-
tion.

The benefits of this law are extended to scientific, literary, and artistic productions produced before this law came into force, provided they are registered within six months from the date of its doing so.

Forfeiture of
copyright.

Art. 63. Scientific, literary and artistic works which have not been registered within the period appointed by law fall into the public domain, but after ten years from the day when that period expires, authors or proprietors, or their heirs or legatees, have the right to recover the copyright on duly registering within a year, in default of which the work falls definitely into the public domain.

Art. 64. Likewise scientific, literary, and artistic works which have not been reprinted (*réimprimées*) by the author or proprietor within a period of twenty-five years fall into the public domain.

Art. 65. Dramatic and musical works which have been registered and deposited in accordance with the provisions of Art. 55 fall into the public domain if they have not been published within thirty years from the date of registration.

Art. 68. It belongs to the Minister of Instruction to declare the forfeiture of the copyright in a work. Such a declaration is to be inserted within eight days in the official journal (Art. 69), and, if not, any interested person may require it to be inserted.

Art. 71. Infringers are punishable, civilly and criminally, as provided by Art. 496 of the Penal Code.

Penalties.

Art. 72. The persons responsible for fraudulent piracy committed by publication are successively, (1) the author of the piracy; (2) the publisher; and (3) the printer, unless they respec-

(*i*) What if the work be not printed? The law seems to make no special provision for this, and yet it is clear that pictures, &c. must be registered. The word used in the French translation is "impression."

(*k*) But see Art. 63.

tively prove absence of guilt. In the case of fraudulent piracies committed by performance or public exhibition (Art. 73) the persons responsible are, (1) the person on whose account the performance or exhibition is organised; or, in default, (2) the persons who perform or exhibit the work.

PART V.
COSTA RICA.

Rights of Foreigners.

The last Article of the law of 1896 provides that, "Foreigners resident abroad shall enjoy in Costa Rica the rights hereby conferred on natives and foreigners resident in the Republic, provided the laws of their nation accord equal advantages to citizens of Costa Rica."

Costa Rica has copyright treaties with the following countries: Spain (14th November, 1893), Guatemala (15th May, 1895), Salvador (12th June, 1895), Honduras (28th September, 1895), and France (28th August, 1896), and the President of the United States has issued a proclamation according Costa Rica the benefit of the United States Copyright Act, 1909. Costa Rica was one of the signatories of the Pan-American Convention, and this Convention was ratified by her on the 13th July, 1903.

DOMINICA.

Dominica possesses no copyright law, although by the Constitution of the 20th June, 1896, it is provided that "the nation guarantees to *Dominicans* the property in their scientific, artistic, and literary productions." Dominica has, however, adhered to the Pan-American Convention of Mexico, 1902 (1), being expressly authorised to do so by a law of the 5th August, 1911; but it is difficult to see what law a foreigner can invoke.

ECUADOR.

Art. 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.

A law was passed concerning literary and artistic property on the 3rd August, 1887.

By this law copyright is conferred in literary and artistic works upon the authors thereof. Included amongst authors of literary works are: (1) a producer of a written or oral work; (2) a translator; (3) a proprietor of an unpublished work, not legally belong-

Works pro-
tected.

(1) *Ante*, p. 528.

PART V.
 ECUADOR.

ing to any other person, which he publishes for the first time; (4) a compiler of historical or legislative documents, having permission to make their compilations; (5) a compiler of popular productions, such as songs, traditions, &c., if the compilation is made with a literary object; (6) a publisher or compiler of a work which is no longer private property. (Art. 2.) Included amongst authors of artistic works are: (1) the creator of the 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 having no known proprietors; (4) the author of transpositions or instrumentations made with the permission of the author of the original; (5) an artist, a geographer, an engineer, a draughtsman, a calligraphist, or a sculptor, each in respect of his original work and in 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 in respect of which copyright has ceased. (Art. 3.)

Duration of
 copyright.

The period of protection varies in different cases. In the case of the producer or creator of a literary or artistic work, and in the case of works falling within Art. 3 (5), the period is the life of the author and fifty years after his death: in the case of translations, compilations, &c., the period is fifty years from publication: in all other cases the period is twenty-five years from publication (*m*). (Art. 9.)

Abridg-
 ments and
 translations.

Abridgments are not generally permissible without the consent of the author of the original (Art. 14): and in the case of an abridgment of a work which has become public property, the abridger has copyright in his abridgment, but has no right to prevent others from making similar abridgments. (Art. 15.) Similarly, the existence of a privileged translation does not prevent the publication of another translation of the translated work (Art. 17), and every translation must, unless it be of an anonymous work, indicate the name of the author of the original work. (Art. 18.)

Periodicals.

Articles contributed to periodicals may be reproduced in other periodicals, unless authors expressly reserve their rights. (Art. 28.) If, on the other hand, the editor or publisher of the periodical expressly reserves the copyright, he may not publish the articles separately. (Art. 29.) An author who undertakes the editorship of a periodical does not retain the copyright in any

(*m*) As to dramatic rights, see Art. 35.

article he may contribute, but may publish his article separately. (Art. 30.)

PART V.
ECUADOR.

Reproductions of portraits and busts may not be sold without the permission of the interested person. (Art. 32.)

Portraits
and busts.

Dramatic works are protected against reproduction in the same manner as other works of literature (Art. 33), and they may not be represented in public theatres without the author's permission. (Art. 34.) The exclusive right of public performance lasts for the life of the author and twenty-five years after his death. (Art. 35.)

Dramatic
works.

In order to obtain copyright in a work, the copyright must be registered, and three copies of the work, if printed, must be deposited (Arts. 43, 45): in the case of pictures or sculptures, registration alone will be sufficient, but this does not apply to engravings and other works capable of being multiplied by mechanical means (Art. 46): in the case of dramatic and musical works not yet printed, one MS. copy must be deposited. (Art. 47.) The period allowed for registration is six months from publication, or three months from representation, as the case may be. (Art. 49.)

Formalities.

The author's remedies for infringement of copyright are seizure of the piracies and payment of the value of copies sold. (Art. 54.) If there are any aggravating circumstances, a fine may be imposed. (Arts. 58, 59.)

Rights of Foreigners.

By Art. 64, every citizen of Ecuador who publishes a work outside the territory is granted the benefit of the law, subject to his complying with the formalities, but the period allowed him for registration is double that allowed in ordinary cases.

Works of
citizens
published
abroad.

Art. 42 provides that 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: and the same applies in like cases in regard to artistic property and the representation of dramatic works permitted by a foreign author to an Ecuadorian theatrical enterprise. Thus, a foreigner would appear to be able to confer upon an Ecuadorian citizen the exclusive right, in Ecuador, of translating, abridging, epitomizing, or performing his works. Otherwise the law does not contain any express reference to foreigners, and possibly "authors" will be restricted to native authors. Ecuador has copyright treaties with Mexico

Rights of
foreigners in
Ecuador.

PART V. (10th July, 1888), France (9th May, 1898, and 1st July, 1905),
 ECUADOR. and Spain (23rd June, 1900).

GUATEMALA.

Works pro-
 tected.

Copyright in Guatemala is governed by a law of the 29th October, 1879. By this law the inhabitants of the Republic are granted the exclusive right of publishing and reproducing their original works by manuscript, printing, lithography, or any analogous process (Art. 1), and this right is extended to lectures and speeches. (Art. 2.)

Duration and
 assignment.

Literary copyright is perpetual (Art. 5), but if the author or owner of the copyright leaves no successors, copyright ceases on the death of the author or owner, as the case may be. (Art. 24.) An assignee of the copyright, moreover, cannot oppose the publication by the author of his work with essential modifications. (Art. 7.) In the case of collaborations, upon the death of any author without leaving heirs or assigns, his rights survive to his co-authors. (Art. 13.)

Periodicals.

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. (Art. 17.)

Translations.

The right of translation must be expressly reserved. (Art. 18.)

Formalities.

In order to secure copyright the author or his representative must apply to the Ministry of Public Education, and must deposit four copies of every printed work. (Arts. 28, 29.) In the case of anonymous works a sealed envelope containing the name of the author must be deposited. (Art. 31.)

Remedies.

Piracies are visited by confiscation of pirated copies, and the payment of damages and costs, with a fine in case of a second offence. (Art. 33.) An injunction may also be granted. (Art. 34.)

Rights of Foreigners.

The above law only confers copyright on "inhabitants of the Republic." (Art. 1.) Guatemala has copyright treaties with Costa Rica (15th May, 1895), France (21st August, 1895), Honduras (2nd March, 1895), Salvador (27th March, 1895), and Spain (25th May, 1893). She has also signed and ratified the

Pan-American Mexican Convention of 1902 and the Rio Convention of 1906 (*n*), and is a "proclaimed" country entitled to the benefit of the United States Copyright Act, 1909.

PART V.
GUATEMALA.

HAYTI.

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:—

Law of
8th October,
1885.

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.

Definition.

Art. 2. Authors of these works shall enjoy the right 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.

Deposit.

Art. 3. This deposit shall be made:

- (1) In the case of a work published by a Haytian in Hayti 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 in the position of 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 shall have the exclusive right during their life of selling, causing to be sold, circulating, representing, translating or causing to be translated into 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.

(*n*) *Ante*, p. 328.

PART V.
HAYTI.Widows and
children,
and other
heirs.
Piracy.

Art. 6. The same privilege, which extends to widows for their life, shall pass to children for twenty years, and if there be no children, for ten years to the other heirs or proprietors, after which the work shall become public property.

Any person publishing, reproducing, exhibiting, or representing, without the written consent of the author or his representatives, a literary or artistic work, commits the offence of piracy, and is liable to confiscation of the piracies and to payment of a sum equivalent to the price of 1,000 copies of the original publication. He is also liable to be criminally proceeded against under the Penal Code of 1835.

Rights of Foreigners.

The above law has no special provisions as to foreigners, but Hayti was one of the original signatories of the Berne Convention, and she has adhered to the Revised Convention of 1908, without any reserve, but otherwise she is under no treaty obligations.

HONDURAS.

No special
copyright
law.

Honduras has no special law relating to copyright beyond some rudimentary provisions in the Penal Code of 29th July, 1898, and the Civil Code of 31st December, 1898. By Art. 523 of the former it is provided that any fraud in the matter of literary or industrial property shall be punishable with "minor banishment" for a period of from thirty-one days to a year. Art. 444 of the Civil Code declares that "the author of a literary, scientific, or artistic work has the right to exploit it or dispose of it as he pleases," and Art. 445 enacts that "the laws relating to intellectual and industrial property shall designate the persons to whom this right shall belong, the modes of exercising it, and its duration. Where no such provisions are made, the general rules established by this Code with regard to property shall apply."

Honduras has copyright treaties with Costa Rica (28th September, 1895), Guatemala (2nd March, 1895), Nicaragua (20th October, 1894), and Salvador (19th January, 1895), and is a party to the Pan-American Convention of 1902 (o). The United States has "proclaimed" her as a country entitled to the benefit of the Copyright Act, 1909.

MEXICO.

PART IV.
MEXICO.

The Civil Code of 1871, as modified by that of 1884, contains elaborate provisions for the protection of literary and artistic property (*p*). Civil Codes.

Inhabitants of the Mexican Republic are given the exclusive right of publishing and reproducing, in whole or in part, their original works, either by manuscript, printing, lithography, or other analogous process (Art. 1247): and this right is extended to oral and written lectures, and public speeches. (Art. 1249.) Works protected.

Literary copyright is perpetual (Art. 1253), but the publisher of a posthumous work by a known author, unless he be the heir or assign of the author, has copyright for thirty years only. (Art. 1258.) Institutions enjoy copyright in works published by them for twenty-five years. (Art. 1262.) Duration of literary copyright.

An assignee of copyright cannot prevent the author from publishing his work with substantial modifications. (Art. 1260.) Assignee's rights.

In political newspapers only scientific literature or artistic articles, whether original or translated, are the subjects of copyright, but any person copying from newspapers must indicate the title and number of the paper copied from. (Art. 1268.) Newspapers.

Translating rights must be specially reserved, and it must be stated whether the translating rights are reserved for a special language or for all languages. (Art. 1269.) Translations.

A dramatic author has, besides the exclusive right of publication and reproduction, the exclusive right of public performance. (Art. 1284.) The performing rights last for the life of the author and thirty years after his death. (Art. 1285.) The law also contains provisions regulating arrangements between the authors of dramatic pieces and theatrical managers. (Arts. 1288 to 1295.) The assignment of the right of publication of a dramatic work does not, in the absence of express agreement, carry the performing rights. (Art. 1302.) Dramatic works.

The following persons have the exclusive right of reproducing their original works: (1) authors of geographical and topographical charts, of scientific and architectural, &c. drawings; (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; Artistic copyright.

(*p*) The law of Guatemala is very similar to this law. The references are to the Articles of the law of 1871, the editor not having been able to obtain a copy of the law of 1884, but the text is believed to accurately state the law under the later Code.

PART V.
MEXICO.

(5) musicians; (6) calligraphists. (Art. 1306.) The copyright in these cases is perpetual. (Art. 1307.)

Musical
works.

The performing rights, in the case of musical compositions, are the same as in the case of dramatic works (Art. 1308), and as between authors of words and music, the author of the music is to be considered the author of the words, in the absence of contrary agreement. (Art. 1309.)

Purchasers
of artistic
works.

The purchaser of a work of art does not, in the absence of contrary agreement, obtain the copyright (Art. 1313), but, if the work has been made to order, the artist may not reproduce it in the same branch of art. (Art. 1314.)

Piracy.

The following are acts of piracy: (1) publication of works, speeches, lectures, and original literary articles; (2) publication of translations of such works; (3) representation of dramatic works and performance of musical compositions; (4) publication and reproduction of artistic works, whether effected by the same process as that employed by the artist or by a different process; (5) the omission of the name of the author or translator; (6) reproduction of an architectural work, when it is necessary to penetrate a private house in order to make the same; (7) publication and performance of a musical piece composed of extracts from other pieces; (8) the arrangement of a musical composition for separate instruments. (Art. 1316.)

Not
piracies.

Art. 1322 contains a list of acts which are not to constitute piracy. Amongst these it may be noticed that it is not piracy (1) to perform a drama or musical work when it takes place without stage accessories in a private house or at a public free concert, or if the receipts are intended for charity; (2) to publish the libretto of an opera, or the words of any musical composition where the author has not expressly reserved his literary copyright; (3) to reproduce a sculpture with essential differences, or sculptures standing in squares, promenades, cemeteries, and other public places; (4) to reproduce works of painting, engraving, or lithography, by processes of the plastic arts, and *vice versa*; (5) to reproduce works of architecture, in the case of public monuments or the exterior parts of private houses; (6) to use artistic works as designs for manufactures.

Formalities.

In order to secure copyright the author or his attorney must present himself at the Ministry of Public Education to procure legal recognition of his rights. (Art. 1349.) Further, in the case of books, two copies must be deposited, one for the National Library, and the other for the Public Archives (*q*) (Arts. 1350,

(*q*) A third copy is generally requested for the Library of the Ministry.

1353); in the case of musical works, engravings, lithographs, or analogous works, one copy must be deposited (Art. 1351); and in the case of works of architecture, painting, sculpture, or other work of the like kind, a drawing, sketch, or plan with information as to the dimensions and essential points of the original must be deposited. (Art. 1352.) In addition to these formalities, 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 upon, an artistic work, his name, the date of publication, the conditions of reproduction, or the legal information which he shall think proper, failing which he cannot exercise the rights conferred by the law. (Arts. 1364, 1365.)

The law provides for confiscation of piracies, and the payment of penalties and damages in the event of infringement of copyright. (Arts. 1328 to 1348.)

Rights of Foreigners.

Arts. 1383 and 1384 enable a foreigner residing or publishing in Mexico to obtain copyright in his work. These clauses are as follows:—

Foreigners
residing or
publishing
in Mexico.

Art. 1383. For legal purposes there shall be no distinction between Mexicans and strangers; it is sufficient if the work be published on Mexican territory.

Art. 1384. If a Mexican or a foreigner residing in Mexico publish a work outside the territories of the Republic, he may enjoy copyright, on condition of conforming to the provisions of Arts. 1349 to 1352.

As regards works of foreigners published abroad by authors who are not resident in Mexico, these are only protected on condition of reciprocity. Art. 1386 provides:

Foreigners
residing and
publishing
abroad.

For legal purposes authors residing in foreign countries are to be treated precisely as Mexican authors, provided that Mexicans enjoy equal rights in the country of origin of the work.

As to this provision, the Mexican Minister in Paris in the year 1881 made an authorised communication to the Society of Comparative Legislation in Paris to the effect that "the reciprocity required by the law of Mexico is not subordinated to Mexican authors enjoying abroad the rights accorded in Mexico to foreign authors, but only to the law of the country according to Mexican authors the same rights as to natives. The Mexican law being more liberal than the laws of other countries, it follows that the

PART V.
MEXICO.

foreign author enjoys in Mexico more extensive rights than in his own country" (*r*). This last assertion must not, however, be taken too literally, for, in the first place, foreigners must comply with the complicated and often expensive (*s*) formalities prescribed by Arts. 1349 *et seq.*; and, secondly, in the matter of translations, foreigners are placed in an inferior position to natives by Art. 1156, which enacts: "Authors not residing on national territory and publishing their works abroad, enjoy the rights accorded by Art. 1154 (*t*) for a period of *ten* years."

Treaties and
conventions.

The Pan-American Convention was signed at Mexico, and it is to the Mexican Government that the ratifications have to be communicated, yet Mexico has not herself yet ratified the Convention, though she has signed it. There are copyright treaties in force between Mexico and the following countries: Belgium (7th June, 1895), Ecuador (10th July, 1888), France (27th November, 1886), Italy (16th April, 1890), Dominica (29th March, 1890), and Spain (26th March, 1903). The President of the United States has proclaimed Mexico as being entitled to the benefit of the Copyright Act, 1909.

NICARAGUA.

The Civil Code of 1904 governs the law of copyright in Nicaragua. This Code is practically identical with the Mexican Code (*u*), but six copies of a printed work must be deposited in order to secure copyright. (Art. 832.) The rights of foreigners are also the same as in Mexico. Nicaragua has a copyright treaty with Honduras, dated the 20th October, 1894, and one with Italy dated the 25th May, 1905. She has ratified the Pan-American Convention of Mexico, 1902, and the Rio Convention of 1906.

PANAMA.

Panama, by her Constitution of 1904, adopted the Colombian copyright law of 1886 (*x*). She has a copyright treaty with Spain dated the 25th July, 1912. The Canal Zone is governed by the United States law, under a War Department Order of 1907.

(*r*) Darras, "Du Droit des Auteurs et des Artistes," p. 315. "Le Droit d'Auteur," 1895, p. 149.

(*s*) See "Le Droit d'Auteur," 1898, p. 135.

(*t*) According to Art. 1154, the author must reserve his rights of translation.

(*u*) *Ante*, p. 517.

(*x*) *Ante*, p. 503.

PARAGUAY.

PART V.
PARAGUAY.

The Constitution of the 24th November, 1870, provides that every author or inventor is to have the exclusive property in his work, invention, or discovery, during the time fixed by law. The only law on the subject that has yet been promulgated is the Penal Code of 1910. By Art. 425 of that Code it is provided that if any one unlawfully appropriates or reproduces any literary or artistic work he shall be liable to one year's imprisonment, and to pay double any profit he may have obtained. The expression "literary or artistic works" includes (*y*) books, pamphlets, and other writings, dramatic or dramatico-musical works, choreographic works, musical compositions, drawings, paintings, sculptures, engravings, photographs, lithographs, geographical maps, plans, sketches, and plastic works relating to geography, topography, architecture, or to sciences in general; in short, to any production in the field of literature or art which may be published by any mode of printing or reproduction whatsoever. The penalty is to be reduced by one half in the case of indirect appropriations or reproductions, such as adaptations, arrangements, &c. Art. 428 provides that the provisions of the Code shall only apply if the interested persons expressly reserve their rights and register the same in the public registry; but the law does not state the period of protection.

At the instigation of the Argentine Republic, Paraguay was a signatory of the Convention of Monte Video (*z*), which she ratified on the 2nd September, 1889: and she has accepted the adhesion to that Convention of Spain, France, Italy, and Belgium. She also signed the Pan-American Convention, but only *ad referendum*.

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 Art. 26 reaffirmed the principle of the earlier Constitution by declaring that 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, recognised by law, and on payment of a previously fixed compensation.

Law of 3rd
November,
1849.

(*y*) The definition is taken from the Monte Video Convention, 1889, Art. 5.

(*z*) *Ante*, p. 328.