word 'design' is not used in the Engraving Acts, still the object of the Acts in protecting engravings is exactly the same as the object which the Legislature had in view in protecting paintings, drawings, and photographs in this Act." Consequently decisions under the later Act on this point are authorities for the construction of the Engraving Acts and *vice versâ*.[1]

The only definition of a design under the Acts is that of Lord Watson, in *Hanfstaengl v. Baines*[2]: "So far as I can judge, the expression 'design' as it is used in the Statute means nothing more than the particular forms and arrangements (whether of lines or colouring) which the copyright author has selected as the vehicle for conveying his idea to those who see his work." Under The Copyright Act, 1911, it is illegal for anyone other than the owner "to reproduce the work or any substantial part thereof in any material form whatsoever."[3] Consequently the making of photographs, paintings, drawings, or representations in sculpture of an engraving are illegal, unless made for the purpose of private study.[4]

Blocks.

Where anyone had purchased plates from the original proprietors, he was entitled under the old law to print from them.[5] The case of *Cooper v. Stephens*[6] was decided under The Copyright Act, 1842, as there the illustrations formed part of a book. In that case the proprietors had sold certain electro blocks from which the illustrations were printed to A; A had lent them to the defendants to print from, and Romer, J., held that the proprietors were entitled to restrain such use by any one but A. He thought that if they had tried to restrain A from using

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[1] See pp. 187-191, *infra*. [2] [1895] A. C., at p. 27.
[3] s. 1 (2). [4] s. 2 (1). [5] 8 Geo. II. c. 13, s. 1.
[6] [1895] 1 Ch. 567; approved of and followed by the C. A. in Marshall v. Bull, [1901] 85 L. T. 77.

them the Court would have considered their conduct fraudulent and refused an injunction, in spite of the absence of a written licence under the Act.

The question of the property in blocks is discussed in *Hole v. Bradbury*.[1]

If the person employed to make copies from a plate for the owner made other copies for his own use, he was not guilty of a piracy but of a breach of trust.[2]

Registration was not required under the Engraving Acts.

[1] [1879] 12 Ch. D. 886.

[2] Murray v. Heath, [1831] 1 B. & Ad. 804; *cf.* Tuck v. Priester, [1887] 19 Q. B. D. 629. Prince Albert v. Strange, [1849] 1 MacN. & G. 25, was decided on the Common Law right, not on the Statutes; and the decision also rested on the ground of breach of confidence.

Section 3.

SCULPTURE.

Statutes.

The first Act giving protection to Sculpture was an Act of 1798[1]; but, as this proved an extremely inadequate protection in *Ganaghan v. Cooper*,[2] a new Act was passed in 1814,[3] on which the law of copyright in Sculpture rested down to The Copyright Act, 1911. The former Act was repealed by The Statute Law Revision Act, 1861.

Subject-Matter of the Right.

The Act gave protection to "any new and original[4] sculpture, or model, or copy, or cast of the human figure, or of any bust, or of any part or parts of the human figure clothed in drapery or otherwise, or of any animal or of any part or parts of any animal, combined with the human figure, or otherwise, or of any subject being matter of invention in sculpture, or of any alto or basso-relievo representing any of the matters or things hereinbefore mentioned, or of any cast from nature of the human figure or of any part of the human figure, or of any animal or of any part of any animal, or of any subject containing or representing any of the matters and things hereinbefore mentioned, whether separate or combined."[5]

It was held in the case of *Caproni v. Alberti*,[6] that these words included original casts of fruit and leaves; and in *Britain v. Hanks*,[7] that they included toy soldiers, where the figures were anatomically correct and displayed artistic skill.

It is conceived that the law remains the same under The Copyright Act, 1911.

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[1] 38 Geo. III. c. 71. [2] [1811] 3 Camp. 111. [3] 54 Geo. III. c. 56.

[4] This Act and The Fine Arts Copyright Act, 1862, are the only ones in which the word "original" is used prior to 1911. It probably means no more than a work which is not an infringement of the copyright in another work.

[5] 54 Geo. III. c. 56, s. 1. [6] [1891] 65 L. T. 785. [7] [1902] 86 L. T. 765.

Conditions for Copyright.

Under the Act of 1814, the proprietor must have his name with the date on the sculpture, model, cast, or copy before the same is published.[1]

From the recital of The International Copyright Act, 1844, it appears that the date referred to is the date of the publication.[2] The object of this requirement according to Wright, J., is to inform the public when the copyright runs out, and therefore a date a few days earlier than the actual date of publication sufficiently fulfils the condition.[3] Probably if the date misled anyone into copying the sculpture before the period of copyright had expired, the owner would be estopped from denying that the date was correct.

In the same case it was held that putting the name of one of the partners of the firm of proprietors on the models (the partner in question being also the producer of the model) was a sufficient compliance with the requirements of the Act as to the name.

Neither manufacture nor first publication in the United Kingdom is required by the Act of 1814. But by The International Act, 1844, first publication within the British Dominions is required.[4]

The conditions for acquiring copyright in sculpture are now governed by The Copyright Act, 1911.[5]

Duration and Extent of Right.

The period of copyright was fourteen years from publication, with an additional term of fourteen years to the first owner if he should be then living.[6]

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[1] 54 Geo. III. c. 56, s. 1. [2] *Cf.* also Britain v. Hanks, [1902] 86 L. T. 765.

[3] Britain v. Hanks, *sed quære.* In the case of registration under The Literary Copyright Act, 1842, which was only a preliminary for bringing an action, it was necessary to give the day of publication, not the month only (Mathieson v. Harrod, [1867] 7 Eq. 270); *a fortiori* it would seem that a false date would be fatal.

[4] 7 Vict. c. 12, s. 10. [5] See pp. 50–2, *supra.* [6] s. 6.

There is nothing in the Act to indicate whether the right extended throughout the British Dominions or only within the United Kingdom. On the analogy of The Fine Arts Copyright Act, 1862, it will probably be limited to the United Kingdom,[1] although in that Act there is a prohibition of importation into the United Kingdom,[2] whereas in the Sculpture Copyright Act importation is forbidden, but it is not stated into what places.[3]

Ownership.

The first owner is the person who "makes or causes to be made" the sculpture or model in question.[4]

The transfer of the copyright was required to be by *deed* signed by the transferors and witnessed by two credible witnesses.[5] It is not clear whether a licence was also required to be under seal and witnessed.[5]

Infringement.

There is no case dealing with the question as to what imitations constitute an infringement of copyright, but the Act provides that piracy may be committed by "moulding or copying from or imitating in any way" the pirated work.[6] It is conceived the principles are the same as in the other forms of Artistic Copyright. In a case under The Fine Arts Copyright Act, 1862, Lindley, L. J., expressed the opinion that a statue made from a picture did not infringe the copyright in the picture, as it did not compete with the picture commercially.[7] It may be that this was true of a picture made from a statue under the Act of 1814.

[1] Graves v. Gorrie, [1903] A. C. 496 (see especially p. 499).

[2] 25 & 26 Vict. c. 68, s. 10. Section 4 is also referred to as supporting this view, [1903] A. C., at p. 499; why, it is not quite clear. The practice of registration is required by The Copyright Act, 1842, which gives protection extending throughout the British Dominions.

[3] 54 Geo. III. c. 56, s.

[4] 54 Geo. III. c. 56, s. 1.

[5] s. 4.

[6] s. 3.

[7] Hanfstaengl v. Empire Palace, [1894] 2 Ch. 1, at p. 5.

In *Britain v. Kennedy*,[1] it was held that a single offer to manufacture imitations of a brass model bust did not constitute an infringement of copyright. Wright, J., seems to have held that the making of a single model was not an infringement of the copyright so long as it was not exposed for sale; but, if this is the true interpretation of the decision, it seems very doubtful. By the express words of Section 4, no person who has purchased the copyright shall be liable for "copying, casting, or vending," thus shewing that in Section 3 the words "for sale" did not refer to "making."

Under The Copyright Act, 1911, it is expressly provided that paintings, drawings, engravings, and photographs may be made of any work of sculpture or artistic craftsmanship, "if permanently situate in a public place or building."[2] It is submitted that the meaning of a public place or building is any place or building to which any member of the public may come who chooses to do so. Thus an open square, the National Gallery, and any municipal gallery to which the public are admitted without charge, are all within the definition. It is thought that a charge made for admission will make no difference, unless there is a custom forbidding copying, as in *Turner v. Robinson*.[3] Otherwise any reproduction of the sculpture in any material form is an infringement of copyright under the Act.[4] The question as to reproduction in the form of a *tableau vivant* is discussed in the next section.[5]

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[1] [1902] 19 Times L. R. 122.

[2] 1 & 2 Geo. V. c. 46, s. 2 (1).

[3] [1860] 10 Ir. Ch. 510.

[4] s. 1 (2).

[5] See pp. 188-191, *infra*.

Section 4.

PAINTINGS, DRAWINGS, AND PHOTOGRAPHS.

Statute.

Paintings, drawings, and photographs were not brought within the protection of the Law of Copyright until The Fine Arts Copyright Act, 1862,[1] which governed the law relating to them until The Copyright Act. 1911.

Common Law Rights before the Act of 1911.

The Act recites that "by law, as now established, the authors of paintings, drawings, and photographs have no copyright in such their works"—a statement perfectly true if the word "copyright" was used in its narrower sense of post-publication copyright, but absolutely untrue if it included the Common Law right to restrain publication.[2] The late Sir James Fitzjames Stephen in his "Digest of the Law of Copyright,"[3] and apparently Day, J., in *Seligsen v. Legge*,[4] assumed that the Legislature had used the word "copyright" in its perhaps less correct sense and certainly in the sense which made their statement of the law inaccurate, and doubted whether it had not abolished any such right. It is, however, unnecessary to consider the matter at length; in *Mansell v. Valley Printing Co.*,[5] the Court of Appeal decided that the Common Law right as to paintings and drawings was not abolished by The Copyright Act, 1862.

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[1] 25 & 26 Vict. c. 68.

[2] Turner v. Robinson, [1860] 10 Ir. Ch. 510; Mayall v. Higbey, [1862] 6 L. T. N. S. 362 (decided before the Act).

[3] Art. 21 (note 5) appended to the Report of the Copyright Commission, 1878.

[4] [1883] Unreported, cited in Scrutton, p. 162.

[5] [1908] 2 Ch. 441; followed in Bowden Bros. v. Amalgamated Pictorials, [1911] 1 Ch. 386. *Cf.* Tuck v. Priester, [1887] 19 Q. B. D. 629 (per Lindley L. J., at p. 640). For a full account of the whole controversy see Scrutton, pp. 161-5.

Subject-Matter of Protection.

The Act gave protection to paintings, drawings, and photographs. What is a painting or drawing would seem to be a question of fact.[1] The work must be executed by hand. In *Millar v. Polak*,[2] Neville, J., held that drawings of designs for decorating Christmas cards came within the protection of the Act.

Qualifications for Copyright.

(1) *Innocency.*—There is no copyright in an indecent or an immoral painting.[3]

(2) *Originality.*—The work must be original,[4] but this seems to mean no more than that it must not itself infringe the copyright in a copyright work.[5] There is copyright in a photograph of an engraving from a picture.[6]

Conditions for Copyright.

The Act itself only requires creation by a British subject or a person who is resident within the British Dominions (apparently at the time when the work was made).[7] Copyright attaches immediately on creation, not on publication.[8] The difficulty arises on the incorporation of The International Act, 1844,[9] with the Act of 1862.[10] Under The International Act, 1844, there is to be no copyright in "any print or article of sculpture or of such other work of art, as aforesaid," which shall have been first published out of the British Dominions except that given by the Act.[11] And earlier in the Act, the Crown is empowered to grant international copyright to

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[1] Woodward v. L. & N. W. Railway Co., [1878] 3 Ex. D. 127: a case under The Carriers Act, 1830, but The Fine Arts Copyright Act, 1862, is referred to in the judgment.

[2] [1908] 1 Ch. 433.

[3] Baschet v. London Illustrated Standard Co., [1900] 1 Ch. 73.

[4] 25 & 26 Vict. c. 68, s. 1. [5] s. 2.

[6] Graves' Case, [1869] L. R. 4 Q. B. 715. [7] 25 & 26 Vict. c. 685, 1.

[8] Tuck v. Priester, [1887] 19 Q. B. D. 629 (subject to the necessity of registration).

[9] 7 Vict. c. 12. [10] 25 & 26 Vict. c. 68, s. 12. [11] 7 Vict. c. 12, s. 19.

"books, prints, articles of sculpture and *other works of art*."[1] The joint effect would seem to be that first publication abroad destroyed British copyright in paintings, drawings, and photographs.

Duration and Extent of Right.

The term of copyright was the life of the author and seven years from his death,[2] unless previously lost. The Act gave protection within the United Kingdom, but not within the rest of the British Dominions.[3]

Ownership.

First Owner.

Subject to the following exception the first owner of the copyright under the Act of 1862 was the author.[4]

The author of a photograph is the person who directs and superintends the taking of the photograph.[5]

Where the work was made for another person for a good or valuable consideration, the copyright passed to the person for whom the work was made, unless it was expressly agreed in writing signed by that person that the copyright should belong to the author.[6]

This provision applied where the work was made for an employer by a man regularly paid to execute such works,[7] although the workman and not the employer was the author.[7] Stirling, J., without actually deciding the point, expressed the opinion that, when A's paid servants execute a photograph for B, the copyright passes to B,

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[1] 7 Vict. c. 12, s. 2.

[2] 25 & 26 Vict. c. 68, s. 1.

[3] Graves v. Gorrie, [1903] A. C. 496; *cf.* Tuck v. Priester, [1887] 19 Q. B. D. 629.

[4] 25 & 26 Vict. c. 68, s. 1.

[5] Melville v. Mirror of Life, [1895] 2 Ch. 531; *cf.* Nottage v. Jackson, [1883] 11 Q. B. D. 627; Wooderson v. Tuck, [1887] 4 Times L. R. 57.

[6] s. 1. As to the question whether the work has actually been executed on commission see Levi v. Champion, [1887] 3 Times L. R. 286.

[7] Nottage v. Jackson, 11 Q. B. D., at p. 630; Kenrick v. Lawrence, [1890] 25 Q. B. D. 99, at p. 105.

if the circumstances are such that it would have passed to B if the work had been executed by A and not by his servants.[1]

In the case of *Stackemann v. Paton*,[2] Farwell, J., expressly distinguished between "good" and "valuable" consideration. The facts in that case were as follows:—A firm of photographers sent a traveller to the proprietors of certain boys' and girls' schools to take photographs "entirely at their own risk"; where permission was granted they took photographs of views of the schools and of groups of pupils; proofs were submitted to the proprietors and copies purchased by them. Farwell, J., held that the whole transaction amounted to this: that the photographers took photographs for the proprietors of the school in hopes that they might sell copies to them, although the proprietors were not bound to take any; that the permission to the photographers to come all over the houses and to take photographs constituted a "good" consideration, and therefore, the copyright passed to the proprietors. In *Ellis v. Marshall*,[3] Charles, J., held that a sitting given by an actress for which no charge was made and for which she received a number of "complimentary" copies did not constitute a good or valuable consideration; and this was approved of in *Stackemann v. Paton*.[4]

The question generally arises as to the copyright in photographs. Here the question is whether it was made

[1] Wooderson v. Tuck, [1887] 4 Times L. R. 57. [2] [1906] 1 Ch. 774.

[3] [1895] 64 L. J. Q. B. 757; *cf.* Ellis v. Ogden, [1894] 11 Times L. R. 50; see p. 186 *infra*.

[4] [1906] 1 Ch. 774. It is submitted, with the utmost respect to the learned Judges, that (1) there is no authority in English Law for giving a different meaning to the words "good" and "valuable" consideration from what they usually bear: (2) that there is no reason either of construction or of convenience for putting such a meaning on them in The Fine Arts Copyright Act, 1862. "Good" consideration has meant natural affection arising from blood or marriage (Digby, History of Real Property, p. 327, 4th Ed.); "valuable" consideration, anything that can be considered a detriment to the grantee or promisee (Anson, Contract, pp. 95 to 110, 12th Ed.). What is the use of introducing a new distinction by making something, which is a "valuable" consideration for the Law of Contract, a "good" but not a "valuable" consideration under the Fine Arts Copyright Act.

for another for good or valuable consideration[1]; and, where any consideration is given, this appears to turn on the primary object of the photographer in taking it. If the object was primarily to sell copies to the persons on whose behalf it was taken then the copyright belongs to them. Thus in *Boucas v. Cooke*,[2] where the sitter called for the purpose of having his photograph taken and clearly expected to have to pay for it, the Court of Appeal held that the copyright had passed to him. In *Stackemann v. Paton*,[3] the request was made by the photographers, and moreover, Farwell, J., found as a fact that there was no obligation on the persons for whom it was made to take copies if the copies were satisfactory. Even under these circumstances the learned Judge held that the copyright in the photographs had passed to them. The decision seems to have turned largely on the circumstances of the case, the learned Judge holding that the purchaser (the proprietress of a girls' school) could never have intended the photographer to be at liberty to publish copies of her school and pupils. This case clearly shows that the copyright is not necessarily the photographer's, although the photographs are taken at his request.

In *Melville v. Mirror of Life Co.*,[4] where the photographer had, at his own request, been allowed to take photographs of the cricketer Crossland without payment from Crossland, either for the sitting or for copies supplied to him by the photographer, Kekewich, J., held that the copyright remained with the photographer. The decision was approved of in *Boucas v. Cooke*,[5] but not the *reason* given for it: viz.—that the negative remained the property of the photographer. The copyright may be in another person although the photographer retains the property in the negative.

[1] Boucas v. Cooke, [1903] 2 K. B. 227.

[2] [1903] 2 K. B. 227; *cf.* Pollard v. Photographic Co., [1888] 40 Ch. D. 345, per North, J., at p. 353. [3] [1906] 1 Ch. 774. [4] [1895] 2 Ch. 531.

[5] [1903] 2 K. B., per Collins, M. R., at p. 237; per Stirling, L. J., at p. 238; per Mathew, L. J., at p. 239.

Where the sitter gives no good or valuable consideration he gets no copyright under the Act of 1862; and this appears to be the *ratio decidendi* in *Ellis v. Ogden*,[1] and *Ellis v. Marshall*.[2] It must be noted, however, that the consideration given in both cases would have been sufficient to support a contract.[3] It is safer to rest both decisions on the ground that it was not the intention of the parties that the copyright should pass. It makes no difference whether the sitter afterwards purchases copies of the photographs at "reprint" prices or not.[4]

Scrutton, J., suggests that there may be cases in which the copyright belongs to a person other than the photographer, but the photographer has a licence to exhibit and sell copies.[5] This forms part of a passage which was quoted with approval by Collins, M. R., in *Boucas v. Cooke*,[6] but there is no decision to that effect; and it seems contrary to the plain words of the Act.[7]

Even before registration a sitter who was the owner of the copyright in a photograph could restrain the photographer from publishing copies of it on the ground of breach of contract.[8]

In the case of works made after the commencement of the Act of 1911, the ownership of the copyright is determined by the rules laid down by that Act.[9]

Transfer.

The assignment of copyright must be in writing signed by the proprietor or by his agent appointed in writing,[10] and so must every licence to do anything which would otherwise infringe the copyright.[10]

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[1] [1894] 11 Times L. R. 50. [2] [1895] 64 L. J. Q. B. 757.

[3] *Cf.* Bainbridge v. Firmstone, [1838] 8 A. & E. 743.

[4] Ellis v. Ogden. There the sitters received "presentation copies," but afterwards purchased copies. [5] Scrutton, p. 184. [6] [1903] 2 K. B., at p. 236.

[7] s. 3, which requires a licence to be in writing.

[8] Pollard v. Photographic Co., [1888] 40 Ch. D. 345.

[9] 1 & 2 Geo. V. c. 46, s. 5 (1); see pp. 58-61, *supra*. [10] 25 & 26 Vict. c. 68, s. 3.

Destruction.

The copyright is destroyed by—

(1) Expiration of the term of copyright.

(2) Under the Act of 1862, where a painting or drawing or the negative of a photograph was sold or disposed of for the first time (? by the author), the copyright of the work was lost[1] unless there was an express agreement by the parties that either the author or the purchaser should be entitled to it, and such agreement was required to be in writing and signed at or before the sale by

(*i*) the purchaser, if the author was to retain the copyright;

(*ii*) the author or his agent, duly authorized, if the purchaser was to become entitled to it.[2]

This is no longer law under The Copyright Act, 1911.

Infringement.

Under the Act of 1862, it was an infringement of copyright to copy or colourably imitate the work of art or the design thereof.[3] Engraving from, or taking photographs of, a work within the Act was an infringement of the copyright in it[4]; but apparently making a copy of it in sculpture was not.[5]

Under The Copyright Act, 1911, it is an infringement of copyright to reproduce the work "in any material form whatsoever."[6] Hence a reproduction in sculpture would be illegal.

As in the case of books, there is no copyright in ideas,[7] and no monopoly in the right of using a non-copyright source.[8]

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[1] This does not apply to the case of a work made on commission, see pp. 183-6, *supra*. It is not clear whether it applies to the first sale of a work made on commission by the person for whom it is made, but probably it does not; see the wording of s. 1, which treats the making of a work on commission as the equivalent of a first sale. [2] s. 1. [3] s. 11. [4] s. 1.

[5] Per Lindley, L. J., in Hanfstaengl v. Empire Palace, [1894] 2 Ch., at p. 5.

[6] 1 & 2 Geo. V. c. 46, s. 1 (2).

[7] Kenrick v. Lawrence, [1890] 25 Q. B. D. 99. [8] 1 & 2 Geo. V. c. 46, s. 2.

"*Living Picture*" *Cases.*

In the series of cases known as the "Living Picture" cases the facts were as follows:—Hanfstaengl was the owner of the copyright in certain pictures, and these pictures were represented on the stage at the Empire Palace as *tableaux vivants* with painted backgrounds resembling the backgrounds of the pictures. Sketches of these *tableaux vivants* with the backgrounds were published in the *Daily Graphic* and the *Westminster Budget*. Hanfstaengl brought an action against the Empire Palace and the *Daily Graphic*, and a second against the *Westminster Budget*. In the first case the plaintiff moved for an interlocutory injunction against both defendants. On the Empire Palace undertaking to keep the backgrounds until the trial, and to keep accounts of the number of times they were exhibited, and of the money received, Stirling, J., refused to make any order against the Empire Palace on the ground that the representation of the pictures as *tableaux vivants* could not be an infringement of the copyright in the pictures; and his decision was upheld by the Court of Appeal.[1]

The motion as against the *Daily Graphic* stood over and came on for hearing with a similar motion against the *Westminster Budget* in the second action. Stirling, J., granted an injunction against them, but the *Daily Graphic* appealed; and the order against them was reversed by the Court of Appeal[2] who were upheld by the House of Lords.[3] The reasons given for the decision were:—(1) There was no intention to copy the original picture but only the *tableaux vivants*, and this, though not decisive, was an element to be considered. (2) That there were such differences between the sketches in the paper and the original pictures that the sketches could not be

[1] Hanfstaengl v. Empire Palace, [1894] 2 Ch. 1. [2] *Ibid.*, 3 Ch. 109.
[3] Hanfstaengl v Baines, [1895] A. C. 20.

considered to be such copies of the pictures or of their designs as were forbidden by The Fine Arts Copyright Act, 1862. "The faces are different; the mode in which the woman's hair is arranged is different; the dress, especially in the case of the woman, is different; the attitudes are different, the background is different, and in the case of the sketch, the foreground is wanting. In the artist's design all these things play a part, and, though I do not say that a variation in one or even more of these respects would prevent the sketch being a copy of the design, yet comparing the two and considering the design of the painting as a whole, I cannot avoid the conclusion that the sketch is not a copy of the painting or of the design thereof, and therefore, that there has been no infringement."[1]

The actions against the Empire Palace and the *Westminster Budget* then came on for trial. The action against the *Westminster Budget* was dismissed. Against the Empire Palace the one question really fought was the one as to the legality of the painted backgrounds in the *tableaux vivants*. Stirling, J., held that in two cases they were largely copied from the plaintiff's pictures and therefore ordered them to be forfeited and gave penalties for their exhibition. All relief on other points was refused.[2]

In the first case the principle of law laid down is quite clear; the reproduction of a picture as a *tableau vivant* is not an infringement of its copyright. Probably this is no longer the law under The Copyright Act, 1911. The provision giving the owner of the copyright the right to reproduce the work in any material form[3] is wide enough to cover the case of *tableaux vivants*, and the provision giving the owner of the copyright in an artistic work the exclusive right to convert it into a dramatic work can (it is

[1] Per Lord Herschell, [1895] A. C., at p. 24.
[2] Hanfstaengl v. Empire Palace, [1895] 11 Times L. R. 314, 308.
[3] 1 & 2 Geo. V. c. 46, s. 1 (2).

submitted) relate to nothing else than the representation of artistic works as *tableaux vivants*.[1] In the second case the decision appears to have turned largely on a question of fact. It seems, however, to be implied in the decision that a copy of a copy of an original need not be a copy of that original, though it is expressly stated that a copy made from a copy may infringe the copyright in the original.[2] It also appears that the fact that the secondary copy was intended to represent, not the original picture but the *tableaux vivants*, was to be taken into account. Lindley, L. J., suggests that, where there is no intention to copy the original, the one point to be considered is whether there can be any competition[3] between the copy and the original author's copyright work. Probably the question as to the injury to the author's reputation must be considered as well.[4]

In *Hanfstaengl Art Publishing Company v. Holloway*,[5] copies of a picture "The Guardian Angel," produced by photography and put on pill boxes, were held to infringe the copyright. An illegal copy may be on a larger or smaller scale, and may only contain certain features of the original.[6]

It appears that caricatures of a picture, *e.g.*, *Punch's* "Depressions of the Royal Academy," need not infringe its copyright.[7]

In *Guggenheim v. Leng*,[8] a rough sketch made from a photograph was held not to be an infringement of the

[1] 1 & 2 Geo. V. c. 46, s. 1 (2).

[2] Per Lord Shand, [1905] A. C., at p. 30. In *Ex parte* Beal, [1868] L. R. 3 Q. B. 387, an unlicensed photograph of an engraving of a copyright picture was held to be an infringement of the copyright in the picture.

[3] [1894] 3 Ch., at p. 130.

[4] Dicks v. Brooks, [1880] 15 Ch. D. 22 (per James, L. J., at p. 35), approved of in Hanfstaengl v. Empire Palace, [1894] 3 Ch. 109, per Lopes, L. J., at p. 132; per Davey, L. J., at p. 133.

[5] [1893] 2 Q. B. 1.

[6] London Stereoscopic Co. v. Kelly, [1888] 5 Times L. R. 169; Bolton v. Aldin, [1895] 65 L. J. Q. B. 120; Brooks v. Religious Tract Society, [1897] 45 W. R. 476.

[7] Per Lindley, L. J., in Hanfstaengl v. Empire Palace, [1894] 3 Ch., at p. 130.

[8] [1896] 12 Times L. R. 491.

copyright in the photograph. The decision was given expressly on the authority of *Hanfstaengl v. Baines*.[1] but it is doubtful whether the leading case goes so far. "The point," said Davey, L. J., in the Court of Appeal, "is not that these things are bad copies—but they are not copies or reproductions at all within the Act."[2]

Evidence.

In *Lucas v. Williams*,[3] an engraving of the picture was admitted to shew similarity between the picture and the alleged copy; and the Court expressed the view that the opinion of persons, who knew the original well, that the alleged copy was exactly like it, was also admissible. When the copies have been lawfully made and have lawfully become the property of anyone, the owner of the copies may make any use of them he pleases, except copying them, without infringing the rights of the proprietor of the copyright.[4]

Studies and Sketches.

It has been doubted whether the author is entitled to use or to sell studies and sketches made in the process of painting a picture, after he has parted with the copyright to another person.[5] It would seem that, as the sketches were lawfully made, the author had the right of using them as he pleased.[6]

It has now been expressly provided by The Copyright Act, 1911, that he may use them, provided that he does not repeat or imitate the main design.[7]

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[1] [1895] A. C. 20.
[2] [1894] 3 Ch., at p. 134; see also judgments of the Law Lords.
[3] [1892] 2 Q. B. 113.
[4] Frost v. Olive Series Publishing Co., [1908] 24 Times L. R. 649.
[5] See 25 & 26 Vict. c. 68, s. 1. Report of Special Commission, 1878.
[6] *Cf.* Taylor v. Pillow, [1869] L. R. 7 Eq. 418.
[7] 1 & 2 Geo. V. c. 46, s. 2 (1).

Penalties on Fraudulent Productions and Sales.

It was made an offence under the Act of 1862—

(1) Fraudulently to sign or affix upon any painting, drawing, or photograph, or the negative of any photograph, any name, initials, or monogram;

(2) Fraudulently tc sell, publish, exhibit, dispose of, or offer for sale, exhibition, or distribution, any painting &c. having thereon the name, initials, or monogram of a person who did not execute the work;

(3) Fraudulently to utter or dispose of any copy or colourable imitation of any painting &c. as having been executed by the author of the original work;

(4) Where the author of any painting &c. has parted with the possession of his work and alterations have been made therein by another person, to make or knowingly to sell, publish, or offer for sale, during the author's life without his consent, such work, or any copies thereof as altered, as or for the unaltered work of such author.[1]

Any person who commits such an offence forfeits to "the person aggrieved" a sum not exceeding ten pounds, or not exceeding double the full price at which all such copies or altered works have been offered for sale; and all such copies or altered works are forfeited to the person whose name, initials, or monogram were affixed to the work in question, or to whom the work in question was ascribed. But no penalty will be incurred unless the person to whom the work is ascribed or whose name is so affixed has been alive within twenty years of the date of the offence.[1]

To affix a false signature to a picture is not a forgery; but if by means of it a person knowingly and fraudulently induces anyone to buy it as a genuine work of the artist, he may be indicted for a cheat at Common Law.[2]

[1] 25 & 26 Vict. c. 68, s. 7.

[2] Reg. v. Closs, [1857] 27 L. J., M. C. 51.

The penalties under the Act may be recovered—

(1) In England and Ireland, by action or by summary proceeding before the justices having jurisdiction where the offender resides[1];

(2) In Scotland, in accordance with the provisions of Scotch Law.

The sums recoverable under this Act are penal in their nature,[2] and are therefore not barred by a deed of composition with his creditors made by the offender.[2] Interrogatories cannot be administered to prove the offences.[3]

The provisions of Section 7, Clause 4, were discussed by Channell, J., in *Carlton Illustrators v. Coleman & Co., Limited.*[4] The facts of that case were as follows:—One of the plaintiffs had made a fine line drawing bearing his signature for the defendants, to be used by them as an advertisement, and had vested the copyright in them; the defendants had caused the drawing to be enlarged and coloured, and exhibited numerous copies of the drawing so altered and coloured, but still bearing the artist's signature, as advertisements. The evidence showed that alterations had been made in the drawing; that the artist had not contemplated that the drawing would be coloured, and had treated it in a way that made colouring unsuitable; and that his reputation would be seriously affected by the exhibition of the drawing as altered and coloured with his name upon it. Channell, J., held (1) that the alteration must be a material one; (2) that any alteration which was likely to affect the artist's reputation was a material one; (3) That fraud was not necessary to render the defendants liable; (4) That the penalties might be recovered by action under Section 8; and (5) That an injunction might be granted to restrain future breaches.

These provisions are untouched by The Copyright Act, 1911.

[1] 25 & 26 Vict. c. 68, s. 8. [2] *Ex parte* Graves *in re* Prince, [1868] L. R. 3 Ch. 642.
[3] Martin v. Treacher [1886] 16 Q. B. D. 505. [4] [1911] 1 K. B. 771.

Section 5.

ARCHITECTURE.

Not Protected before the Act of 1911.

Architectural works of art were not protected by English Copyright Law until the commencement of The Copyright Act, 1911. Consequently there are no judicial decisions to assist in the determination of the important questions raised on the construction of the Act, in particular, the question of artistic merit. Architecture was not included in the Act without a serious struggle; and a heavy price had to be paid for its inclusion in cutting down the protection afforded and the remedies given for infringement.

Qualifications for Copyright.

Artistic Merit.

An architectural work of art is defined as "any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design and shall not extend to processes or methods of construction."[1]

This definition seems to imply that the structure must aim at artistic merit. It does not (it is submitted) imply that the work must show merit. In no other branch of Copyright Law is merit required[2]; and it would seem from analogy that merit is not required in architecture. On the other hand, in other branches of Copyright Law the granting of copyright to worthless productions produces little or no inconvenience, whereas in architecture the erection of buildings may be seriously hampered by the

[1] 1 & 2 Geo. V. c. 46, s. 35 (1).

[2] See pp. 76, 164.

existence of copyright in the structure of a building which possesses no artistic merits but is otherwise admirably adapted to the purposes for which it is intended. The point must remain open until there is an actual decision on it by the Courts.[1]

Originality.

Originality—*i.e.*, some feature differentiating the work from any former work—is required by the Act.[2] The protection given to the work will be commensurate with the originality displayed.

Infringement.

It is not an infringement of the copyright in an architectural work of art to make or publish paintings, drawings, engravings, or photographs of it, unless they are of the nature of architectural drawings or plans.[3]

Remedies.

Where the construction of an infringing copy of an architectural work of art has been commenced, the owner of the copyright is not entitled to an injunction to restrain the construction or to a mandatory injunction ordering its demolition.[4]

The owner is not entitled to the forfeiture of the infringing copy or to the summary remedies provided for other cases by the Act.[5]

[1] See Minutes of Evidence before the Copyright Committee, 1910, including foreign decisions, pp. 176-8.

[2] s. 1 (1).

[3] s. 2 (1).

[4] s. 9 (1).

[5] s. 9 (2).

CHAPTER VIII.

COLONIAL COPYRIGHT.

Position of Colonial Copyright before The Copyright Act, 1911.

DOWN to 1886 the position of Colonial Copyright was unsatisfactory. In the case of Literary, Dramatic, and Musical Copyright the protection given by The Copyright Act, 1842, extended throughout the Dominions of the Crown. On the other hand it was very doubtful whether a work first published in British Possessions was protected by the Act[1]; and in *Routledge v. Low*,[2] all the Law Lords expressed the opinion that first publication within the United Kingdom was necessary to acquire British Copyright. In the case of Engravings and Sculpture, first publication or production within the United Kingdom was expressly required.[3] It was long undecided whether the protection given by these Acts extended throughout the British Dominions; but in *Graves v. Gorrie*,[4] it was decided that The Fine Arts Copyright Act, 1862, gave no protection outside the United Kingdom. Probably the protection given by the other Artistic Copyright Acts was similarly limited. The Fine Arts Copyright Act required creation by a British subject or one resident within the Dominions of the Crown.[5] The International Copyright Act, 1886, made creation or publication within any part of the British Dominions equivalent to creation or production within the United Kingdom.[6]

[1] See pp. 88-90. *supra*.
[2] [1868] L. R. 3 H.L. 100.
[3] See pp. 168-9, 178, *supra*.
[4] [1903] A. C. 496.
[5] 25 & 26 Vict. c. 68, s. 1.
[6] 49 & 50 Vict. c. 33, s. 8.

Under The Copyright Act, 1842, it was found that the Colonies were practically deprived of access to English works, as the reading public was so small that it did not pay the publishers to issue a cheap Colonial edition, and the high-priced English editions found no purchasers in the Colonies. Under these circumstances The Foreign Reprints Act, 1847, was passed enabling the Crown to suspend, by Order in Council, the prohibitions contained in The Copyright Act, 1842, against the importation of foreign reprints of books possessing British copyright into any British Possession where the legislative authorities of that Possession had made suitable provision for the remuneration of the authors of the books.[1] Under the provisions of this Act various Orders in Council were issued permitting the importation of cheap foreign reprints.

Colonial Copyright under The Copyright Act, 1911.

Under The Copyright Act, 1911, the British Dominions are divided into two classes: self-governing Dominions and others. The self-governing Dominions are:—the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.[2] The Act extends to all parts of the British Dominions other than self-governing Dominions; creation, publication, or residence of the author in any part of them is equivalent to creation, publication, or residence within the United Kingdom; and copyright is protected by the same remedies everywhere, except where it is expressly provided otherwise by the Act.[3] The self-governing Dominions are treated as foreign countries for the purposes of the Act, except that the Legislature of any Dominion may declare the Act to be in force in that

[1] 10 & 11 Vict. c. 95.

[2] 1 & 2 Geo. c. 46, s. 35 (1).

[3] s. 25 (1).

Dominion, with or without modifications relating exclusively to procedure and remedies or necessary to adapt the Act to circumstances of the Dominion.[1] The Secretary of State may certify by notice in the *London Gazette* that any self-governing Dominion has passed legislation under which British subjects or other persons resident within the parts of the British Dominions to which the Act extends, enjoy protection for their works substantially equal to that afforded by the Act, notwithstanding that the remedies or the restrictions on the importation of foreign copies may be different.[2] In either case the self-governing Dominion, while such legislation remains in force, is to be treated as a Dominion to which the Act extends.

The Legislature of any self-governing Dominion may repeal any enactments, including The Copyright Act, 1911, so far as they are operative within that Dominion; but no such repeal shall affect any legal rights then existing.[3] Until such repeal all enactments repealed by The Copyright Act, 1911, remain in force in that Dominion.[4]

Where a self-governing Dominion provides adequate protection for the works of British subjects resident elsewhere than in that Dominion, the Crown may by Order in Council extend the protection of the Act (or such parts as may be thought desirable) to works first published, or the authors of which were at the time of creation of the work resident, in the Dominion.[5] But except under such Order, no work made by an author resident in a British Dominion to which the Act does not extend, whether he be a British subject or not, shall be entitled to protection, unless first published by issue of copies within the parts of the British Dominions to which the

[1] s. 25 (1). [2] s. 25 (2). [3] s. 26 (1).
[4] s. 26 (2) [5] s. 26 (3).

Act extends.[1] In the case of a self-governing Dominion to which the Act extends, the Governor of such Dominion is the authority to confer these rights by Order.[2]

The Legislature of any British Possession to which the Act extends may pass legislation modifying the Act, but such legislation shall relate only to procedure and remedies, or to works first published by issue of copies in that Possession or whose authors were resident there.[3]

[1] s. 26 (3). *Cf.* pp. 50-2, *supra.* [2] s. 26 (3) [3] s. 27.

CHAPTER IX.

INTERNATIONAL COPYRIGHT.

History of International Copyright down to the Berne Convention.

THE first Act extending the protection of the English Law of Copyright to literary or artistic works first published abroad was The International Copyright Act, 1838;[1] but the provisions of that Act proved insufficient and the Act was repealed and replaced by The International Copyright Act, 1844.[2] By the Act of 1844 the Crown was empowered to extend the protection given by any of the existing Copyright Acts to works first published abroad; but the Crown was to be at liberty to direct that certain parts of the enactments in question should not apply. Under these provisions a large number of Orders in Council were issued, giving varying measures of protection to works first published in different foreign countries.[3] The Act was modified by The International Copyright Act, 1852,[4] which was necessitated by the Convention of 1852 with France, and by the Act of 1875.[5] The Fine Arts Copyright Act, 1862, incorporated The International Copyright Act, 1844, as part of its provisions.[6] The system of International Copyright set up by these Acts and Orders was highly complicated, as the rights of foreign authors depended on the terms of the particular Order in Council under which they claimed protection. The law of the Continental States suffered

[1] 1 & 2 Vict. c. 59.
[2] 7 & 8 Vict. c. 12.
[3] See the various Conventions collected in Copinger (2nd Edition) App. K.
[4] 15 Vict. c. 12.
[5] 38 Vict. c. 12.
[6] 25 & 26 Vict. c. 68, s. 12.

from the same complications, and in 1885 an attempt was made by several of the chief States in Europe to obtain a uniform system of International Copyright. A draft Convention was agreed to at Berne; then the Conference was adjourned to enable the various parties to obtain the necessary legislation to enable them to assent to the agreement; and on the 5th September, 1887, the "Berne Convention" was signed. In the case of Great Britain the necessary legislative sanction was given by The International Act, 1886;[1] and under this Act an Order in Council was issued on the 28th November, 1887, adopting the Berne Convention and revoking all previous Orders in Council relating to authors of the other States who were parties to the Berne Convention.

Parties to the Berne Convention.

The following States were parties to the Berne Convention of 1887, and formed the Copyright Union:—The British Empire, the German Empire, Belgium, Spain, France, Hayti, Italy, Switzerland, and Tunis. Luxemburg acceded to the Copyright Union as from the 20th June, 1888; Monaco as from the 30th May, 1889; Norway as from the 13th April, 1896; Japan as from the 15th July, 1899; Denmark as from the 1st July, 1903; Sweden as from the 1st August, 1904; Liberia as from the 16th October, 1908. Montenegro acceded to the Convention but subsequently denounced it.

Rights of British Authors Abroad.

The rights of British authors in any of the other States of the Union depended on the Berne Convention and any domestic legislation giving protection to them in force in that State. Redress must be sought in the Courts of that State, for the English Courts will not

[1] 49 & 50 Vict. c. 33.

restrain an infringement of copyright committed or threatened abroad, although the defendant may be within the jurisdiction of the Court.[1]

Rights of Foreign Authors in England.

The rights of foreign authors belonging to any of the countries included in the Copyright Union depended on the International Copyright Acts, 1844 to 1886, and on the Order in Council of the 28th November, 1887, and the Berne Convention, so far as these do not conflict with the plain meaning of the Acts. Under these provisions foreign authors and their assigns enjoyed the protection given by English Law to works possessing English copyright, subject to certain modifications which are considered below.

Country of Origin.

The country in which the work is first published or, in the case of unpublished works,[2] of which the author is a subject or citizen, is the "country of origin."[3] Where the work is simultaneously published in two or more countries belonging to the Copyright Union, the country which gives the shortest term of protection is considered the "country of origin."[3] The ownership of copyright was governed by the law of the country of origin, and a certificate authenticated as provided in the Act of 1886[4] was to be admissible evidence of its existence. All formalities necessary for acquiring or enforcing copyright were to be governed by the law of the country of origin.[3] The English provisions for delivery of books to libraries and for registration of copyright were excluded by the Act of 1886.[5] In the case of anonymous works the publisher might take proceedings, but apparently only as trustee for the owner.[6]

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[1] Morocco Bound Syndicate v. Harris, [1895] 1 Ch. 534. In that case the defendant was a British subject and the work possessed British copyright.

[2] At that time English Law gave complete protection to the unpublished works of any author. [3] Art. 2. [4] s. 7.

[5] s. 5 (1). Sarpy v. Holland, [1908] 2 Ch. 198. [6] s. 2 (2).

Works Protected by the Order.

All works produced after the 6th December, 1887, were protected under these provisions. As regards works produced before the 6th December, 1887, The International Copyright Act, 1886, provided that "the author and publisher of any literary or artistic work first produced before the date" of the commencement of any Order "shall be entitled to the same rights and remedies as if the said Acts and this Act and the said Order had applied to the said foreign country at the date of the said production. Provided that where any person has before the date of the publication of an Order in Council lawfully produced any work in the United Kingdom, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such production which are subsisting and valuable to the said date."[1]

Two points arise in connection with this provision. The first is as to the meaning of the words "first produced." It was suggested that only works produced after the passing of the Act of 1886 were included; but this contention was opposed to the plain words of the Convention,[2] and in *Hanfstaengl Art Publishing Co. v. Holloway*,[3] Charles, J., held that it applied to works produced before the passing of the Act. In *Lauri v. Renad*.[4] the Court of Appeal had to deal with a kindred question. There the facts were as follows:—In March, 1879, the brothers A acquired the dramatic copyright in a French play which was never printed but was publicly performed in France on the 30th August, 1879; in September, 1879, they were registered as the owners of the playright in Great Britain; B made for them an English translation of the play; and in November, 1879,

[1] s. 6. [2] Art. 14. [3] [1893] 2 Q. B. 1.
[4] [1892] 3 Ch. 402.

B was registered as the owner of it. In 1880 the brothers A acted another English version of the play in England. In 1891 the defendants acted a third English version of the play in England, and were sued by the plaintiff, who claimed to be the assignee of the brothers A. The Court of Appeal held that the right of translation had fallen into the public domain in November, 1884, and that the Act of 1886 did not revive an expired right. This decision has been severely criticised.[1] Article 14 of the Berne Convention expressly states that the Convention is to apply to all works which have not fallen into the public domain in their country of origin, and the Act of 1886 contains provisions intended to prevent any interference with existing rights which might otherwise be caused by the extended protection afforded to foreign works.[2] Nothing is said in the Convention or the Act about the non-revival of expired rights in any country other than the country of origin, whether such expired rights are merely isolated rights, such as the right of translation, or the entire protection given under the International Copyright system. In *Hanfstaengl Art Publishing Co. v. Holloway*,[3] the owners had neglected to acquire International Copyright under the law then existing, and, prior to the Berne Convention, the whole work had fallen into the public domain in England; but protection was given to them under the Act of 1886.

The result of this extended protection was to make acts illegal which had been legal before, and accordingly provision was made for protecting vested interests. The proviso enacted that, where anyone had lawfully produced any work in the United Kingdom before the date of the publication of an Order in Council, no rights or interests in connection with such production which were subsisting

[1] Scrutton, pp. 220–1; Copinger, pp. 485–6; Macgillivray, p. 198.

[2] s. 6.

[3] [1893] 2 Q. B. 1.

and valuable at the date in question should be affected.[1] The leading case on this proviso is *Moul v. Groenings*.[2] In 1877 one of the plaintiffs produced a musical composition called the "Caprice Polka" in France, but took no steps to acquire the copyright in England, and the defendant, a bandmaster, purchased one for his band and performed the piece before the 2nd of December, 1887, and continued to do so after the 6th of December, 1887. The plaintiffs sued him for infringement of their rights in the Brighton County Court, where judgment was given for the defendant, and appealed unsuccessfully to the Divisional Court and to the Court of Appeal. A. L. Smith, J., discussed the proviso at great length. He defined "lawful" production as production without infringing any existing copyright.[3] He defined "rights" as being legal rights in the strict sense of the term, such as copyright in a translation or adaptation, not "rights" in the popular sense, *i.e.*, the liberty to do certain acts as not forbidden by the law which the defendant shared with every member of the public. He held that "interests" meant "pecuniary interests" and held that the bandmaster had such in the reproduction of the composition, acquired by the outlay involved in purchasing the copy and in training his band to perform it. He also suggested that it would be sufficient to shew pecuniary interests in other persons besides the defendant; thus in the actual case Lafleur had an interest in disposing of his unsold copies which might be seriously affected by forbidding all bandsmen to perform it.

These principles have been generally accepted. In *Schauer v. Field*,[4] Chitty, J., held that the proprietors of a trade mark which was a copy of a German painting, had a pecuniary interest in it sufficient to protect them in reproducing copies of it after December, 1887. In

[1] s. 6. [2] [1891] 2 Q. B. 443. [3] At p. 448. [4] [1893] 1 Ch. 35.

Hanfstaengl Art Publishing Co. v. Holloway,[1] Charles, J., held that the "interest" contemplated must be a direct pecuniary interest, and held that the defendant, who had previously used copies of the plaintiff's picture as an advertisement for his pills, was not thereby entitled to print fresh copies for a similar purpose.

Duration of Right.

The term of protection given under The International Copyright Act, 1886, to any class of work was either the term given in England or in the country of origin, whichever should be the shorter.[2] The right extended throughout the British Dominions in the same way as if they had formed part of the United Kingdom.[3]

Infringement.

The foreign work is protected in exactly the same way as if it were a work produced within the United Kingdom, subject to two exceptions.

(1) Down to The Copyright Act, 1911, it was doubtful whether the author of a literary work had the right of translating it.[4] But by the combined effect of The International Act, 1886,[5] and of Article 5 of the Berne Convention, the foreign author has the exclusive right of making or authorizing the translation of his work for the period of ten years. If he does not exercise this right within the ten years, the right of translation falls into the public domain. If he exercises it, it is doubtful how far the exclusive right of translation remains. The International Act, 1886,[5] gives him the exclusive right for the whole period (unless the Order directs otherwise) and only takes it away if not exercised within ten years. The Berne Convention only gives it to him for ten years. The Order of November, 1887, made under the Act directs

[1] [1893] 2 Q. B. 1.
[2] s. 2 (3).
[3] s. 9; Order s. 3.
[4] See pp. 109–112, *supra*.
[5] s. 5.

that the Convention shall have full effect throughout the British Dominions. If there is a conflict between these provisions, the Act must prevail.[1] It is submitted, however, that the Act only prescribes a maximum for the protection to be afforded by the Order in Council; and that the Order in Council by incorporating the Convention has cut down the protection afforded to that given by Article 5 of the Convention. The point is, however, very doubtful. The Additional Act of Paris, 1896, provided that the author should retain the exclusive right of translation to the end of the term of copyright, if he issued an authorized translation within ten years.[2]

The translation must be a literal translation of the whole work and not a mere adaptation or imitation of it.[3]

(2) The other point arises out of an apparent conflict between the Act of 1886 and the Berne Convention Article 2 of the Berne Convention stipulates that authors of any of the countries of the Union shall enjoy in the other countries the rights which the Copyright Laws give to natives, but that such protection shall not be for a longer term than that given in the country of origin. The International Act, 1886, enacts that no person shall enjoy in this country "any greater right or longer term of copyright in any work than that enjoyed in the foreign country in which such work was produced."[4] If there is a conflict between these provisions, the Act must prevail. It is true that the Act was passed with the intention of enabling the Crown to assent to the Convention, and should therefore be construed so as to give effect to the Convention, if possible.[5] But it is very difficult to give any meaning to the words "greater right," which will

[1] Scrutton thinks that there is such a conflict, pp. 218-9. [2] Art. 5.
[3] Wood v. Chart, [1870] L. R. 10, Eq. 193; but see Lauri v. Renad, [1892] 3 Ch. 402, at p. 414 (Kekewich, J.). [4] s. 2. (3).
[5] Per Rigby, L. J., Hanfstaengl v. American Tobacco Co., [1895] 1 Q. B., at p. 355.

give full effect to the Convention. The point has only once been taken in the English Courts, in the case of *Hanfstaengl v. Empire Palace*,[1] and there it was not decided; but Lindley, L. J., plainly stated that acts which would not be held infringements of the author's rights in the country of origin, would not be actionable here.[2] Lopes, L. J., concurred in this expression of opinion.[3] The House of Lords expressed no opinion on the point.

Additional Act, 1896.

In 1896 another Conference was held at Paris, and certain alterations of no great importance were made in the Berne Convention. The Additional Act was adopted by an Order in Council, dated the 7th March, 1898. An Interpretative Declaration was agreed to by certain Powers but not by Great Britain.

Berlin Convention, 1908.

In 1908 a Conference was held at Berlin, and the Berlin Convention[4] was provisionally agreed to. The object of this Convention was to secure a certain minimum protection in all countries of the Union for authors belonging to any of them, instead of merely providing for reciprocity between the various countries, as was done by the Berne Convention. The parties to the Convention were: Great Britain, Germany, Belgium, Denmark, Spain, France, Italy,[5] Japan, Liberia, Luxemburg, Monaco, Norway, Sweden,[5] Switzerland, and Tunis. Great Britain subsequently ratified the Convention on the 14th June, 1912, subject to a reservation as to its retrospective effect; and it has also been ratified by Germany, Belgium, Spain, France, Japan, Liberia, Luxemburg, Monaco, Norway, Switzerland, and Tunis.[6]

[1] [1894] 3 Ch. 109; [1895] A. C. 20. [2] [1894] 3 Ch., at p. 125.

[3] At p. 133. Davey, L. J., seems to have agreed, but his words are ambiguous p. 135.

[4] App. IV., pp. 275-293 *infra*. [5] Has not ratified the Convention.

[6] Since the date of the Orders in Council Denmark and Hayti have also ratified the Convention.

subject to certain reservations set out in the Fourth Schedule of the Order in Council, adopting the Convention. Portugal has also acceded to the Convention.

The rights of British authors in any other country of the Union depend on this Convention, and any supplementary domestic legislation.

The chief provisions of this International Copyright code may be summarized as follows—

1. The works to be protected under the Convention are literary, dramatic, musical, and artistic works, including choreographic works and pantomimes, and architecture,[1] and photography.[2]
2. The country of origin of the work, if "unpublished," is to be the country to which the author belongs; the country in which the work is first "published," if "published." A "published" work is one, copies of which have been issued by a publisher.[3] If simultaneously "published" in a country of the Union and a country outside the Union, the country of the Union is to be considered the country of origin; if simultaneously "published" in two or more countries of the Union, the country which grants the shortest term of protection shall be the country of origin.
3. Any author, whether a subject of one of the countries of the Union or not, who first publishes by issue of copies in another country of the Union is to enjoy in that country the rights granted to natives, and in the other countries the rights secured by the Berlin Convention.[4]
4. Any work, the country of origin of which is one of the countries of the Union, is to enjoy in each of the other countries of the Union the protection afforded to native authors as well as the rights stipulated for

[1] Art. 2. [2] Art. 3. [3] Art. 4. [4] Art. 5 & 6.

by the Convention; and such protection is not to be subject to the performance of any formalities.[1]

5. The term of protection is to include the life of the author and fifty years after his death. If the term of protection differs from this, it is to be that of the country of origin, or that in the country in which protection is sought, whichever shall be the shorter. For photographic works, and for posthumous, anonymous, or pseudonymous works the term of protection is to be that of the country of origin, or that in the country in which protection is sought, whichever shall be the shorter.[2]

6. The rights of the author are to include the adaptation of his work to instruments which can produce them mechanically and the public performance by such instruments.[3]

7. Pirated works may be seized by the competent authorities in any country of the Union.[4]

8. The Convention is to apply to all existing works which have not yet fallen into the public domain in the country of origin through the expiration of the term of protection. But no work is to be protected in any country in which it has fallen into the public domain through the expiration of the term of protection.[5] (This provision was not accepted by Great Britain so far as it has a retrospective effect.)

Order in Council adopting the Convention.

The Copyright Act, 1911, enables the Crown to extend the protection of the Act to works first published by issue of copies in a foreign country or works the authors of which were, at the time of making the work, subjects of or resident in that foreign country.[6]

[1] Art. 4. [2] Art. 7. [3] Art. 13 & 14. [4] Art. 16.
[5] Art. 18. This differs from the Berne Convention Art. 14.
[6] 1 & 2 Geo. V. c. 46, s. 20 (1).

The Order may omit any parts of the Act which are specified in the Order, and may include provisions limiting the term of copyright to that given in the foreign country, requiring conditions and formalities, or modifying the provisions of the Act as to ownership so as to coincide with the law of the foreign country.[1]

Any Order so made is to apply to all parts of the British Dominions other than self-governing Dominions to which the Act extends[2] except such parts as may be expressly excepted by the Order.[3] In the case of a self-governing Dominion the Governor may make the like Orders having effect throughout that Dominion.[4]

An Order in Council,[5] dated 24th June, 1912, was issued under this provision, giving protection to the works of authors belonging to the other countries of the Copyright Union: viz., Belgium, Denmark and the Faröe Islands, France, Germany and the German Protectorates, Hayti, Italy, Japan, Liberia, Luxemburg, Monaco, Norway, Portugal, Spain, Sweden, Switzerland, and Tunis.[6] By its provisions The Copyright Act, 1911, is to apply to all works which have been first published by issue of copies in a foreign country of the Copyright Union, whose authors were at the time of making the works resident in, or were subjects or citizens of, a foreign country of the Copyright Union, as if the publication or residence had been in the parts of the British Dominions to which the Act extends, or as if the authors had been British subjects[7]; with the following modifications and subject to the following conditions:—

1. The term of copyright is not to exceed the term of copyright in the country of origin.[8]

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[1] 1 & 2 Geo. V. c. 46, s. 29 (1).
[2] s. 30 (1). [3] s. 30 (3). s. 30 (2).
[5] See pp. 300-5, *infra*; *London Gazette*, 28th June, 1912, p. 4661.
[6] Order, Art. (1). [7] *Ibid.*, Art. 2. [8] *Ibid.*, Art. 2 (ii).

2. Where the country of origin is Denmark, Italy, or Sweden, copyright is not to include the exclusive right to make any contrivance whereby a literary, dramatic, or musical work may be mechanically performed, and there is to be no copyright in mechanical contrivances.[1]

3. In the great majority of cases an express declaration forbidding the reproduction of a newspaper or magazine article is required.[2]

4. Where the country of origin is Denmark, Italy, Japan, or Sweden, the right of translating any literary or dramatic work into any particular language will expire at the end of ten years from the first publication by issue of copies, unless an authorized translation into that language is published by issue of copies within that time.[3]

5. Where the country of origin is Denmark, Italy, Japan, or Sweden, the right of publicly performing a musical work must be reserved by an express declaration on the title page of each copy published.[4]

6. Where the country of origin is Denmark, Italy, or Sweden, the conditions and formalities prescribed by law in the country of origin must be complied with.[5]

7. Where the right of translation has fallen into the public domain, it is not to be revived by the Order.[6]

Except in the cases of Denmark, Italy, and Sweden, the owner of the copyright in a musical work possesses all the rights with respect to the making of mechanical contrivances conferred by the Act, unless the musical

[1] Order, Art. 2 (i).
[2] *Ibid.*, Art. 2 (iii) (*a*) & (*b*).
[3] *Ibid.*, Art. 2 (iii) (*c*).
[4] *Ibid.*, Art. 2 (iii) (*d*).
[5] *Ibid.*, Art. 2 (iii) (*e*).
[6] *Ibid.*, Art. 2 (iv).

work had been previously published by issue of copies, and mechanical contrivances reproducing it had been lawfully made or placed on sale before the commencement of the Act within the parts of the British Dominions to which the Act extends.[1] The Order applies to all territories to which the Act extends.[2] All former Orders under the Berne Convention are revoked, but this is not to affect any rights[3] acquired before the commencement of the Order.[4] The saving of all existing rights and interests is not dealt with by the Order but depends on Section 24 of the Act.

Convention with Austria-Hungary.

Austria has a separate Convention of the 24th April, 1893. with Great Britain; and effect is now given to the Convention by a separate Order in Council dated the 24th June, 1912.[5] By this Order The Copyright Act, 1911, (including the provisions as to mechanical contrivances for the reproduction of sounds), is to apply to works first published by issue of copies in the Austrian Dominions and to works whose authors are Austrian subjects or residents, subject to the following provisions:—

1. The term of copyright is not to exceed the term given by Austrian law.
2. An authorized English translation of any literary or dramatic work must be published within ten years of the publication of the original work; otherwise the right of translation lapses.
3. In the case of works first published by issue of copies in the Austrian Dominions the conditions and formalities prescribed by Austrian law must be complied with.

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[1] Order, Art. 3; 1 & 2 Geo. V. c. 46, s. 19.

[2] *Ibid.*, Art. 5.

[3] See pp. 204–6, *supra*.

[4] *Ibid.*, Art. 6.

[5] See p. 307, *infra*.

American Copyright

Before The Chace Act, 1891.

As in the case of English law before The Copyright Act, 1911, there are two distinct rights in American law—the old Common Law right of restraining publication of an unpublished work, and the post-publication copyright in the case of a published work. This post-publication right, it has now been decided, rests wholly on Statute.[1]

The Common Law right of restraining publication appears to be exactly the same as it was in England before the Act of 1911. It attaches to all works, whether the author is an American citizen or resident in the United States or not. It is still preserved by the American Copyright Act, 1909.[2]

In the case of the post-publication statutory right, no author who was not either a citizen of the United States or resident there could acquire copyright in the United States until the passing of the Chace Act.

Copyright under the Chace Act.

The result of this illiberal policy on the part of the United States was to crush native literature by the competition of cheap reprints of popular foreign works. It "condemned the whole American community to a literary servitude unparalleled in the history of thought."[3] At the same time it inflicted great hardship on foreign authors, who were deprived of their market in the United States, and who often found it difficult to exclude the cheap American reprints from their own country. Attempts were repeatedly made to obtain a system of International copyright, but all these attempts were defeated by the power of the Typographical Union until 1891.

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[1] Wheaton v. Peters, [1834] 8 Peters' Rept. 591.
[2] s. 2.
[3] Maine, Popular Government, p. 247.

Strictly speaking, there is not, and never has been, any system of International copyright in the United States. What the Chace Act introduced was a system whereby persons other than citizens of the United States or resident there could acquire United States copyright. The Chace Act came into force on the 1st July, 1891. Under this Act any one might acquire United States copyright who was a citizen or subject of a foreign State, which permitted citizens of the United States to acquire copyright in its dominions on substantially the same terms as its own citizens or subjects, or was a party to an international agreement providing for reciprocity in granting copyright, to which agreement the United States might become a party at its pleasure.[1] The existence of either condition was to be determined by the President of the United States by proclamation. Under a proclamation of 1st July, 1891, the President included Great Britain among the States fulfilling the first condition.

Apparently residence in the United States did not entitle an author to copyright who was not a citizen or subject of a foreign country included in such proclamation. The conditions for acquiring copyright were as follows: On or before the day of first publication the author must deliver at the office of the Librarian of Congress or deposit in the mail within the United States, addressed to the Librarian (1) a printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, photograph, or chromo, or a description of the painting, drawing, statue, statuary, or a model or design for a work of the fine arts; and (2) two copies of such book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph, or a photograph of such painting, drawing, statue, statuary, model, or design for a work

[1] s. 13.

of the fine arts. In the case of a book, photograph, chromo, or lithograph, the copies must be printed from type set within the limits of the United States or from plates made therefrom, or from negatives or drawings on stone made in the United States, or from transfers made therefrom.[1]

A notice in the prescribed form must be printed on every copy to enable the owner of the copyright to sue for infringement.[2]

The deposit of two copies probably amounts to publication. Consequently any author, whether British or American, who desires to acquire copyright in both countries, must publish simultaneously in each.

The Copyright Act, 1909.

The Copyright Laws of the United States were consolidated by an Act of 4th March, 1909. Under this Act the author of any work possessing the necessary qualifications for copyright may acquire copyright in the United States, if he be—

(1) A citizen of the United States; or

(2) A resident alien domiciled in the United States at the time of first publication; or

(3) A citizen or subject of any country which grants to citizens of the United States the benefit of copyright on substantially the same basis as its own citizens. The existence of reciprocal copyright conditions is determined by presidential proclamation.[3]

The assignees or executors of the author can secure copyright if the author himself could have done so, but not otherwise.

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[1] s. 3.

[2] s. 4962 of the Revised Statutes of the United States.

[3] Copyright Act s. 8; Registration Rules 2.

By a Proclamation of 9th April, 1910, citizens or subjects of the following countries were admitted to share in the benefits of United States copyright:—Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her Possessions, Italy, Mexico, the Netherlands and Possessions, Norway, Portugal, Spain, and Switzerland.

Copyright is secured by publication of the work with the notice of copyright required by the Act.[1] In the case of literary, dramatic, and musical works, the notice must be in the form: "Copyright, 19 , [the year of publication] by A. B." (the owner of the copyright). In the case of maps and works of art the notice may be in the following form "©," and the name of the owner must appear on some accessible portion of the work.[2] This notice must be affixed to each copy sold in the United States, except in the case of works seeking *ad interim* protection under Section 21 of the Act.[1] Copyright may also be secured for unpublished works by the deposit, with claim of copyright, of one complete copy of the work.[3]

The claim for copyright must be registered at the Copyright Office, and the necessary number of copies deposited. No action for infringement can be maintained until this is done.[4]

In the case of an "unpublished" work of the kinds enumerated in Section 11, one copy only must be deposited; if a lecture or a dramatic or musical composition, one typewritten or manuscript copy; if a photograph, one positive print; if any other work of art, a photographic reproduction of it.[5] In the case of

[1] Copyright Act, s. 9.

[2] Copyright Act, s. 18; R. Rules 21-22.

[3] *Ibid.*, s. 11. It is thought that this will not affect the Common Law right which is preserved by s. 2.

[4] *Ibid.*, s. 12; R. Rule 3.

[5] *Ibid.*, s. 11; R. Rules 17-21.

"published" works, two complete copies of the best edition must be deposited. This need not be done on the day of publication, but must be done "without unnecessary delay."[1] In the case of failure to deposit them promptly the Registrar may require the owner to deposit them within three months (or six months in the case of foreign countries), and on failure to do so, the copyright will be forfeited.[2] In the case of "books" (as defined in the Act[3]) or of periodicals in the English language, the two copies must be printed from type set within the United States or produced by some process performed wholly within the United States; and this provision applies to all illustrations in the "book," "except where the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art."[4] The copies deposited must be accompanied by an affidavit stating that the copies were so printed and bound within the States, and also where the printing and binding was done and the date of publication.[5]

This provision only applies to books in the English language and not in characters for the blind.[4]

In the case of books in the English language published abroad, *ad interim* protection may be secured by the deposit within thirty days of publication of one copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the owner and the date of publication. The *ad interim* protection lasts for thirty days after the deposit.[6] The owner must comply with the usual provisions as to deposit of copies within the thirty days.[7] The period of copyright is twenty-eight years from publication, with

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[1] Copyright Act, s. 12; R. Rules 22-23.
[2] *Ibid.*, s. 13.
[3] *Ibid.*, s. 5; R Rule 4.
[4] *Ibid.*, s. 15; R. Rule 27.
[5] *Ibid.*, s. 16; R. Rules 32-35.
[6] *Ibid.*, s. 21; R. Rule 28.
[7] *Ibid.*, s. 22; R. Rule 28.

a right of renewal for twenty-eight years longer.[1] Application must be made one year prior to the expiration of the term. Assignments of copyright must be recorded in the Copyright Office within three or six months after its execution; otherwise it is void against a purchaser for valuable consideration without notice whose assignment has been recorded.[2] Assignments outside the United States must be acknowledged before a consular officer or secretary of legation of the United States.[3]

[1] Copyright Act, s. 23; R. Rules 46–48. [2] *Ibid.*, s. 44; R. Rules 41–43.
[3] *Ibid.*, s. 43.

APPENDIX I.

STATUTES.

THE COPYRIGHT ACT, 1911.

[1 & 2 Geo. V. c. 46.]

ARRANGEMENT OF SECTIONS.

PART I.

IMPERIAL COPYRIGHT.

Rights.

1. Copyright.
2. Infringement of copyright.
3. Term of copyright.
4. Compulsory licences.
5. Ownership of copyright &c.

Civil Remedies.

6. Civil remedies for infringement of copyright.
7. Rights of owner against persons possessing or dealing with infringing copies &c.
8. Exemption of innocent infringer from liability to pay damages &c.
9. Restriction on remedies in the case of architecture.
10. Limitation of actions.

Summary Remedies.

11. Penalties for dealing with infringing copies &c.
12. Appeals to quarter sessions.
13. Extent of provisions as to summary remedies.

Importation of Copies.

14. Importation of copies.

Delivery of Books to Libraries.

15. Delivery of copies to British Museum and other libraries

Special Provisions as to certain Works.

16. Works of joint authors.
17. Posthumous works.
18. Provisions as to Government publications.
19. Provisions as to mechanical instruments.
20. Provision as to political speeches.

21. Provisions as to photographs.
22. Provisions as to designs registrable under 7 Edw. VII. c. 29.
23. Works of foreign authors first published in parts of His Majesty's dominions to which Act extends.
24. Existing works.

Application to British Possessions.

25. Application of Act to British Dominions.
26. Legislative powers of self-governing Dominions.
27. Power of Legislatures of British Possessions to pass supplemental legislation.
28. Application to protectorates.

PART II.

INTERNATIONAL COPYRIGHT.

29. Power to extend Act to foreign works.
30. Application of Part II. to British possessions.

PART III.

SUPPLEMENTAL PROVISIONS.

31. Abrogation of common law rights.
32. Provisions as to Orders in Council.
33. Saving of university copyright.
34. Saving of compensation to certain libraries.
35. Interpretation.
36. Repeal.
37. Short title and commencement.

SCHEDULES.

An Act to Amend and Consolidate the Law relating to Copyright.

[16th December, 1911

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.
IMPERIAL COPYRIGHT.

RIGHTS.

Copyright.

1. (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term hereinafter mentioned in every original literary dramatic musical and artistic work, if—

(*a*) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid; and

(*b*) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid;

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.[1]

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof[2]; and shall include the sole right,—

(*a*) to produce, reproduce, perform, or publish any translation of the work[3];

(*b*) in the case of a dramatic work, to convert it into a novel or other non-dramatic work[4];

(*c*) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise[4];

(*d*) in the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered,[5]

and to authorise any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but, for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.[6]

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[1] pp. 50–2. [2] pp. 33–47. [3] pp. 109–112.
[4] pp. 146–8. [5] pp. 154–9. [6] pp. 34–5; 51.

Infringement of Copyright.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright[1]: Provided that the following acts shall not constitute an infringement of copyright:—

(i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary[2];

(ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work[3]:

(iii) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings, or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art[4]:

(iv) The publication in a collection, mainly composed of non-copyright matter, *bonâ fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged[5]:

(v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries[6]:

(vi) The reading or recitation in public by one person of any reasonable extract from any published work[7]:

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[1] pp. 62-3. [2] pp. 37, 98-119. [3] p. 191. [4] p. 195.
[5] pp. 118-9. [6] p. 129. [7] p. 119.

(2) Copyright in a work shall also be deemed to be infringed by any person who—

(*a*) sells or lets for hire, or by way of trade exposes or offers for sale or hire; or

(*b*) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or

(*c*) by way of trade exhibits in public; or

(*d*) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.[1]

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.[2]

Term of Copyright.

3. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death:

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.[3]

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[1] p. 63. [2] p. 63; pp. 144-6. [3] pp. 52-7

Compulsory Licences.

4. If at any time after the death of the author of a literary, dramatic, or musical work which has been published or performed in public a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Judicial Committee may think fit.[1]

Ownership of Copyright &c.

5. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:

Provided that—

(*a*) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright; and

(*b*) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.[2]

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall

[1] p. 62.

[2] pp. 58-61.

be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorised agent:

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.[1]

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee as respects the right so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

Civil Remedies.[2]

Civil Remedies for Infringement of Copyright.

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—

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[1] pp. 61-2.

[2] pp. 63-7.

(*a*) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work;

(*b*) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

Rights of Owner against Persons possessing or dealing with Infringing Copies &c.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

Exemption of Innocent Infringer from Liability to pay Damages &c.

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for suspecting that copyright subsisted in the work.

Restriction on Remedies in the case of Architecture.

9.—(1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

Limitation of Actions.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

SUMMARY REMEDIES.[1]

Penalties for dealing with Infringing Copies &c.

11. (1) If any person knowingly—

(*a*) makes for sale or hire any infringing copy of a work in which copyright subsists; or

(*b*) sells or lets for hire, or by way of trade exposes or offers for sale or hire any infringing copy of any such work; or

(*c*) distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or

(*d*) by way of trade exhibits in public any infringing copy of any such work; or

(*e*) imports for sale or hire into the United Kingdom any infringing copy of any such work:

he shall be guilty of an offence under this Act and be liable on summary conviction to a fine not exceeding forty shillings for every copy dealt with in contravention of this section, but not exceeding fifty pounds in respect of the same transaction; or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(2) If any person knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be guilty of an offence under this Act, and be liable on summary conviction to a fine not exceeding fifty pounds, or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(3) The court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies or

[1] pp. 67-8.

plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright or otherwise dealt with as the court may think fit.

(4) Nothing in this section shall, as respects musical works, affect the provisions of the Musical (Summary Proceedings) Copyright Act, 1902, or the Musical Copyright Act, 1906.[1]

Appeals to Quarter Sessions.

12. Any person aggrieved by a summary conviction of an offence under the foregoing provisions of this Act may in England and Ireland appeal to a court of quarter sessions and in Scotland under and in terms of the Summary Jurisdiction (Scotland) Acts.

Extent of Provisions as to Summary Remedies.

13. The provisions of this Act with respect to summary remedies shall extend only to the United Kingdom.

IMPORTATION OF COPIES.[2]

14.—(1) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions contained in section forty-two of the Customs Consolidation Act, 1876, and that section shall apply accordingly.

(2) Before detaining any such copies or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section to be imported.

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations,

[1] pp. 160-2. [2] pp. 68-9.

determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.[1]

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

Delivery of Books to Libraries.[2]

Delivery of Copies to British Museum and other Libraries.

15. (1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depôt in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin, and subject to the provisions of this section the National Library of Wales. In the case of an encyclopædia, newspaper, review, magazine, or work published

[1] pp. 267–271. [2] pp. 123–4.

in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.[1]

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letterpress, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letterpress or in the maps, prints, or other engravings belonging thereto.

Special Provisions as to certain Works.

Works of Joint Authors.

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act

[1] p. 265.

with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.[1]

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof:

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.[2]

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.[3]

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

Posthumous Works.

17. (1) In the case of a literary dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.[4]

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *primâ facie* proof of the copyright being with the owner of the manuscript.[5]

Provisions as to Government Publications.

18. Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the com-

[1] p. 52. [2] pp. 50, 61. [3] p. 49.
[4] p. 53. [5] p. 91, *note* 4.

mencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.[1]

Provisions as to Mechanical Instruments.[2]

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within parts of His Majesty's dominions to which this Act extends records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

(*a*) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and

(*b*) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate hereinafter mentioned:

Provided that—

(i) nothing in this provision shall authorise any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and

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[1] pp. 55, 120. [2] pp. 154-9.

(ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.

(3) The rate at which such royalties as aforesaid are to be calculated shall—

(*a*) in the case of contrivances sold within two years after the commencement of this Act by the persons making the same, be two and one-half per cent.; and

(*b*) in the case of contrivances sold as aforesaid after the expiration of that period, five per cent.

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing:

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament; but, where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications and additions :—

(*a*) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, shall not apply :

(*b*) The rate of two and one-half per cent. shall be substituted for the rate of five per cent. as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of July, nineteen hundred and thirteen, if contrivances reproducing the same work had been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Act extends before the first day of July, nineteen hundred and ten :

(*c*) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorising the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignee, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives :

(*d*) The saving contained in this Act of the rights and interests arising from, or in connexion with, action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section :

(*e*) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except to such extent

as may be provided by the Order, include any rights with respect to the making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed.

(8) Notwithstanding anything in this Act, where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived:

Provided that—

(i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright; and

(ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

Provision as to Political Speeches.

20. Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper.[1]

Provisions as to Photographs.

21. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.[2]

Provisions as to Designs registrable under 7 Edw. VII. c. 29.

22. (1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.

[1] p. 129. [2] pp. 49, 55.

(2) General rules under section eighty-six of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.[1]

Works of Foreign Authors first published in parts of His Majesty's dominions to which Act extends.

23. If it appears to His Majesty that a foreign country does not give, or has not undertaken to give, adequate protection to the works of British authors, it shall be lawful for His Majesty by Order in Council to direct that such of the provisions of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends, shall not apply to works published after the date specified in the order, the authors whereof are subjects or citizens of such foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works.[2]

Existing Works.

24. (1) Where any person is immediately before the commencement of this Act entitled to any such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright thereunder:

Provided that—

(*a*) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either—

[1] pp. 164-5. [2] p. 51.

(i) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or

(ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as heretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the *London Gazette* and in two London newspapers:

(*b*) where any person has, before the twenty-sixth day of July, nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section nineteen sub-sections (7) and (8) and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.[1]

[1] pp. 53 5.

Application to British Possessions.[1]

Application of Act to British Dominions.

25. (1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions: Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature.

(2) If the Secretary of State certifies by notice published in the *London Gazette* that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differs from those under this Act.

Legislative Powers of Self-governing Dominions.

26. (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion: Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion, that dominion shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works

[1] pp. 57-8, 196 9.

(whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion; but, save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends:

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends, may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this subsection, authorised to confer within other parts of His Majesty's dominions.

For the purposes of this subsection, the expression "a dominion to which the Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

Power of Legislatures of British Possessions to pass Supplemental Legislation.

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

Application to Protectorates.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.[1]

[1] pp. 57 s.

PART II.

INTERNATIONAL COPYRIGHT.[1]

Power to extend Act to Foreign Works.

29. (1) His Majesty may, by Order in Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

(*a*) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;

(*b*) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were British subjects;

(*c*) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly:

Provided that—

(i) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I. of this Act;

(ii) the Order in Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates;

(iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order;

(iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order;

[1] pp. 200-213.

(v) in applying the provision of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country;

(vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886.

(2) An Order in Council under this section may extend to all the several countries named or described therein.

Application of Part II. to British Possessions.

30. (1) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possession specified in the order with respect to which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions other than self-governing dominions, and the provisions of this Part of this Act shall, with the necessary modifications, apply accordingly.

(3) Where it appears to His Majesty expedient to except from the provisions of any order any part of his dominions not being a self-governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

PART III.

Supplemental Provisions.

Abrogation of Common Law Rights.

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory

enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.[1]

Provisions as to Orders in Council.

32. (1) His Majesty in Council may make Orders for altering, revoking, or varying any Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made under this Act shall be published in the *London Gazette* and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

Saving of University Copyright.

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act.[2]

Saving of Compensation to Certain Libraries.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books:

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

Interpretation.

35. (1) In this Act, unless the context otherwise requires,—

"Literary work" includes maps, charts, plans, tables, and compilations;

"Dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph

[1] pp. 35-38.

[2] pp. 120-1.

production where the arrangement or acting form or the combination of incidents represented give the work an original character;

"Artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs;

"Works of sculpture" includes casts and models;

"Architectural work of art" means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction;

"Engravings" include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs;

"Photograph" includes photo-lithograph and any work produced by any process analogous to photography;

"Cinematograph" includes any work produced by any process analogous to cinematography;

"Collective work" means—

(*a*) an encyclopædia, dictionary, year book, or similar work;

(*b*) a newspaper, review, magazine, or similar periodical; and

(*c*) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

"Infringing," when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act;

"Performance" means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

"Delivery," in relation to a lecture, includes delivery by means of any mechanical instrument;

"Plate" includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies

of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made;

"Lecture" includes address, speech, and sermon;

"Self-governing dominion" means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in some other place, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by Order in Council.[1]

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a British subject or a resident within the parts of His Majesty's dominions to which this Act extends.[2]

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part.[2]

Repeal.

36. Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule:

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

[1] p. 51. [2] p. 50.

Short Title and Commencement.

27. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

(*a*) in the United Kingdom, on the first day of July nineteen hundred and twelve or such earlier date as may be fixed by Order in Council [1]:

(*b*) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion;

(*c*) in the Channel Islands, at such date as may be fixed by the States of those islands respectively;

(*d*) in any other British possession to which this Act extends, on the proclamation thereof within the possession of the Governor.

[1] The actual date was the 1st day of July, 1912.

SCHEDULES.

FIRST SCHEDULE.

Existing Rights.

Existing Right.	Substituted Right.
(a) In the case of Works other than Dramatic and Musical Works.	
Copyright.	Copyright as defined by this Act.[1]
(b) In the case of Musical and Dramatic Works.	
Both copyright and performing right.	Copyright as defined by this Act.[1]
Copyright, but not performing right.	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.
Performing right, but not copyright.	The sole right to perform the work in public, but none of the other rights comprised in copyright as defined by this Act.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings :—

"Copyright," in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work;

"Performing right," in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

[1] In the case of an essay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under Section 18 of The Copyright Act, 1842.

SECOND SCHEDULE.

Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Geo. 2. c. 13.	The Engraving Copyright Act, 1734.	The whole Act.
7 Geo. 3. c. 38.	The Engraving Copyright Act, 1767.	The whole Act.
15 Geo. 3. c. 53.	The Copyright Act, 1775.	The whole Act.
17 Geo. 3. c. 57.	The Prints Copyright Act, 1777.	The whole Act.
54 Geo. 3. c. 56.	The Sculpture Copyright Act, 1814.	The whole Act.
3 & 4 Will. 4. c. 15.	The Dramatic Copyright Act, 1833.	The whole Act.
5 & 6 Will. 4. c. 65.	The Lectures Copyright Act, 1835.	The whole Act.
6 & 7 Will. 4. c. 59.	The Prints and Engravings Copyright (Ireland) Act, 1836.	The whole Act.
6 & 7 Will. 4. c. 110.	The Copyright Act, 1836.	The whole Act.
5 & 6 Vict. c. 45.	The Copyright Act, 1842.	The whole Act.
7 & 8 Vict. c. 12.	The International Copyright Act, 1844.	The whole Act.
10 & 11 Vict. c. 95.	The Colonial Copyright Act, 1847.	The whole Act.
15 & 16 Vict. c. 12.	The International Copyright Act, 1852.	The whole Act.
25 & 26 Vict. c. 68.	The Fine Arts Copyright Act, 1862.	Sections one to six. In section eight the words "and pursuant to any Act for the protection of copyright engravings" and "and in any such Act as aforesaid." Sections nine to twelve.
38 & 39 Vict. c. 12.	The International Copyright Act, 1875.	The whole Act.
39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876.	Section forty-two from "Books wherein" to "such copyright will expire." Sections forty-four, forty-five, and one hundred and fifty-two.
45 & 46 Vict. c. 40.	The Copyright (Musical Compositions) Act, 1882.	The whole Act.

SECOND SCHEDULE—*continued.*

Session and Chapter.	Short Title.	Extent of Repeal.
49 & 50 Vict. c. 33.	The International Copyright Act, 1886.	The whole Act.
51 & 52 Vict. c. 17.	The Copyright (Musical Compositions) Act, 1888.	The whole Act.
52 & 53 Vict. c. 42.	The Revenue Act, 1889.	Section one, from "Books first published" to "as provided in that section."
6 Edw. 7. c. 36.	The Musical Copyright Act, 1906.	In section three the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886."

THE CUSTOMS LAWS CONSOLIDATION ACT, 1876.[1]

[39 & 40 VICT. c. 36.]

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

A TABLE OF PROHIBITIONS AND RESTRICTIONS INWARDS.

GOODS PROHIBITED TO BE IMPORTED.

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

(The words in italics in Section 42 and also Sections 44, 45, and 152 were repealed by The Copyright Act, 1911.)

[1] pp. 68-9.

THE FINE ARTS COPYRIGHT ACT, 1862.[1]

[25 & 26 Vict. c. 68, ss. 7 & 8.]

Penalties on Fraudulent Productions and Sales.

7. No person shall do or cause to be done any or either of the following acts: that is to say—

First.—No person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any painting, drawing, or photograph, or the negative thereof, any name, initials, or monogram:

Secondly.—No person shall fraudulently sell, publish, exhibit, or dispose of, or offer for sale, exhibition, or distribution, any painting, drawing, or photograph, or negative of a photograph, having thereon the name, initials, or monogram of a person who did not execute or make such work:

Thirdly.—No person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any copy or colourable imitation of any painting, drawing, or photograph, or negative of a photograph, whether there shall be subsisting copyright therein or not, as having been made or executed by the author or maker of the original work from which such copy or imitation shall have been taken:

Fourthly.—Where the author or maker of any painting, drawing, or photograph, or negative of a photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the possession of such work, if any alteration shall afterwards be made therein by any other person, by addition or otherwise, no person shall be at liberty, during the life of the author or maker of such work, without his consent, to make or knowingly to sell or publish, or offer for sale, such work or any copies of such work so altered as aforesaid, or of any part thereof, as or for the unaltered work of such author or maker:

Penalties.

Every offender under this section shall, upon conviction, forfeit to the person aggrieved a sum not exceeding ten pounds, or not exceeding double the full price, if any, at which all such copies, engravings, imitations, or altered works shall have been sold or

[1] pp. 192-3.

offered for sale; and all such copies, engravings, imitations, or altered works shall be forfeited to the person, or the assigns or legal representatives of the person, whose name, initials, or monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid: Provided always, that the penalties imposed by this Section shall not be incurred unless the person whose name, initials, or monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered work shall so fraudulently or falsely ascribed as aforesaid, shall have been living at or within twenty years next before the time when the offence may have been committed

Recovery of Pecuniary Penalties.

8. All pecuniary penalties which shall be incurred, and all such unlawful copies, imitations, and all other effects and things as shall have been forfeited by offenders, pursuant to this Act, *and pursuant to any Act for the protection of copyright engravings*, may be recovered by the person hereinbefore *and in any such Act as aforesaid* [1] empowered to recover the same respectively, and hereinafter called the complainant or the complainer, as follows:—

In England and Ireland.

In *England* and *Ireland*, either by action against the party offending, or by summary proceeding before any two justices having jurisdiction where the party offending resides:

In Scotland.

In *Scotland* by action before the Court of Session in ordinary form, or by summary action before the Sheriff of the County where the offence may be committed, or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending, or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable to the penalty or penalties aforesaid, as also in expenses, and it shall be lawful for the Sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: provided always, that it shall be lawful to the Sheriff in the event of his dismissing the action of assoilzieing the defender, to find the complainer liable in expenses, and any judgment so to be pronounced by the Sheriff in such summary application shall be final and conclusive, and not subject to review by advocation, suspension, reduction, or otherwise.

[1] The words in italics were repealed by The Copyright Act, 1911.

THE MUSICAL (SUMMARY PROCEEDINGS) COPYRIGHT ACT, 1902.

[2 Edw. VII. c. 15.]

An Act to Amend the Law relating to Musical Copyright.[1] **[22nd July, 1902.**

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Seizure &c. of Pirated Copies.

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

Power to seize Copies on Hawkers.

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

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

Definitions.

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

[1] pp. 160-2.

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

(2) To abridge such musical work.

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

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

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

Short Title and Commencement.

4. This Act may be cited as the Musical (Summary Proceedings) Copyright Act, 1902, and shall come into operation on the 1st day of October, 1902, and shall apply only to the United Kingdom.

THE MUSICAL COPYRIGHT ACT, 1906.

[6 Edw. VII. c. 36.]

An Act to Amend the Law relating to Musical Copyright.[1] **[4th August, 1906.**

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Penalty for being in Possession of Pirated Music.

1. (1) Every person who prints, reproduces, or sells, or exposes, offers, or has in his possession for sale, any pirated copies of any musical work, or has in his possession any plates for the purpose of printing or reproducing pirated copies of any musical work, shall (unless he proves that he acted innocently) be guilty of an offence punishable on summary conviction, and shall be liable to a fine not exceeding five pounds, and on a second or subsequent conviction to imprisonment with or without hard labour for a term not exceeding two months or to a fine not exceeding ten pounds: Provided that a person convicted of an offence under this Act who has not previously been convicted of such an offence, and who proves that the copies of the musical work in respect of which the offence was committed had printed on the title page thereof a name and address purporting to be that of the printer or publisher, shall not be liable to any penalty under this Act unless it is proved that the copies were to his knowledge pirated copies.

(2) Any constable may take into custody without warrant any person who in any street or public place sells or exposes, offers, or has in his possession for sale any pirated copies of any such musical work as may be specified in any general written authority addressed to the chief officer of police, and signed by the apparent owner of the copyright in such work or his agent thereto authorised in writing, requesting the arrest, at the risk of such owner, of all persons found committing offences under this section in respect to such work, or who offers for sale any pirated copies of any such specified musical work by personal canvass or by personally delivering advertisements or circulars.

(3) A copy of every written authority addressed to a chief officer of police under this section shall be open to inspection at all reasonable hours by any person without payment of any fee, and any person may take copies of or make extracts from any such authority.

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[1] pp. 160 2.

(4) Any person aggrieved by a summary conviction under this section may in England or Ireland appeal to a court of quarter sessions, and in Scotland under and in terms of the Summary Prosecutions Appeals (Scotland) Act, 1875.

Right of Entry by Police for Execution of Act.

2. (1) If a court of summary jurisdiction is satisfied by information on oath that there is reasonable ground for suspecting that an offence against this Act is being committed on any premises, the court may grant a search warrant authorising the constable named therein to enter the premises between the hours of six of the clock in the morning and nine of the clock in the evening, and, if necessary, to use force for making such entry, whether by breaking open doors or otherwise, and to seize any copies of any musical work or any plates in respect of which he has reasonable ground for suspecting that an offence against this Act is being committed.

(2) All copies of any musical work and plates seized under this section shall be brought before a court of summary jurisdiction, and if proved to be pirated copies or plates intended to be used for the printing or reproduction of pirated copies shall be forfeited and destroyed or otherwise dealt with as the court think fit.

Definitions.

3. In this Act—

The expression "pirated copies" means any copies of any musical work written, printed, or otherwise reproduced without the consent lawfully given by the owner of the copyright in such musical work:

The expression "musical work" means a musical work in which there is a subsisting copyright, *and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886* [1]:

The expression "plates" includes any stereotype or other plates, stones, matrices, transfers, or negatives used or intended to be used for printing or reproducing copies of any musical work: Provided that the expressions "pirated copies" and "plates" shall not, for the purposes of this Act, be deemed to include perforated music rolls used for playing mechanical instruments, or records used for the reproduction of sound waves, or the matrices or other appliances by which such rolls or records respectively are made:

[1] The words in italics were repealed by the Copyright Act, 1911.

The expression "chief officer of police"—

(*a*) with respect to the City of London, means the Commissioner of City Police;

(*b*) elsewhere in England has the same meaning as in the Police Act, 1890;

(*c*) in Scotland has the same meaning as in the Police (Scotland) Act, 1890;

(*d*) In the police district of Dublin metropolis means either of the Commissioners of Police for the said district;

(*e*) elsewhere in Ireland means the District Inspector of the Royal Irish Constabulary:

The expression "court of summary jurisdiction" in Scotland means the sheriff or any magistrate of any royal, parliamentary, or police burgh officiating under the provisions of any local or general police Act.

Short Title.

4. This Act may be cited as the Musical Copyright Act, 1906.

APPENDIX II.

RULES AND REGULATIONS

MADE UNDER

THE COPYRIGHT ACT, 1911.

The Copyright Royalty System (General) Regulations, 1912. [Dated 7th June, 1912.

THE Board of Trade, in pursuance of the powers conferred by Section 3 of the Copyright Act, 1911, hereby make the following Regulations:—

Preliminary.

1. These Regulations may be cited as the Copyright Royalty System (General) Regulations, 1912, and shall come into operation on the 1st day of July, 1912.

Notice.

2. The notice required by Section 3 of the Copyright Act, 1911, shall contain the following particulars:—

(*a*) The name and address of the person intending to reproduce the work;

(*b*) the name of the work which it is intended to reproduce and (if necessary) a description sufficient to identify it;

(*c*) the manner in which it is intended to reproduce the work (*e.g.*, whether by printing, lithography, photography, &c.);

(*d*) the price or prices at which it is intended to publish the work;

(*e*) the earliest date at which any of the copies will be delivered to a purchaser.

3. The notice shall, not less than one month before any copies of the work are delivered to a purchaser, be sent by registered post or published by advertisement as follows:—

(*a*) If the name and an address within the United Kingdom of the owner of the copyright, or his agent for the

receipt of notice, are known or can with reasonable diligence be ascertained, the notice shall be sent to such owner or agent at such address;

(*b*) if such name and address are not known and cannot with reasonable diligence be ascertained the notice shall be advertised in the *London Gazette*; the advertisement in the *London Gazette* shall give the particulars required by paragraphs (*a*) and (*b*) of Regulation 2, and shall also state an address from which a copy of the notice described in Regulation 2 may be obtained.

Payment of Royalties.

4. (*a*) Unless otherwise agreed royalties shall be payable by means of adhesive labels purchased from the owner of the copyright and affixed to the copies of the work.

After the person reproducing the work has given the prescribed notice of his intention to reproduce the work the owner of the copyright shall by writing sent by registered post intimate to him some reasonably convenient place within the United Kingdom from which adhesive labels can be obtained, and on demand in writing and tender of the price shall supply from such place adhesive labels of the required denominations at a price equal to the amount of royalty represented thereby.

Subject to these Regulations, no copy of the work shall be delivered to a purchaser until such label or labels denoting the amount of royalty have been affixed thereto.

(*b*) In cases where royalties are payable by means of adhesive labels if at any time labels of the required denomination are not available either because—

(i) after the expiration of fourteen days from the date of the prescribed notice the owner of the copyright has not duly sent to the person reproducing the work an intimation of some reasonably convenient place within the United Kingdom from which such labels can be obtained; or

(ii) the owner of the copyright refuses or neglects to supply such labels within fourteen days after demand duly made,

copies of the work may be delivered to purchasers without having labels affixed thereto; and the amount of royalties shall be a debt due from the person reproducing the work to the owner of the copyright, and the person reproducing the work shall keep an account of all such copies sold by him.

(c) For the purposes of this Regulation "the date of the prescribed notice" means—

(i) in cases when the notice is required to be sent by registered post, the date when the notice would in ordinary course of post be delivered;

(ii) in cases when the notice is required to be advertised in the *London Gazette*, the date of such advertisement.

(*d*) Where royalties are by agreement payable in any other mode than by means of adhesive labels the time and frequency of the payment shall be such as are specified in the agreement.

(*e*) The adhesive label supplied as aforesaid shall be an adhesive paper label, square in shape, the design to be entirely enclosed within a circle and the side of the label not to be greater than ¾ inch in length. The label shall not bear the effigy of the Sovereign or any other person, nor any word, mark, or design such as to suggest that the label is issued by or under the authority of the Government for the purpose of denoting any duty payable to the Government.

Interpretation.

5. In these Regulations the expression "owner of the copyright" has the same meaning as in Section 3 of the Copyright Act, 1911.

Dated this 7th day of June, 1912.

H. LLEWELLYN SMITH,
Secretary to the Board of Trade.

The Copyright Royalty System (Mechanical Musical Instruments) Regulations, 1912.

[Dated 7th June, 1912.

THE Board of Trade, in pursuance of the powers conferred by Section 19, Sub-Section 6, of the Copyright Act, 1911, hereby make the following Regulations:—

Preliminary.

1. These Regulations may be cited as the Copyright Royalty System (Mechanical Musical Instruments) Regulations, 1912, and shall come into operation on the 1st day of July, 1912.

Notice.

2. The notice required by Section 19, Sub-Section 2, of the Copyright Act, 1911, shall contain the following particulars:—

(*a*) The name and address of the person intending to make the contrivances;

(*b*) the name of the musical work which it is intended to reproduce and of the author (if known); and (if necessary) a description sufficient to identify the musical work;

(*c*) the class of contrivance on which it is intended to reproduce the musical work (*e.g.*, whether discs, cylinders, or music rolls);

(*d*) the ordinary retail selling prices of the contrivances, and the amount of the royalty payable on each contrivance in respect of the musical work;

(*e*) the earliest date at which any of the contrivances will be delivered to a purchaser;

(*f*) whether any other work is to be reproduced on the same contrivance with the musical work specified in accordance with paragraph (*b*).

3. The notice shall, not less than ten days before any contrivances on which the musical work is reproduced are delivered to a purchaser, be sent by registered post or published by advertisement as follows:—

(*a*) if the name and an address within the United Kingdom of the owner of the copyright, or his agent for the receipt of notice, are known or can with reasonable diligence be ascertained, the notice shall be sent to such owner or agent at such address;

(*b*) if such name and address are not known and cannot with reasonable diligence be ascertained, the notice shall be advertised in the *London Gazette*; the advertisement in the *London Gazette* shall give the particulars required by paragraphs (*a*) and (*b*) of Regulation 2, and shall also state an address from which a copy of the notice described in Regulation 2 may be obtained. Any number of musical works may be included in the same advertisement.

The notice may be given either before or after the 1st day of July, 1912.

Payment of Royalties.

4. (*a*) Unless otherwise agreed, royalties shall be payable by means of adhesive labels purchased from the owner of the copyright and affixed in the manner provided by these Regulations.

After the person making the contrivances has given the prescribed notice of his intention to make or sell the contrivances, the owner of the copyright shall by writing sent by registered post intimate to him some reasonably convenient place within the United Kingdom from which adhesive labels can be obtained and on demand in writing and tender of the price shall supply from such place adhesive labels of the required denominations at a price equal to the amount of royalty represented thereby.

Subject to these Regulations no contrivance shall be delivered to a purchaser until such label or labels denoting the amount of royalty have been affixed thereto, or in the case of cylinders, to which it is not reasonably practicable to affix the labels, until such label or labels have been affixed to a carton or box enclosing the cylinder.

(*b*) In cases where royalties are payable by means of adhesive labels if at any time labels of the required denominations are not available either because—

(i) after the expiration of five days from the date of the prescribed notice of the intention of the person making the contrivances to make or sell such contrivances the owner of the copyright has not duly sent to the person

making the contrivances an intimation of some reasonably convenient place within the United Kingdom from which such labels can be obtained; or

(ii) the owner of the copyright refuses or neglects to supply such labels within three days after demand duly made,

contrivances may be delivered to purchasers without having labels affixed thereto or to the carton or box enclosing the same; and the amount of royalties shall be a debt due from the person making the contrivances to the owner of the copyright and the person making the contrivances shall keep an account of all such contrivances sold by him.

(*c*) For the purposes of this Regulation "the date of the prescribed notice" means—

(i) in cases where the notice is required to be sent by registered post, the date when the notice would in ordinary course of post be delivered;

(ii) in cases where the notice is required to be advertised in the *London Gazette*, the date of such advertisement.

(*d*) In cases where royalties are payable on contrivances made before the commencement of the Copyright Act, 1911, the person making such contrivances may give notice of his intention to sell them, containing *mutatis mutandis* the same particulars and given in the same manner as is prescribed by these Regulations in the case of the notice required by Section 19, Sub-Section 2, of the Copyright Act, 1911.

(*e*) Where royalties are by agreement payable in any other mode than by means of adhesive labels, the time and frequency of the payment shall be such as are specified in the agreement.

(*f*) The adhesive label supplied as aforesaid shall be an adhesive paper label, square in shape, the design to be entirely enclosed within a circle and the side of the label not to be greater than ¾ inch in length. The label shall not bear the effigy of the Sovereign or any other person, nor any word, mark, or design such as to suggest that the label is issued by or under the authority of the Government for the purpose of denoting any duty payable to the Government.

Ordinary Retail Selling Price.

5. The ordinary retail selling price of any contrivance shall be calculated at the marked or catalogued selling price of single copies to the public, or, if there is no such marked or catalogued selling price, at the highest price at which single copies are ordinarily sold to the public.

Inquiries.

6. The inquiries referred to in Section 19, Sub-Section 5, of the Copyright Act, 1911, shall be directed to the owner of the copyright by name or (if his name is not known and cannot with reasonable diligence be ascertained) in general terms to "the owner of the copyright" of the musical work in respect of which the inquiries are made, and shall contain—

(*a*) a statement of the name of the musical work in respect of which the inquiries are made and of the author (if known), and (if necessary) a description sufficient to identify it;

(*b*) a statement of the name, address, and occupation of the person making the inquiries;

(*c*) an allegation that a contrivance has previously been made by means of which the musical work may be mechanically performed, with the trade name (if known) and a description of such contrivance;

(*d*) an inquiry whether the contrivance so described was made with the consent or acquiescence of the owner of the copyright.

7. The inquiries shall be sent by registered post or published by advertisement as follows:—

(*a*) if an address within the United Kingdom of the owner of the copyright is known or can with reasonable diligence be ascertained the inquiries shall be sent to such address; or

(*b*) if such address is not known and cannot with reasonable diligence be ascertained the inquiries shall be advertised in the *London Gazette*.

8. The prescribed time for reply to such inquiries shall be:—

(*a*) in cases where the inquiries are required to be sent by registered post seven days after the date when the inquiries would in ordinary course of post be delivered;

(*b*) in cases where the inquiries are required to be advertised in the *London Gazette* seven days after the date of such advertisement.

Interpretation.

9. In these Regulations the expression "owner of the copyright" has the same meaning as in Section 19, Sub-Section 2, of the Copyright Act, 1911.

Dated this 7th day of June, 1912.

H. Llewellyn Smith,
Secretary to the Board of Trade.

The National Library of Wales (Delivery of Books) Regulations 1912.

[Dated 25th June, 1912.

The Board of Trade, in pursuance of Section 15, Sub-Section 5, of the Copyright Act, 1911, hereby make the following Regulations:—

1. These Regulations may be cited as the National Library of Wales (Delivery of Books) Regulations, 1912, and shall come into operation on the 1st day of July, 1912.

2. The books, of which copies are to be delivered to the National Library of Wales in pursuance of Section 15 of the Copyright Act, 1911, shall not include any book of the following classes: viz.—

Books (other than books written wholly or mainly in Welsh or any other Celtic language, or relating wholly or mainly to the antiquities, language, literature, philology, history, religion, arts, crafts, or industries of the Welsh or other Celtic peoples, or relating wholly or mainly to the natural history of Wales) of which:

(i) The number of copies in the published edition does not exceed 300; or

(ii) The number of copies in the published edition does not exceed 400 and the published price of each volume exceeds £5; or

(iii) The number of copies in the published edition does not exceed 600 and the published price of each volume exceeds £10.

3. For the purposes of these regulations the published edition of a book includes all copies of the same work published by the same publisher or his successor in business in a form substantially the same with respect to printing, illustrations, and general condition.

Dated this 25th day of June, 1912.

H. Llewellyn Smith,

Secretary to the Board of Trade.

The Designs Rules, 1912.

[Dated 26th June, 1912.

By virtue of the provisions of the Patents and Designs Act, 1907, and the Copyright Act, 1911, the Board of Trade do hereby make the following Rules:—

Preliminary.

1. These Rules may be cited as the Designs Rules, 1912, and shall come into operation on the 1st day of July, 1912.

Designs Excluded from Protection under Copyright Act, 1911.

2. A design shall be deemed to be used as a model or pattern to be multiplied by any industrial process within the meaning of Section 22 of the Copyright Act, 1911—

(*a*) When the design is reproduced or is intended to be reproduced in more than fifty single articles, unless all the articles in which the design is reproduced or is intended to be reproduced together form only a single set, as defined by Rule 5 of the Designs Rules, 1908;

(*b*) Where the design is to be applied to (1) printed paper hangings, (2) carpets, floor cloths or oil cloths, manufactured or sold in lengths or pieces, (3) textile piece goods, or textile goods manufactured or sold in lengths or pieces, (4) lace, not made by hand.

Dated this 26th day of June, 1912.

H. Llewellyn Smith,
Secretary to the Board of Trade.

The Designs Rules, 1908.

5. "Set" means a number of articles of the same general character ordinarily on sale together, or intended to be used together, all bearing the same design with or without modifications not sufficient to alter the character or not substantially affecting the identity thereof.

Where there is any doubt whether given articles do or do not constitute a set, the doubt shall be determined by the Comptroller.

REGULATIONS BY THE COMMISSIONERS OF CUSTOMS AND EXCISE.

Regulations dated the 19th day of June, 1912, made by the Commissioners of Customs and Excise under Section 14 of The Copyright Act, 1911.

The Commissioners of Customs and Excise in pursuance of the powers vested in them by Section 14 of the Copyright Act, 1911, hereby prescribe the following Regulations which are to be observed on and after the 1st day of July, 1912:—

1. The Notice in writing to be given to the Commissioners of Customs and Excise (hereinafter referred to as the said Commissioners) under Section 14 of the Copyright Act, 1911, by the owner of the copyright in any book or other printed work in which copyright subsists under the said Act or his agent who is desirous that copies thereof printed or reprinted out of the United Kingdom shall not be imported into the United Kingdom shall be in the Form No. 1 in the Schedule hereto or as near thereto as circumstances permit.

2. Any notice in regard to any book or other printed work in which copyright subsisted on the 30th day of June, 1912, which was given to and accepted by the said Commissioners on or before that day pursuant to Section 42 of the Customs Consolidation Act, 1876, or Section 1 of the Revenue Act, 1889, shall for a period of twelve months from the 1st day of July, 1912, if the copyright so long subsists be treated as a notice given under Section 14 of the Copyright Act, 1911, unless the notice is withdrawn or superseded or the said Commissioners require a further notice to be given.

3. The notice in writing to be given to the said Commissioners under Section 14 of the Copyright Act, 1911, by the owner of the copyright in any work (other than a book or other printed work) in which copyright subsists under the said Act or his agent who is desirous that copies thereof made out of the United Kingdom shall not be imported into the

United Kingdom, may be either a general notice in the Form No. 2 in the Schedule hereto or as near thereto as circumstances permit or a special notice in the Form No. 3 in the same Schedule relating to a particular importation.

4. Every notice given in pursuance of these Regulations in the Form No. 1 or No. 2 in the Schedule hereto shall be accompanied by a statutory declaration in the Form No. 4 in the same Schedule.

5. Before any article which appears, or is alleged, to be a copy of a work to which a notice applies is detained, or any further proceedings with a view to the forfeiture thereof under the law relating to the Customs are taken, the person who signed the notice whether as owner or agent shall, if required to do so, give to the said Commissioners in writing such further information and evidence, verified if so required by a statutory declaration, as they consider necessary to satisfy them that the article in question is liable to detention and forfeiture.

6. In the case of any detention in consequence of a notice in the Form No. 3 given to the said Commissioners the person who signed the notice whether as owner or agent must if so required deposit with the Collector of Customs and Excise or other Chief Officer of the Customs and Excise at the port or place of detention a sum of money sufficient in the opinion of that officer to cover any expense which may be incurred in the examination required by reason of his notice of the goods detained, and if upon the examination of the goods the said Collector or other Chief Officer is satisfied that there is no ground for their detention, they will be delivered.

7. If any goods are placed under detention in consequence of any notice given in pursuance of these Regulations, the said Commissioners may require the person who signed the notice to give an undertaking in writing to reimburse them all expenses and damages incurred in respect of the detention, and of any proceedings for forfeiture subsequently taken if such an undertaking has not already been given, and may also require him within fourteen days after the detention to enter into a bond with two approved sureties in such form and for such amount as the said Commissioners may require.

8. Any deposit of money previously made will be returned on the completion of the bond.

9. In these Regulations—

"Owner of the copyright" has the same meaning as in Section 14 of the Copyright Act, 1911.

"Book or other printed work" means every part or division of a book, pamphlet, sheet of letterpress, sheet of music, map, plan, chart, or table separately published.

Dated this 19th day of June, 1912.

Signed by Order of the Commissioners of Customs and Excise.

J. P. BYRNE,
E. C. CUNNINGHAM,
Secretaries.

THE SCHEDULE.

FORM No. 1.

NOTICE

Relating to Copyright Books and other Printed Works.

(1) Or works.

To the Commissioners of Customs and Excise.

I, of ,
hereby give you notice that copyright in the original work (1) mentioned in the Schedule hereto now subsists under the Copyright Act, 1911, and that (2) the owner of the copyright in the said work (1) and that (3) desirous that copies of the said work (1) printed or reprinted out of the United Kingdom shall not be imported into the United Kingdom.

(2) If notice is given by the owner insert "I am"; if given by an agent insert name of owner and the word "is."

(3) "I am" or "he is."

Dated this day of , 19 .

Signature

(4)

(4) If an agent, insert "agent of owner."

SCHEDULE.

(5) The notice may apply to a number of books or printed works in which case the particulars in the Schedule must be given as respects each book or printed work.

Title of book (5).
Description of printed work, if not a book.
Full name of Author or Authors.
Whether Author or Authors alive, if not, date of death.
When and where (6) book or printed work first published.

(6) It is sufficient to state the country of first publication.

(NOTE.—*Where advantage has been taken of the provisions of the Copyright Act, 1911, as to simultaneous publication, the date and place stated should be those which entitle the work to copyright in the United Kingdom.*)

FORM No. 2.

NOTICE

Relating to Copyright Works other than Books or other Printed Works.

To the Commissioners of Customs and Excise.

I, of ,

(1) If notice is given by the owner, insert "I am"; if given by an agent, insert name of owner and the word "is."

(2) "I am" or "he is."

hereby give you notice that copyright in the original work mentioned in the Schedule hereto now subsists under the Copyright Act, 1911, and that (1) the owner of the copyright in the said work, and that (2) desirous that copies of the said work made out of the United Kingdom shall not be imported into the United Kingdom.

Dated this day of , 191 .

Signature

(3)

(3) If an agent, insert "agent of owner."

SCHEDULE.

Title of work (if any).

Full description of work.

Initials or Marks (if any) usually placed on copies of work.

Full name of Author or Authors.

Whether Author or Authors alive, if not, date of death.

When and where (4) work first published.

(4) It is sufficient to state the *country* of first publication.

(NOTE.—*Where advantage has been taken of the provisions of the Copyright Act, 1911, as to simultaneous publication, the date and place stated should be those which entitle the work to copyright in the United Kingdom.*)

If work not published—

Whether Author British subject or not.

If not a British subject, name of country in which Author was resident, or domiciled at date of the making of the work.

In the case of photographs, phonographic records and music rolls, date of making the original negative or original plate.

FORM No. 3.

NOTICE

Relating to a Particular Importation.

To the Commissioners of Customs and Excise.

(1) or agent for the owner.

I, of ,

(2) Describe the goods, number of packages, marks used, and any other particulars necessary for their identification.

hereby give you notice that I am the owner (1) of the copyright in a certain original work as to which copyright now subsists under the Copyright Act, 1911, and that the undermentioned goods: that is to say, (2) are about to be imported into the *Port of

*or Sub-Port

on or about the day of next in the (3) from .

(3) Describe the ship, and give name or indication.

That such goods are liable to detention and forfeiture as being (4) .

(4) State if the goods are copies of the original work made out of the United Kingdom, or how otherwise the goods are liable to detention and forfeiture.

And I request that the said goods may be detained and dealt with accordingly, and I hereby undertake to reimburse the Commissioners of Customs and Excise all expenses and damages to be incurred in respect of the detention, and of any proceedings for forfeiture which may be subsequently taken.

Dated this day of , 19 .

Signature

(5)

(5) If an agent, insert "agent of owner."

FORM No. 4.

STATUTORY DECLARATION.

I, of ,

do solemnly and sincerely declare that the contents of the Notice hereto annexed are true, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared by the above-named
at this day of , 19 ,
before me

A Commissioner for Oaths.

APPENDIX III.

COPYRIGHT IN GOVERNMENT PUBLICATIONS.

Treasury Minute dated 28th June, 1912.

My Lords read Section 18 of the Copyright Act, 1911 (1 & 2 Geo. V. ch. 46), which enacts that—

> "Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government Department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work."

The above statutory provision renders it necessary to reconsider the Treasury Minute of the 31st day of August, 1887 (presented to the House of Commons No. 335 of 1887), and to define anew the practice to be followed with regard to Crown Copyright.

The Treasury Minute divided Government publications into the following classes:—

1. Reports of Select Committees of the two Houses of Parliament, or of Royal Commissions.
2. Papers required by Statute to be laid before Parliament, *e.g.*, Orders in Council, Rules made by Government Departments, Accounts, Reports of Government Inspectors.
3. Papers laid before Parliament by Command, *e.g.*, Treaties, Diplomatic Correspondence, Reports from Consuls and Secretaries of Legation, Reports of Inquiries into Explosions or Accidents, and other Special Reports made to Government Departments.
4. Acts of Parliament.
5. Official books, *e.g.*, King's Regulations for the Army or Navy.

6. Literary or quasi-literary works, *e.g.*, the Reports of the "Challenger" Expedition, the Rolls Publications, the State Trials, the "Board of Trade Journal."

7. Charts and Ordnance Maps.

A considerable and increasing number of Government works fall into the three last classes above set forth, and My Lords see no reason why such works—often produced at considerable cost—should be reproduced by private enterprise for the benefit of individual publishers. For the future, publications which fall within this description will bear an indication on the title page that the Crown Copyright is reserved. The Controller of the Stationery Office will act on a notification by the Department responsible for the production of the work that it is desired that Crown Copyright should be expressly reserved subject to reference to Their Lordships in case of doubt. Any infringement of copyright in these cases should be brought to the notice of the Controller of the Stationery Office by the heads of departments, so far as works prepared or published by or under their direction are concerned.

The Controller of the Stationery Office will refer to this Board for instructions as to whether any infringement of Crown Copyright shall be made the subject of legal proceedings.

The publications which fall into the first four classes are issued for the use and information of the public, and it is desirable that the knowledge of their contents should be diffused as widely as possible. In the case of these publications no steps will ordinarily be taken to enforce the rights of the Crown in respect of copyright. The rights of the Crown will not, however, lapse, and should exceptional circumstances appear to justify such a course it will be possible to assert them. In such a case, the Department concerned should acquaint the Controller of the Stationery Office as early as possible of the special circumstances which render it desirable to depart from the general rule permitting full and free reproduction of the works in these categories, and the Controller will, subject to the direction of Their Lordships, take such measures as may seem appropriate to enforce the right of the Crown.

Acts of Parliament must not, except when published under the authority of the Government, purport on the face of them to be published by authority.

APPENDIX IV.

INTERNATIONAL COPYRIGHT.

Order in Council extending Copyright Act to Protectorates.

At the Court at Buckingham Palace, the 24th day of June, 1912.

PRESENT,

The King's Most Excellent Majesty.
Lord President.
Earl Beauchamp.
Lord Richard Cavendish.
Viscount Allendale.
Lord Chamberlain.
Sir Henry W. Primrose.
Mr. C. F. G. Masterman.
Sir David Brynmor Jones.
Sir James Henry Dalziel.
Sir Albert Spicer, Bart.

WHEREAS it is, among other things, provided by the Copyright Act, 1911, that His Majesty may, by Order in Council, extend the said Act to any territories under His protection and to Cyprus, and that on the making of any such Order the said Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which the said Act extends:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

1. The Copyright Act, 1911, shall apply to Cyprus and to the following territories under His Majesty's protection: namely—the Bechuanaland Protectorate, East Africa Protectorate, Gambia Protectorate, Gilbert and Ellice Islands Protectorate, Northern Nigeria Protectorate, Northern Territories of the Gold Coast, Nyasaland Protectorate, Northern Rhodesia, Southern Rhodesia, Sierra Leone Protectorate, Somaliland Protectorate, Southern Nigeria Protectorate, Solomon Islands Protectorate, Swaziland, Uganda Protectorate, and Weihaiwei.

2. In Article 12 of "The Somaliland Order in Council, 1899," the word "Copyright" is hereby revoked and shall be deleted.

ALMERIC FITZROY.

The Berlin Convention of 1908 collated with the Berne Convention of 1886[1] and the Acts of Paris of 1896.

NOTE.—The alterations (other than drafting amendments) embodied in the Revised Convention, as compared with the Berne Convention and the additional Act of Paris, are shown in thick type (column (1)).

The provisions of the texts of 1886 and 1896 which are entirely omitted from the Revised Convention are shown in *italics* (column (2)).

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Acts of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
	Berne Convention.
Article 1.—The Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.	*Article* 1.—The Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.
Article 2.—The expression "literary and artistic works" shall include any production in the literary, scientific, or artistic domain, whatever may be the mode or form of its reproduction, such as books, pamphlets, and other writings; dramatic or dramatico-musical works, **choreographic works and pantomimes, the acting form of which is fixed in writing or otherwise;** musical compositions with or without words, works of design, painting,	*Article* 4.—The expression "literary and artistic works" shall include books, pamphlets, and all other writings; dramatic or dramatico-musical works and musical compositions, with or without words; works of design, painting, sculpture, and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relating to geography, topography, architecture, or to the sciences in general; finally,

[1] Order of Articles:—1, 4, C. P. 2, 6, C. P. 1, 2, 3, 5, 7, 8, 9, 10, C. P. 3, 11, 12, 13, 14, C. P. 4, 15, 16, C. P. 5, 17, C. P. 5 (cont.), C. P. 6, 18, 19, 21, C. P. 7, 20.

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
architecture, sculpture, engraving and lithography; illustrations, geographical charts, plans, sketches, and plastic works relative to geography, topography, architecture, or science.	every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction whatever. *Closing Protocol.*—2. With reference to Article 9, it is agreed that those countries of the Union the law of which implicitly includes choreographic works amongst dramatico-musical works, expressly admit the said works to the benefit of the provisions of the Convention concluded this day. *It is, however, understood that disputes which may arise upon the application of this clause shall be reserved for the decision of the respective Courts.*
	Additional Act. *Revised Closing Protocol.*—1. With reference to Article 4, it is agreed as follows:— A. In the countries of the Union in which protection is accorded not only to architectural plans, but also to works of architecture themselves, those works are admitted to the benefit of the provisions of the Berne Convention and of the present additional Act.
Translations, adaptations, arrangements of music, and other reproductions in an	*Berne Convention.* *Article* 6.—Lawful translations shall be protected as original works. Hence they

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
altered form of a literary or artistic work, as well as collections of different works, shall be protected as original works, without prejudice to the rights of the author of the original work. The contracting countries shall be bound to make provision for the protection of the above-mentioned works. Works of art applied to industrial purposes shall be protected so far as the domestic legislation of each country allows.	shall enjoy the protection stipulated for in Articles 2 and 3 as regards their unauthorised reproduction in the countries of the Union. *It is understood that in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.*
Article 3.—The present Convention shall apply to photographic works and to works produced by a process analogous to photography. The contracting countries shall be bound to make provision for their protection.	*Closing Protocol.*—1. As regards Article 4, it is agreed that those countries of the Union where the character of artistic works is not refused to photographs, engage to admit them to the benefits of the Convention concluded today from the date of its coming into effect. They shall, however, not be bound to protect the authors of such works further than is permitted by their own legislation, except in the case of international engagements already existing, or which may hereafter be entered into by them. *It is understood that an authorised photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, within the meaning of the said*

(1)	(2)
Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
	Convention, so long as the principal right of reproduction of the work itself subsists, and within the limits of private agreements between the parties entitled.
	Additional Act.
	Revised Closing Protocol.—1. With reference to Article 4, it is agreed as follows:—
	* * * * *
	B. Photographic works, and works obtained by analogous processes, shall be admitted to the benefit of the provisions of those Acts, in so far as the domestic law of each country allows this to be done, and in the measure of the protection that it accords to similar national works.
	It is understood that an authorised photograph of a protected work of art shall enjoy legal protection, in all the countries of the Union, within the meaning of the Berne Convention, and of the present additional Act, so long as the principal right of reproduction of the work itself subsists, and within the limits of private agreements between the parties entitled.
	Berne Convention.
Article 4.—Authors who are subjects or citizens of any of the countries of the Union shall enjoy in countries, other than the country of origin of the	*Article* 2.—Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
work, for their works, whether unpublished or first published in a country of the Union, the rights which the respective laws do now or may hereafter grant to natives as well as the rights specially granted by the present Convention.	countries for their works, whether published in one of those countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives. *Additional Act.* *Article* 2.—Authors who are subjects or citizens of any of the countries of the Union or their lawful representatives, shall enjoy in the other countries for their works, whether unpublished or published for the first time in one of those countries, the rights which the respective laws do now or may hereafter grant to natives.
The enjoyment and the exercise of these rights shall not be subject to the performance of any formality; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work. Consequently, apart from the express stipulations of the present Convention, the extent of protection, as well as the means of redress secured to the author to safeguard his rights shall be governed exclusively by the laws of the country where protection is claimed.	*Berne Convention.* *Article* 2, § 2.—The enjoyment of these rights shall be subject to the accomplishment of the conditions and formalities prescribed by the law of the country of origin of the work. . . . . . *Interpretative Declaration.* § 1.—With reference to the terms of Article 2, § 2, of the Convention, the protection assured by the aforesaid Acts shall depend solely upon the accomplishment, in the country of origin of the work, of the conditions and formalities which are prescribed by the law of that country. The same shall hold good for the protection of the photographic works mentioned in § 1 B. of the revised closing Protocol.

(1) Revised Convention as signed at Berlin on November 13th, 1908	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
The country of origin of the work shall be considered to be, in the case of unpublished works, the country to which the author belongs; in the case of published works, the country of first publication; and in the case of works published simultaneously in several countries of the Union, the country the laws of which grant the shortest period of protection. In the case of works published simultaneously in a country outside the Union and in a country of the Union: the latter country shall be considered exclusively as the country of origin.	*Berne Convention.* *Article 2*, § 3.—The country of first publication, or, if that publication takes place simultaneously in several countries of the Union, that one of them in which the shortest period of protection is granted by law, shall be considered to be the country of origin of the work. § 4.—For unpublished works, the country to which the author belongs shall be considered to be the country of origin of the work.
By "published works" must be understood, for the purposes of the present Convention, works copies of which are issued by a publisher. The representation of a dramatic or dramatico-musical work, the performance of a musical work, the exhibition of a work of art, and the construction of a work of architecture shall not constitute a publication.	*Interpretative Declaration.* § 2.—By "works published" must be understood works copies of which are issued by a publisher in one of the countries of the Union. Consequently the representation of a dramatic or dramatico-musical work, the performance of a musical work, and the exhibition of a work of art shall not constitute a publication in the sense of the aforesaid Acts.
Article 5.—Authors being subjects or citizens of one of the countries of the Union, who first publish their works in another country of the Union, shall have in this latter country the same rights as native authors.	

(1)	(2)
Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
Article 6.—Authors not being subjects or citizens of one of the countries of the Union, who first publish their works in one of those countries, shall enjoy in that country the same rights as native authors, and in the other countries of the Union the rights granted by the present Convention.	*Berne Convention.* *Article* 3.—The stipulations of the present Convention shall apply equally to the publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union. *Additional Act.* *Article* 3. — Authors not belonging to any country of the Union, if they have first published their literary or artistic works, or caused them to be first published, in one of those countries, shall enjoy for such works the protection granted by the Berne Convention and by the present Additional Act.
Article 7.—The term of protection granted by the present Convention shall include the life of the author and fifty years after his death. Nevertheless, in case such term of protection should not be uniformly adopted by all the countries of the Union, the term shall be regulated by the law of the country where protection is claimed, and must not exceed the term fixed in the country of origin of the work. Consequently the contracting countries shall only be bound to apply the provisions of the preceding paragraph in so far	*Berne Convention.* *Article* 2, § 2.— . . . . it (the enjoyment of these rights) must not exceed, in the other countries, the duration of the protection granted in the said country of origin.

(1)	(2)
Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
as such provisions are consistent with the domestic laws.	*Additional Act.*
For photographic works and works produced by a process analogous to photography, for posthumous works, for anonymous or pseudonymous works, the term of protection shall be regulated by the law of the country where protection is claimed, provided that the said term shall not exceed the term fixed in the country of origin of the work.	*Article* 2.—Posthumous works shall be included among the works protected.
Article 8.—The authors of unpublished works, being subjects or citizens of one of the countries of the Union, and the authors of works first published in one of those countries, shall enjoy, in the other countries of the Union, during the whole term of the right in the original work, the exclusive right of making or authorising a translation of their works.	*Berne Convention.* *Article* 5. — Authors being subjects or citizens of one of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorising the translation of their works until the expiration of ten years from the publication of the original work in one of the countries of the Union. *For works published by instalments, the period of ten years shall not begin to run until the publication of the last instalment of the original work.* *For works composed of several volumes published at intervals as well as for reports or papers published by literary or learned societies or by individuals, each volume, report, or paper shall be, with regard to the period of ten years, considered as a separate work.*

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
	In the cases provided for by the present Article, the 31st December of the year in which the work was published shall be considered as the date of publication for the purpose of calculating the period of protection.
	Additional Act.
	Article 5. — Authors being subjects or citizens of one of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorising translations of their works during the whole term of the right in the original work. *Nevertheless, the exclusive right of translation shall cease to exist when the author shall not have made use of it within a period of ten years from the time of the first publication of the original work, by publishing or causing to be published, in one of the countries of the Union, a translation in the language for which protection is claimed.*
	Berne Convention.
Article 9.—Serial stories, tales, and all other works, whether literary, scientific, or artistic, whatever their object, published in the newspapers or periodicals of one of the countries of the Union may not be reproduced in the other countries without the consent of the authors.	*Article* 7.—Articles in newspapers or magazines published in any country of the Union may be reproduced, in original or in translation, in the other countries of the Union, unless the authors or publishers have expressly forbidden it. *For magazines it is sufficient if the*

(1)	(2)
Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
With the exception of serial stories and tales, any newspaper article may be reproduced by another newspaper unless the reproduction thereof is expressly forbidden. Nevertheless, the source must be indicated; the legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.	*prohibition is made in a general manner at the beginning of each number of the magazine.*
	No prohibition can in any case apply to articles of political discussion or to the reproduction of news of the day or miscellaneous items.
The protection of the present Convention shall not apply to news of the day or to miscellaneous information which is simply of the nature of items of news.	*Additional Act.*
	Article 7.—Serial novels, including short stories, published in the newspapers or magazines of any country of the Union may not be reproduced, in original or in translation, in the other countries, without the authorisation of the authors or their lawful representatives.
	This applies equally to other articles in newspapers or magazines, whenever the authors or publishers shall have expressly declared in the newspaper or magazine in which they have published such articles that they forbid the reproduction of these. *For magazines it is sufficient if the prohibition is made in a general manner at the beginning of each number.*
	In the absence of prohibition, reproduction shall be permitted on condition of indicating the source.
	No prohibition can in any case apply to articles of political discussion, news of the day, or miscellaneous items.

(1)	(2)
Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 6th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
	Berne Convention.
Article 10.—As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational purposes, or having a scientific character, or for chrestomathies, the effect of the legislation of each country of the Union and of special arrangements existing, or to be concluded between them, is not affected by the present Convention.	*Article* 8.—As regards the liberty of extracting portions from literary or artistic works for use in publications destined for education, or having a scientific character, or for chrestomathies, the effect of the legislation of each country of the Union and of special arrangements existing or to be concluded between them is not affected by the present Convention.
Article 11.—The stipulations of the present Convention shall apply to the public representation of dramatic or dramatico-musical works and to the public performance of musical works, whether such works be published or not.	*Article* 9.—The stipulations of Article 2 shall apply to the public representation of dramatic or dramatic-musical works, whether such works be published or not.
Authors of dramatic or dramatico-musical works shall be protected during the existence of their right over the original work against the unauthorised public representation of translations of their works.	Authors of dramatic or dramatico-musical works, or their lawful representatives, shall be protected in like manner during the existence of their exclusive right of translation against the unauthorised public representation of translations of their works.
In order to enjoy the protection of the present Article, authors shall not be bound in publishing their works to forbid the public representation or performance thereof.	The stipulations of Article 2 shall apply equally to the public performance of unpublished musical works, and of published works as to which the author has expressly declared upon the title-page or at the commencement of the work that he forbids their public performance.

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
Article 12.—The following shall be specially included among the unlawful reproductions to which the present Convention applies: — Unauthorised indirect appropriations of literary or artistic work, such as adaptations, musical arrangements, **transformations of a novel, tale, or piece of poetry, into a dramatic piece, or vice versâ,** &c., when they are only the reproduction of that work, in the same form or in another form, without essential alterations, additions, or abridgments, and do not present the character of a new original work.	*Article* 10.—The following shall be specially included among the unlawful reproductions to which the present Convention applies: — Unauthorised indirect appropriations of a literary or artistic work, known by various names, such as adaptations, arrangements of music, &c., when they are only the reproduction of such a work in the same form or in another form, without essential alterations, additions, or abridgments, and do not in other respects present the character of a new original work. It is understood that, in the application of the present Article, the Courts of the various countries of the Union shall, if occasion arises, take into account the reservations of their respective laws. *Interpretative Declaration.* § 3. The transformation of a novel into a play, or of a play into a novel, shall come within the stipulations of Article 10.
Article 13.—The authors of musical works shall have the exclusive right of authorising (1) the adaptation of those works to instruments which can produce them mechanically; (2) the public performance of the said works by means of these instruments.	*Berne Convention.* *Closing Protocol.*—§ 3. It is understood that the manufacture and sale of instruments serving to reproduce mechanically musical airs in which copyright subsists shall not be considered as constituting infringement of musical copyright.

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Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
Reservations and conditions relating to the application of this Article may be determined by the domestic legislation of each country in so far as it is concerned; but the effect of any such reservations and conditions will be strictly limited to the country which has put them in force.	
The provisions of paragraph 1 shall not be retroactive, and consequently shall not be applicable in any country of the Union to works which have been lawfully adapted in that country to mechanical instruments before the coming into force of the present Convention.	
Adaptations made in virtue of paragraphs 2 and 3 of the present Article, and imported without the authority of the interested parties into a country where they would not be lawful, shall be liable to seizure in that country.	
Article 14.—Authors of literary, scientific, or artistic works shall have the exclusive right of authorising the reproduction and public representation of their works by cinematography.	
Cinematograph productions shall be protected as literary or artistic works if, by the arrangement of the acting form or the combinations of the incidents represented, the author has given the	

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
work a personal and original character. Without prejudice to the rights of the author of the original work, the reproduction by cinematography of a literary, scientific, or artistic work, shall be protected as an original work. The above provisions apply to reproduction or production effected by any other process analogous to cinematography.	
Article 15.—In order that the authors of works protected by the present Convention may, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner. For anonymous or pseudonymous works, the publisher whose name is indicated on the work shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the legal representative of the anonymous or pseudonymous author.	*Article* 11.—In order that the authors of works protected by the present Convention may, in the absence of proof to the contrary, be considered as such, and consequently admitted to institute proceedings against pirates before the courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner. For anonymous or pseudonymous works, the publisher whose name is indicated on the work shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the legal representative of the anonymous or pseudonymous author. *It is understood, nevertheless, that the courts may, if necessary, require the production of a certificate from the competent authority, stating that the formalities prescribed,*

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
	according to Article 2, by the law of the country of origin, have been fulfilled.
Article 16.—Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.	*Article* 12.—Pirated works may be seized upon importation into those countries of the Union in which the original work has a right to legal protection.
In such a country the seizure may also apply to reproductions imported from a country where the work is not protected, or has ceased to be protected.	The seizure shall take place in accordance with the domestic legislation of each country.
The seizure shall take place in accordance with the domestic legislation of each country.	*Additional Act.*
	Article 12.—Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.
	The seizure shall take place in accordance with the domestic legislation of each country.
	Berne Convention.
Article 17.—The provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.	*Article* 13.—It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit by measures of domestic legislation or police the circulation, representation, and exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

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Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
Article 18.—The present Convention shall apply to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin through the expiration of the term of protection.	*Article* 14.—The present Convention, under the reservations and conditions to be determined by common agreement, shall apply to all works which, at the time of its coming into force, have not yet fallen into the public domain in their country of origin.
If, however, through the expiration of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew in that country.	
The application of this principle shall take effect according to the stipulations contained in special Conventions existing, or to be concluded, to that effect between countries of the Union. In the absence of such stipulations, the respective countries shall regulate, each in so far as it is concerned, the manner in which the said principle is to be applied.	*Closing Protocol.*—§ 4. The common agreement provided for in Article 14 of the Convention is concluded as follows:— The application of the Convention to works not fallen into the public domain at the time of its coming into force, shall take effect according to the stipulations relative thereto, contained in special treaties existing, or to be concluded for the purpose. In the absence of such stipulations between countries of the Union, the respective countries shall regulate, each for itself, by domestic law, the manner in which the principle contained in Article 14 is to be applied.

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Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
	Additional Act.
	Closing Protocol.—§ 4. The common agreement provided for in Article 14 of the Convention is concluded as follows :—
	The application of the Berne Convention and of the present additional Act to works not fallen into the public domain in their country of origin at the time of the coming into force of those Acts, shall take effect according to the stipulations relative thereto contained in special Conventions existing or to be concluded for the purpose.
	In the absence of such stipulations between countries of the Union, the respective countries shall regulate, each for itself, by domestic law, the manner in which the principle contained in Article 14 is to be applied.
	The stipulations of Article 14 *of the Berne Convention and of this paragraph of the Closing Protocol shall apply equally to the exclusive right of translation as granted by the present Additional Act.*
The above provisions shall apply equally in case of new accessions to the Union, and also in the event of the term of protection being extended by the application of Article 7.	The above-mentioned temporary provisions shall be applicable in case of new accessions to the Union.

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
Article 19.—The provisions of the present Convention shall not prevent a claim being made for the application of any wider provisions which may be made by the legislation of a country of the Union in favour of foreigners in general.	
	Berne Convention.
Article 20. — The Governments of the countries of the Union reserve to themselves the right to enter into special arrangements between each other, provided always that such arrangements confer upon authors more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention. The provisions of existing arrangements which answer to the above-mentioned conditions shall remain applicable.	*Article* 15.—It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to make separately particular arrangements between themselves, provided always that such arrangements confer upon authors or their representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.
	Additional Article.
	The Convention concluded this day shall not in any way affect the maintenance of the treaties already existing between the contracting countries, so far as those treaties confer upon authors or their representatives rights more extended than those accorded by the Union, or embody other stipulations which are not contrary to this Convention.
Article 21. — The International Office established under the name of the "Office	*Article* 16.—An International Office shall be established under the name of the "Office

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Intrepretative Declaration was not signed by Great Britain.]
of the International Union for the Protection of Literary and Artistic Works" shall be maintained.	of the International Union for the Protection of Literary and Artistic Works."
That Office is placed under the high authority of the Government of the Swiss Confederation, which regulates its organisation and supervises its working.	That Office, the expenses of which shall be borne by the Administrations of all the countries of the Union, is placed under the high authority of the Superior Administration of the Swiss Confederation, and works under its supervision. Its functions shall be determined by common agreement between the countries of the Union.
	Closing Protocol.—§ 5. The organisation of the International Office provided for by Article 16 of the Convention shall be settled by a regulation which shall be drawn up by the Government of the Swiss Confederation.
The official language of the Office shall be French.	The official language of the International Office shall be French.
Article 22. — The International Office collects every kind of information relative to the protection of the rights of authors over their literary and artistic works. It arranges and publishes such information. It undertakes the study of questions of general interest concerning the Union, and by the aid of documents placed at its disposal by the different Administrations, edits a periodical publication in the French language on the questions which concern the objects of the Union. The	*Closing Protocol.*—§ 5 (*continued*). The International Office shall collect every kind of information relative to the protection of the rights of authors over their literary and artistic works. It shall arrange and publish such information. It shall undertake the study of questions of the general interest concerning the Union, and by the aid of documents placed at its disposal by the different Administrations shall edit a periodical publication in the French language on the questions

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [Note.—The Interpretative Declaration was not signed by Great Britain.]
Governments of the countries of the Union reserve to themselves the power to authorise by common accord the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.	which concern the objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorise by common accord the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.
The International Office will always hold itself at the disposal of members of the Union with the view to furnish them with any special information which they may require relative to the protection of literary and artistic works.	The International Office shall always hold itself at the disposal of members of the Union with the view to furnish them with any special information which they may require relative to the protection of literary and artistic works.
The Director of the International Office shall make an annual Report on his Administration, which shall be communicated to all the members of the Union.	The Director of the International Office shall make an annual Report on his Administration, which shall be communicated to all the members of the Union.
Article 23.—The expenses of the Office of the International Union shall be shared by the contracting countries. Until a fresh decision is arrived at, they cannot exceed the sum of 60,000 fr. a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in Article 24.	*Closing Protocol.*—§ 5 (*continued*). The expenses of the Office of the International Union shall be shared by the contracting countries. Until a fresh decision is arrived at, they cannot exceed the sum of 60,000 fr. a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in Article 17.
The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which	The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which shall

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Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Intrepretative Declaration was not signed by Great Britain.]
shall contribute in the proportion of a certain number of units, viz. :—	contribute in the proportion of a certain number of units, viz. :—
1st class - - 25 units. 2nd ,, - - 20 ,, 3rd ,, - - 15 ,, 4th ,, - - 10 ,, 5th ,, - - 5 ,, 6th ,, - - 3 ,,	1st class - - 25 units. 2nd ,, - - 20 ,, 3rd ,, - - 15 ,, 4th ,, - - 10 ,, 5th ,, - - 5 ,, 6th ,, - - 3 ,,
These coefficients are multiplied by the number of countries of each class, and the total product thus obtained gives the number of units by which the total expense is to be divided. The quotient gives the amount of the unit of expense.	These coefficients shall be multiplied by the number of countries of each class, and the total product thus obtained will give the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense.
Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed.	Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed.
The Swiss Administration prepares the Budget of the Office, superintends its expenditure, makes the necessary advances, and draws up the annual account, which will be communicated to all the other Administrations.	The Swiss Administration shall prepare the Budget of the Office, and superintend its expenditure, make the necessary advances, and draw up the annual account, which will be communicated to all the other Administrations.
Article 24. — The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.	*Article* 17.—The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.
Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in Conferences to be held successively in the countries of	Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in Conferences to be held successively in the countries of

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
the Union by Delegates of the said countries. The Administration of the country where a Conference is to meet prepares, with the assistance of the International Office, the work of the Conference. The Director of the Office shall attend at the sittings of the Conferences, and shall take part in the discussions without the right to vote.	the Union by Delegates of the said countries.
No alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.	*Closing Protocol.*—§ 5. The Administration of the country where a Conference is to meet shall prepare, with the assistance of the International Office, the work of the said Conference.
	The Director of the International Office shall attend at the sittings of the Conferences, and shall take part in the discussions without the right to vote.
	It is understood that no alteration in the present Convention shall be binding on the Union, except by the unanimous consent of the countries composing it.
	Closing Protocol.—§ 6. *The next Conference shall take place at Paris within a period of from four to six years from the date of the coming into force of the Convention.*
	The French Government shall fix the date of this Conference within these limits, after having consulted the International Office.
Article 25.—States outside the Union which make provision for the legal protection of rights forming the object of the present Convention may accede thereto on request to that effect.	*Article* 18.—Countries which have not been parties to the present Convention and make provision in their own territory for the legal protection of the rights forming the objects of this Convention, shall be admitted to accede thereto on request to that effect.

(1) Revised Convention as signed at Berlin on November 13th, 1908.	(2) Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.	Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.
Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention. It may, nevertheless, contain an indication of the provisions of the Convention of the 9th September, 1886, or of the Additional Act of the 4th May, 1896, which they may judge necessary to substitute, provisionally at least, for the corresponding provisions of the present Convention.	Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention.
Article 26. — Contracting countries shall have the right to accede to the present Convention at any time for their Colonies or foreign possessions.	*Article* 19.—Countries acceding to the present Convention shall also have the right to accede thereto at any time for their colonies or foreign possessions.
They may do this either by a general Declaration comprising in the accession all their Colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.	They may do this either by a general declaration comprising in the accession all their colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.
Such Declaration shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.	

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Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
Article 27.—The present Convention shall replace, in regard to the relations between the Contracting States, the Convention of Berne of the 9th September, 1886, including the Additional Article and the Final Protocol of the same date, as well as the Additional Act and the Interpretative Declaration of the 4th May, 1896. These instruments shall remain in force in regard to relations with States which do not ratify the present Convention. The signatory States of the present Convention may declare at the exchange of ratifications that they desire to remain bound, as regards any specific point, by the provisions of the Conventions which they have previously signed.	
Article 28.—The present Convention shall be ratified and the ratifications exchanged **at Berlin not later than the 1st July, 1910.** Each Contracting Party shall, as regards the exchange of ratifications, deliver a single instrument, which shall be deposited with those of the other countries in the archives of the Government of the Swiss Confederation. Each Party shall receive in return a copy of the *procès verbal* of the exchange of ratifications signed	*Article* 21.—The present Convention shall be ratified, and the ratifications exchanged at Berne, within a period of one year at the latest. *Closing Protocol.*—§ 7. It is agreed that, as regard the exchange of ratifications provided for by Article 21, each Contracting Party shall deliver a single instrument, which shall be deposited with those of the other countries in the archives of the Government of the Swiss Confederation. Each Party shall receive in return

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Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896. [NOTE.—The Interpretative Declaration was not signed by Great Britain.]
by the Plenipotentiaries who took part.	a copy of the *procès verbal* of the exchange of ratifications signed by the Plenipotentiaries who took part.
Article 29.—The present Convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.	*Article* 20.—The present Convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.
Such denunciation shall be made to the Government of the Swiss Confederation. It shall only take effect in regard to the country which made it, the Convention remaining in full force and effect for the other countries of the Union.	Such denunciation shall be made to the Government appointed to receive accessions. It shall only take effect in regard to the country which made it, the Convention remaining in full force and effect for the other countries of the Union.
	Additional Act. Such denunciation shall be made to the Government of the Swiss Confederation. It shall only take effect in regard to the country which made it, the Convention remaining in full force and effect for the other countries of the Union.
Article 30.—The States which shall introduce in their legislation the duration of protection for fifty years contemplated by Article 7, first paragraph, of the present Convention, shall give notice thereof in writing to the Government of the Swiss Confederation, who will communicate it at once to all the other States of the Union. The same procedure shall be followed in the case of the States renouncing the reservations made by them in virtue of Articles 25, 26, and 27. In faith whereof, &c.	

Order in Council adopting Berlin Convention.

At the Court at Buckingham Palace, the 24th day of June, 1912.

PRESENT.

The King's Most Excellent Majesty in Council.

WHEREAS on the 9th day of September, 1886, a Convention with respect to the protection to be given by way of copyright to the authors of literary and artistic works (hereinafter called the Berne Convention) set out in the Second Schedule to this Order was concluded between Her late Majesty Queen Victoria and the foreign countries following: that is to say—Belgium, France, Germany, Hayti, Italy, Spain, Switzerland and Tunis, and on the 5th day of September, 1887, the ratifications of the said Berne Convention were duly exchanged between Her late Majesty Queen Victoria and the aforesaid countries:

And whereas subsequently the foreign countries following: namely—Luxemburg, Monaco, Montenegro, Norway and Sweden, acceded to the said Berne Convention:

And whereas an Additional Act to the said Berne Convention (hereinafter called the Additional Act) set out in the Third Schedule to this Order was agreed upon between Her late Majesty Queen Victoria and the foreign countries following: namely—Belgium, France, Germany, Italy, Luxemburg, Monaco, Montenegro, Spain, Switzerland and Tunis, for the purpose of varying the provisions of the said Berne Convention, and the ratifications of the said Additional Act were, on the 9th day of September, 1897, exchanged between Her late Majesty Queen Victoria and the aforesaid countries:

And whereas subsequently the Republic of Hayti acceded to the said Additional Act, and the foreign countries following: namely—Denmark and the Faröe Islands, the German Protectorates, Japan and Liberia, acceded to the said Berne Convention and the said Additional Act, and the Principality of Montenegro duly denounced the said Berne Convention and the said Additional Act:

And whereas by the Orders in Council mentioned in the Fifth Schedule to this Order and made under the authority of the International Copyright Acts, 1844 to 1886, effect is now given throughout His Majesty's dominions to the said Berne Convention and the said Additional Act:

And whereas a Convention (hereinafter called the Berlin Convention) set out in the First Schedule to this Order was on

the 13th day of November, 1908, agreed upon between His late Majesty King Edward VII. and the foreign countries following: namely—Belgium, Denmark, France, Germany, Italy, Japan, Liberia, Luxemburg, Monaco, Norway, Spain, Sweden, Switzerland and Tunis, for the purpose of replacing the said Berne Convention and the said Additional Act:

And whereas it is provided by the said Berlin Convention that the contracting States may make reservations by declaring at the exchange of ratifications that they desire to remain bound, as regards any specific point, by the provisions of the said Berne Convention and the said Additional Act, and it is further provided by the said Berlin Convention that the said Berne Convention and the said Additional Act shall remain in force in regard to relations with contracting States which do not ratify the said Berlin Convention:

And whereas the said Berlin Convention was ratified by His Majesty on the 14th day of June, 1912, subject to the reservation mentioned in Part I. of the Fourth Schedule to this Order:

And whereas the said Berlin Convention has also been ratified by the foreign countries following: namely—Belgium, France, Germany, Hayti, Japan, Liberia, Luxemburg, Monaco, Norway, Spain, Switzerland and Tunis, subject to the reservations mentioned in Part II. of the Fourth Schedule to this Order:

And whereas the Republic of Portugal has acceded to the said Berlin Convention:

And whereas by the Copyright Act, 1911, the aforesaid International Copyright Acts, 1844 to 1886, are repealed, as from the commencement of the said Copyright Act, 1911, in the parts of His Majesty's dominions to which the said Act extends:

And whereas by the said Copyright Act, 1911, authority is conferred upon His Majesty to extend by Order in Council the protection of the said Act to certain classes of foreign works within any part of His Majesty's dominions, other than self-governing dominions, to which the said Act extends:

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered as follows:—

(1) This Order shall extend to the foreign countries following: namely—Belgium, Denmark and the Faröe Islands, France, Germany and the German Protectorates, Hayti, Italy, Japan, Liberia, Luxemburg, Monaco, Norway, Portugal, Spain, Sweden, Switzerland and Tunis. And the above countries are in this Order referred to as the foreign countries of the Copyright Union.

(2) The Copyright Act, 1911, including the provisions as to existing works, shall subject to the provisions of the said Act and of this Order apply—

(*a*) to works first published in a foreign country of the Copyright Union, in like manner as if they had been first published within the parts of His Majesty's dominions to which the said Act extends:

(*b*) to literary, dramatic, musical, and artistic works, the authors whereof were at the time of the making of the works subjects or citizens of a foreign country of the Copyright Union, in like manner as if the authors had been British subjects:

(*c*) in respect of residence in a foreign country of the Copyright Union, in like manner as if such residence had been residence in the parts of His Majesty's dominions to which the said Act extends.

Provided that—

(i) Sections 1 (2) (*d*) and 19 of the Copyright Act, 1911, and such other part or parts thereof as confer upon the owner of the copyright in a literary, dramatic, or musical work the exclusive right of making any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed and such other part or parts thereof as confer copyright in any record or perforated roll shall not apply in the case of any work of which the country of origin is Denmark, Italy, or Sweden.

(ii) The term of copyright within the parts of His Majesty's dominions to which this Order applies shall not exceed that conferred by the law of the country of origin of the work.

(iii) The enjoyment of the rights conferred by the Copyright Act, 1911, shall be subject to the accomplishment of the following conditions and formalities: that is to say—

(*a*) In the case of any newspaper article (not being a serial story or tale) of which the country of origin is one of the foreign countries following: namely—Belgium, France, Germany and the German Protectorates, Hayti, Liberia, Luxemburg, Monaco, Portugal, Spain, Switzerland and Tunis, the right to prevent the reproduction of such article (either in the original language or in a translation) in another newspaper with an indication of the source shall be conditional upon reproduction being forbidden by express declaration in some conspicuous part of the newspaper in which the article is published.

(*b*) In the case of any newspaper or magazine article (not being a serial story or tale) of which the country of origin is Denmark, Italy, Norway or Sweden, the right to prevent the reproduction of such article (either in the original language or in a translation) with an indication of the source shall be conditional upon reproduction being forbidden by express declaration in some conspicuous part of the newspaper or magazine in which the article is published.

(*c*) In the case of any literary or dramatic work of which the country of origin is Denmark, Italy, Japan, or Sweden the right after the expiration of ten years from the end of the year in which the work, or in the case of a book published in numbers each number of the work, was first published, to prevent the production, reproduction, performance in public or publication of any translation of the work shall be conditional upon the publication before the expiration of the above-mentioned period and within the parts of His Majesty's dominions to which this Order applies or within any foreign country of the Copyright Union of an authorized translation in the language for which protection is claimed of the work or of each number of the work.

(*d*) In the case of any published musical work of which the country of origin is Denmark, Italy, Japan, or Sweden the right to prevent performance in public shall be conditional upon performance in public being forbidden by an express declaration on the title page or commencement of the work.

(*e*) In the case of any work of which the country of origin is Denmark, Italy, or Sweden the entire rights conferred by the Copyright Act, 1911, shall be conditional upon the accomplishment of the conditions and formalities prescribed by law in the country of origin.

(iv) Nothing in the provisions of the Copyright Act, 1911, as applied to existing works, shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of Section 5 of the International Copyright Act, 1886.

(3) Subject to the provisions of Article (2) proviso (i). of this Order where any musical work to which this Order applies has been published before the commencement of the Copyright Act, 1911, but no contrivances by means of which the work may be mechanically performed have before the commencement of this

Order been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Order applies, copyright in the work shall include all rights conferred by the said Act with respect to the making of records, perforated rolls and other contrivances by means of which the work may be mechanically performed.

(4) In this Order the expression "the country of origin" as applied to a work has the same meaning as in the third paragraph of Article 4 of the Berlin Convention.

(5) (*a*) This Order shall apply to all His Majesty's dominions, colonies, and possessions, excepting to those hereinafter named: that is to say—except to

The Dominion of Canada,
The Commonwealth of Australia,
The Dominion of New Zealand,
The Union of South Africa,
Newfoundland.

(*b*) This Order shall also apply to Cyprus, and to the following territories under His Majesty's protection: that is to say—the Bechuanaland Protectorate, East Africa Protectorate, Gambia Protectorate, Gilbert and Ellice Islands Protectorate, Northern Nigeria Protectorate, Northern Territories of the Gold Coast, Nyasaland Protectorate, Northern Rhodesia, Southern Rhodesia, Sierra Leone Protectorate, Somaliland Protectorate, Southern Nigeria Protectorate, Solomon Islands Protectorate, Swaziland, Uganda Protectorate, and Weihaiwei.

(6) The Orders mentioned in the Fifth Schedule to this Order are hereby revoked, as from the date of the commencement of this Order, so far as regards the parts of His Majesty's dominions to which this Order applies:

Provided that neither such revocation nor anything else in this Order shall prejudicially affect any right acquired or accrued before the commencement of this Order by virtue of any Order hereby revoked, and any person entitled to such right shall continue entitled thereto, and to the remedies for the same, in like manner as if this Order had not been made.

(7) This Order shall be construed as if it formed part of the Copyright Act, 1911.

(8) This Order shall come into operation in the United Kingdom on the 1st day of July, 1912, and in any other part of His Majesty's dominions to which this Order applies, on the day on which the Copyright Act, 1911, comes into operation in such part; which day is in this Order referred to as the commencement of this Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary orders accordingly.

ALMERIC FITZROY.

FIRST SCHEDULE.

Berlin Convention.

CONVENTION for the purpose of revising the Convention of Berne of the 9th day of September, 1886, the Additional Article and the Final Protocol attached to the same Convention, and the Additional Act and the Interpretative Declaration of Paris of the 4th day of May, 1896; made on the 13th day of November, 1908, between His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India; His Majesty the German Emperor, King of Prussia; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the Republic of Liberia; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; His Serene Highness the Prince of Monaco; His Majesty the King of Norway; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; His Highness the Bey of Tunis.

[The following is an English translation of the Convention, with the omission of the formal beginning and end.] [1]

SECOND SCHEDULE.

Berne Convention.

CONVENTION for protecting effectively and in as uniform a manner as possible the rights of authors over their literary and artistic works. Made on the 5th day of September, 1887, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the German Emperor, King of Prussia; His Majesty the King of the Belgians; Her Majesty the Queen Regent of Spain, in the name of His Catholic Majesty the King of Spain; the President of the French Republic; the President of the Republic of Hayti; His Majesty the King of Italy; the Federal Council of the Swiss Confederation; His Highness the Bey of Tunis.

[The following is an English translation of the Convention, with the omission of the formal beginning and end.] [2]

THIRD SCHEDULE.

Additional Act of Paris.

[The following is an English translation of the Additional Act with the omission of the formal beginning and end.] [3]

[1] See pp. 275-299. [2] See pp. 275-299. [3] See pp. 275-299.

FOURTH SCHEDULE.

Reservations made to the Berlin Convention.

Country.	Subject.	Provisions remaining in force.
	Part I.	
Great Britain	Retrospective effect	Article 14 and paragraph 4 of the Final Protocol of the Berne Convention, as amended by the Additional Act.
	Part II.	
France -	Works of art applied to industrial purposes	Provisions of Berne Convention and Additional Act.
Tunis -		
Japan -	Translating right	Article 5 of the Berne Convention, as amended by the Additional Act.
	Performing right in musical works	Article 9, paragraph 3, of the Berne Convention.
Norway -	Works of architecture	Article 4 of the Berne Convention.
	Newspaper and magazine articles	Article 7 of the Berne Convention.
	Retrospective effect	Article 14 of the Berne Convention.

FIFTH SCHEDULE.

Orders in Council, of the dates named below, for securing the privileges of copyright in His Majesty's dominions to authors of literary and artistic works first produced in the following foreign countries: namely—

Date of Order.	Countries to which it extends.
November 28, 1887	Belgium, France, Germany, Hayti, Italy, Spain, Switzerland, and Tunis.
August 10, 1888 -	Luxemburg.
October 15, 1889 -	Monaco.
August 1, 1896 -	Norway.
March 7, 1898 -	Belgium, France, Germany, Italy, Luxemburg, Monaco, Spain, Switzerland, and Tunis.
May 19, 1899	Hayti.
August 8, 1899 -	Japan.
October 9, 1903 -	Denmark and the Faröe Islands.
December 12, 1904	Sweden.
November 28, 1908	Liberia.
March 2, 1909 -	German Protectorates.

Order in Council granting Protection to Austrian Works.

At the Court at Buckingham Palace, the 24th day of June, 1912.

PRESENT,

The King's Most Excellent Majesty in Council.

WHEREAS on the 24th day of April, 1893, a Convention, set out in the First Schedule to this Order, with respect to the protection to be given by way of copyright to the authors of literary and artistic works was concluded between Her late Majesty Queen Victoria and His Majesty the Emperor of Austria, King of Bohemia and Apostolic King of Hungary, and the ratifications of the said Convention were exchanged on the 14th day of April, 1894, between Her late Majesty Queen Victoria and His Majesty the Emperor:

And whereas by the Orders in Council mentioned in the Second Schedule to this Order and made under the authority of the International Copyright Acts, 1844 to 1886, effect was given to the said Convention throughout His Majesty's dominions except in the Dominion of Canada, the Cape, New South Wales and Tasmania:

And whereas by the Copyright Act, 1911, the said International Copyright Acts, 1844 to 1886, are repealed, as from the date of the commencement of the said Copyright Act, 1911, in the parts of His Majesty's dominions to which the said Act extends:

And whereas by the said Copyright Act, 1911, authority is conferred upon His Majesty to extend by Order in Council the protection of the said Act to certain classes of foreign works within any part of His Majesty's dominions, other than self-governing dominions, to which the said Act extends:

And whereas it is expedient to continue the protection granted by the Orders in Council mentioned in the Second Schedule to this Order:

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, is pleased to order, and it is hereby ordered as follows:—

1. The Copyright Act, 1911, including the provisions as to existing works, shall subject to the provisions of the said Act and of this Order apply—

(*a*) To works first published in the Austro-Hungarian Monarchy in like manner as if they had been first published within the parts of His Majesty's dominions to which the said Act extends;

(*b*) To literary, dramatic, musical and artistic works, the authors whereof were at the time of the making of the work subjects of the Austro-Hungarian Monarchy in like manner as if the authors had been British subjects;

(*c*) In respect of residence in the Austro-Hungarian Monarchy in like manner as if such residence had been residence in the parts of His Majesty's dominions to which the said Act extends.

Provided that—

(i) The term of copyright within the parts of His Majesty's dominions to which this Order applies shall not exceed that conferred by the law of the Austro-Hungarian Monarchy;

(ii) The enjoyment of the rights conferred by the Copyright Act, 1911, shall be subject to the accomplishment of the following conditions and formalities: that is to say—

(*a*) In the case of any literary or dramatic work the right after the expiration of ten years from the end of the year in which the work or in the case of a book published in numbers each number of the work was first published to prevent the production reproduction performance in public or publication of any English translation of the work shall be conditional upon the publication before the expiration of the above-mentioned period of an authorized English translation of the work or of each number of the work;

(*b*) In the case of any work first published in the Austro-Hungarian Monarchy the entire rights conferred by the Copyright Act, 1911, shall be conditional upon the accomplishment of the conditions and formalities prescribed by law in that part of the Monarchy in which the work was first published.

2. In the case of any musical work to which this Order applies and which has been published before the commencement of the Copyright Act, 1911, copyright in the work shall include all rights conferred by the said Act with respect to the making of records, perforated rolls, and other contrivances by means of which the work may be mechanically performed.

3. This Order shall apply to all His Majesty's dominions, colonies, and possessions, excepting to those hereinafter mentioned: that is to say—except to

The Dominion of Canada,
The Commonwealth of Australia,
The Dominion of New Zealand,
The Union of South Africa,
Newfoundland.

4. The Orders mentioned in the Second Schedule to this Order are hereby revoked as from the date of the commencement of the Copyright Act, 1911, so far as regards the parts of His Majesty's dominions to which this Order applies.

Provided that neither such revocation nor anything else in this Order shall prejudicially affect any right acquired or accrued before the commencement of this Order by virtue of any Order hereby revoked, and any person entitled to such right shall continue entitled thereto, and to the remedies for the same, in like manner as if this Order had not been made.

5. This Order shall be construed as if it formed part of the Copyright Act, 1911.

6. This Order shall come into operation in the United Kingdom on the 1st day of July, 1912, and in any other part of His Majesty's dominions to which this Order applies, on the day on which the Copyright Act, 1911, comes into operation in such part; which day is in this Order referred to as the commencement of this Order.

And the Lords Commissioners of His Majesty's Treasury are to give the necessary orders accordingly.

ALMERIC FITZROY.

FIRST SCHEDULE.

CONVENTION.

Convention for securing the rights of authors, or their legal representatives, over their literary or artistic works; made on the 24th day of April, 1893, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the Emperor of Austria, King of Bohemia, and Apostolic King of Hungary.

[The following is the English text of the Convention, omitting the formal beginning and end.]

ARTICLE I.

Authors of literary or artistic works and their legal representatives, including publishers, shall enjoy reciprocally in the dominions of the high contracting parties, the advantages which are or may be granted by law there for the protection of works of literature or art.

Consequently, authors of literary or artistic works, which have been first published in the dominions of one of the high contracting parties, as well as their legal representatives, shall have in the dominions of the other high contracting party the same protection and the same legal remedy against all infringement of their rights as if the work had been first published in the country where the infringement may have taken place.

In the same manner, the authors of literary or artistic works, and their legal representatives, who are subjects of one of the high contracting parties, or who reside within its dominions, shall in the dominions of the other contracting party enjoy the same protection and the same legal remedies against all infringements of their rights as though they were subjects of or residents in the State in which the infringement may have taken place.

These advantages shall only be reciprocally guaranteed to authors and their legal representatives when the work in question is also protected by the laws of the State where the work was first published, and the duration of protection in the other country shall not exceed that which is granted to authors and their legal representatives in the country where the work was first published.

ARTICLE II.

The right of translation forming part of the copyright, the protection of the right of translation is assured under the conditions laid down by this Convention. If ten years after the expiry of the year in which a work to be protected in Her Majesty's dominions on the basis of this Convention has appeared, no translation in English has been published, the right of translating the work into English shall no longer within those dominions exclusively belong to the author.

In the case of a book published in numbers, the aforesaid period of ten years shall commence at the end of the year in which each number is published.

ARTICLE III.

Authorized translations are protected as original works. They consequently enjoy the full protection granted by this Convention against the unauthorized reproduction of original works.

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

ARTICLE IV.

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

ARTICLE V.

In the British Empire, and in the Kingdoms and States represented in the Austrian Reichsrath, the enjoyment of the rights secured by the present Convention is subject only to the accomplishment of the conditions and formalities prescribed by the law of that State in which the work is first published; and no further formalities or conditions shall be required in the other country.

Consequently, it shall not be necessary that a work which has obtained legal protection in one country should be registered, or copies thereof deposited in the other country, in order that the remedies against infringement may be obtained which are granted in the other country to works first published there.

In the dominions of the Hungarian Crown the enjoyment of these rights is subject, however, to the accomplishment of the conditions and formalities prescribed by the laws and regulations both of Great Britain and of Hungary.

ARTICLE VI.

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be, consequently, admitted to institute proceedings in respect of the infringement of copyright before the Courts of the other State, it will suffice that their name be indicated on the work in the accustomed manner.

The Tribunals may, however, in cases of doubt, require the production of such further evidence as may be required by the laws of the respective countries.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work is entitled to protect the rights belonging to the author. He is, without other proof, reputed the legal representative of the anonymous or pseudonymous author, until the latter or his legal representative has declared and proved his rights.

ARTICLE VII.

The provisions of the present Convention cannot in any way derogate from the right of each of the high contracting parties to control, or to prohibit by measures of domestic legislation or police, the circulation, representation, exhibition, or sale of any work or production.

Each of the high contracting parties reserves also its right to prohibit the importation into its own territory of works which, according to its internal laws, or to the stipulations of treaties with other States, are or may be declared to be illicit reproductions.

Article VIII.

The provisions of the present Convention shall be applied to literature or artistic works produced prior to the date of its coming into effect, subject, however, to the limitations prescribed by the following regulations:—

(*a*) In the Austro-Hungarian Monarchy—

Copies completed before the coming into force of the present Convention, the production of which has been hitherto allowed, can also be circulated in future.

In the same manner, appliances for the reproduction of works, such as stereotypes, wood-blocks, and engraved plates of every description, such as lithographers' stones, if their production has not hitherto been prohibited, may continue to be used during a period of four years from the coming into force of the present Convention.

The distribution of such copies, and the use of the said appliances is, however, only permitted if an inventory of the said copies and appliances is taken by the Government in question, in consequence of an application of the interested party, within three months from the coming into force of the present Convention, and if these copies and appliances are marked with a special stamp.

Dramatic and dramatico-musical works, or musical compositions legally performed before the coming into force of the present Convention, can also be performed in the future.

(*b*) In the United Kingdom of Great Britain and Ireland—

The author and publisher of any literary or artistic work first produced before the date at which this Convention comes into effect shall be entitled to all legal remedies against infringement; provided that where any person has, before the date of the publication of the Order in Council putting this Convention into effect, lawfully produced any work in the United Kingdom, any rights or interests arising from or in connection with such production, which are subsisting and valuable at the said date, shall not be diminished or prejudiced.

Article IX.

The provisions of the present Convention shall apply to all the colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named: that is to say—except to India; The Dominion of Canada; Newfoundland; The Cape; Natal; New South Wales; Victoria; Queensland; Tasmania; South Australia; Western Australia; and New Zealand.

Provided always that the provisions of the present Convention shall apply to any of the above-named colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's representative at the Court of His Imperial and Royal Apostolic Majesty within two years from the date of the exchange of ratifications of the present Convention.

ARTICLE X.

The present Convention shall remain in force for ten years from the day on which the ratifications are exchanged; and in case neither of the two high contracting parties shall have given notice twelve months before the expiration of the said period of ten years of their intention of terminating the present Convention, it shall remain in force until the expiration of one year from the day on which either of the high contracting parties shall have given such notice.

Her Britannic Majesty's Government shall also have the right to denounce the Convention in the same manner, on behalf of any of the colonies or foreign possessions mentioned in Article IX. separately.

ARTICLE XI.

The present Convention shall be ratified, and the ratifications shall be exchanged at Vienna as soon as possible. It shall come into effect ten days after its publication in conformity with the forms prescribed by the laws of the high contracting parties respectively.

SECOND SCHEDULE.

ORDERS in Council, of the dates named below, for securing the privileges of copyright in His Majesty's dominions to authors of literary and artistic works first produced in the Austro-Hungarian Monarchy: namely—

April 30th, 1894.

February 2nd, 1895.

May 11th, 1895.

APPENDIX V.

AMERICAN COPYRIGHT.

Extracts from Act of Congress.

[4th May, 1909

Issue of, to Author, Assigns, &c.

8. That the author or proprietor of any work made the subject of copyright by this Act, or his executors, administrators, or assigns, shall have copyright for such work under the conditions and for the terms specified in this Act: Provided, however, that the copyright secured by this Act shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only:

Resident; Country affording Reciprocal Protection.

(*a*) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(*b*) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto.

Proclamation.

The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this Act may require.

Affixing Notice of Copyright to Copies &c.

9. That any person entitled thereto by this Act may secure copyright for his work by publication thereof with the notice of copyright required by this Act; and such notice shall be affixed to each copy thereof published or offered for sale in the United States by authority of the copyright proprietor, except in the case of books seeking *ad interim* protection under Section 21 of this Act.

Certificate of Deposit of Copies.

10. That such person may obtain registration of his claim to copyright by complying with the provisions of this Act, including the deposit of copies, and upon such compliance the registrar of copyrights shall issue to him the certificate provided for in Section 55 of this Act.

Deposit of Two Copies required.

12. That after copyright has been secured by publication of the work with the notice of copyright as provided in Section 9 of this Act, there shall be promptly deposited in the copyright office or in the mail addressed to the registrar of copyrights, Washington, District of Columbia, two complete copies of the best edition thereof then published, which copies, if the work be a book or periodical, shall have been produced in accordance with the manufacturing provisions specified in Section 15 of this Act; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution; or if the work is not reproduced in copies for sale, there shall be deposited the copy, print, photograph, or other identifying reproduction provided by Section 11 of this Act, such copies or copy, print, photograph, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this Act with respect to the deposit of copies and registration of such work shall have been complied with.

Mechanical Work &c. to be done in the United States; Exceptions.

15. That of the printed book or periodical specified in Section 5, Sub-Sections (*a*) and (*b*) of this Act, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this Act, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of type-setting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photo-engraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said books shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photo-engraving process, and also to separate lithographs or photo-engravings, except where in either case the subjects

represented are located in a foreign country and illustrate a scientific work or reproduce a work of art; but they shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking *ad interim* protection under this Act.

Affidavits required.

16. That in the case of the book the copies so deposited shall be accompanied by an affidavit, under the official seal of any officer authorised to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorised agent or representative residing in the United States, or by the printer who has printed the book, setting forth that the copies deposited have been printed from type set within the limits of the United States or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photo-engraving process, that such process was wholly performed within the limits of the United States, and that the printing of the text and binding of the said book have also been performed within the limits of the United States. Such affidavit shall also state the place where and the establishment or establishments in which such type was set or plates were made or lithographic process, or photo-engraving process or printing and binding were performed and the date of the completion of the printing of the book or of the date of publication.

Ad interim Protection if published Abroad; Deposit of Copy.

21. That in the case of a book published abroad in the English language before publication in this country, the deposit in the copyright office, not later than thirty days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the copyright proprietor and of the date of publication of the said book, shall secure to the author or proprietor an *ad interim* copyright which shall have all the force and effect given to copyright by this Act, and shall endure until the expiration of thirty days after such deposit in the copyright office.

Full Term allowed.

22. That whenever within the period of such *ad interim* protection an authorised edition of such book shall be published within the United States, in accordance with the manufacturing provisions specified in Section 15 of this Act, and whenever the provisions of this Act as to deposit of copies, registration, filing

of affidavit, and the printing of the copyright notice shall have been duly complied with, the copyright shall be extended to endure in such book for the full term elsewhere provided in this Act.

Duration of Term, Twenty-eight Years.

23. That the copyright secured by this Act shall endure for twenty-eight years from the date of first publication, whether the copyrighted work bears the author's true name or is published anonymously or under an assumed name.

RULES AND REGULATIONS FOR THE REGISTRATION OF CLAIMS TO COPYRIGHT.

(Bulletin No. 15, issued by the Copyright Office.)

Copyright under Act.

1. Copyright under the Act of Congress, entitled "An Act to Amend and Consolidate the Acts Respecting Copyright," approved the 4th day of March, 1909, is ordinarily secured by printing and publishing a copyrightable work with a notice of claim in the form prescribed by the Statute. Registration can only be made *after* such publication, but the Statute expressly provides, in certain cases, for registration of manuscript works.

Who May Secure Copyright.

Persons Entitled to Copyright.

2. The persons entitled by the Act to copyright protection for their works are—

(1) The *author* of the work, if he is:

(*a*) A citizen of the United States, or

(*b*) A resident alien domiciled in the United States at the time of the first publication of his work, or

(*c*) A citizen or subject of any country which grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens. The existence of reciprocal copyright conditions is determined by presidential proclamation.[1]

(2) The *proprietor* of a work. The word "proprietor" is here used to indicate a person who derives his title to the work from the author. If the author of the work should be a person who could not himself claim the benefit of the Copyright Act, the proprietor cannot claim it.

[1] Presidential Copyright Proclamations have been issued securing to the citizens or subjects of the following countries copyright privileges in the United States: Austria, Belgium, Chili, China, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her Possessions, Guatemala, Honduras, Italy, Japan, Luxemburg, Mexico, Netherlands (Holland) and Possessions, Norway, Portugal, Salvador, Spain, and Switzerland.

(3) The *executors, administrators* or *assigns* of the above-mentioned author or proprietor.

Registration.

Copyright Registration.

3. After the publication of any work entitled to copyright, the claimant of copyright should register this claim in the Copyright Office. An action for infringement of copyright cannot be maintained in Court until the provisions with respect to the deposit of copies and registration of such work shall have been complied with.

A certificate of registration is issued to the applicant and duplicates thereof may be obtained on payment of the statutory fee of 50 cents.

Subject-Matter of Copyright.

Works subject to Copyright.

4. The Act provides that no copyright shall subsist in the original text of any work published prior to the 1st day of July, 1909, which has not been already copyrighted in the United States (Section 7).

Section 5 of the Act divides the works for which copyright may be secured into eleven classes, as follows:

(*a*) *Books.*—This term includes all printed literary works (except dramatic compositions) whether published in the ordinary shape of a book or pamphlet, or printed as a leaflet, card, or single page. The term "book" as used in the law includes tabulated forms of information, frequently called charts; tables of figures showing the results of mathematical computations, such as logarithmic tables; interest, cost, and wage tables, &c., single poems, and the words of a song when printed and published without music; librettos; descriptions of moving pictures or spectacles; encyclopædias; catalogues; directories; gazetteers and similar compilations; circulars or folders containing information in the form of reading matter other than mere lists of articles, names and addresses, and literary contributions to periodicals or newspapers.

Blank Books &c. not Copyrightable.

5. The term "book" cannot be applied to—

Blank books for use in business or in carrying out any system of transacting affairs, such as record books, account books, memorandum books, diaries or journals, bank deposit and check books; forms of contracts or leases which do not contain original copyrightable matter; coupons; forms for use in commercial,

legal, or financial transactions, which are wholly or partly blank and whose value lies in their usefulness and not in their merit as literary compositions.

Directions on scales, or dials, or mathematical or other instruments; puzzles; games; rebuses; labels; wrappers; formulæ on boxes, bottles, and other receptacles of articles for sale or meant to accompany such articles.

Advertisements or catalogues which merely set forth the names, prices, and places where articles are for sale.

Prefaces or other introductory matter to works not themselves entitled to copyright protection, such as blank books.

Calendars are not capable of registration as such, but if they contain copyrightable reading matter or pictures they may be registered either as "books" or as "prints" according to the nature of the copyrightable matter.

Periodicals.

6. (*b*) *Periodicals.*—This term includes newspapers, magazines, reviews, and serial publications appearing oftener than once a year; bulletins or proceedings of societies &c. which appear regularly at intervals of less than a year; and, generally, periodical publications which would be registered as second-class matter at the post-office.

Lectures &c.

7. (*c*) *Lectures, sermons, addresses,* or similar productions, prepared for oral delivery.

Dramatic Compositions &c.

8. (*d*) *Dramatic and dramatico-musical compositions,* such as dramas, comedies, operas, operettas, and similar works.

The designation "dramatic composition" does not include the following:—Dances, ballets, or other choregraphic works; tableaux and moving picture shows; stage settings or mechanical devices by which dramatic effects are produced, or "stage business," animal shows, sleight-of-hand performances, acrobatic or circus tricks of any kind; descriptions of moving pictures or of settings for the production of moving pictures. (These, however, when printed and published, are registrable as "books.")

Dramatico-musical Compositions &c.

9. *Dramatico-musical compositions* include principally operas, operettas, and musical comedies, or similar productions which are to be acted as well as sung.

Songs Separately Published.

Ordinary songs, even when intended to be sung from the stage in a dramatic manner, or separately published songs from operas and operettas, should be registered as musical compositions, not dramatico-musical compositions.

Musical Compositions.

10. *(e) Musical compositions*, including other vocal and all instrumental compositions, with or without words.

But when the text is printed alone it should be registered as a "book," not as a "musical composition."

"Adaptations" and "arrangements" may be registered as "new works" under the provisions of Section 6. Mere transpositions into different keys are not expressly provided for in the Copyright Act; but if published with copyright notice and copies are deposited with application, registration will be made.

Maps.

11. *(f) Maps.*—This term includes all cartographical works, such as terrestrial maps, plats, marine charts, star maps, but not diagrams, astrological charts, landscapes, or drawings of imaginary regions which do not have a real existence.

Works of Art.

12. *(g) Works of art.*—This term includes all works belonging fairly to the so-called fine arts. (Paintings, drawings, and sculpture.) Productions of the industrial arts utilitarian in purpose and character are not subject to copyright registration, even if artistically made or ornamented.

Toys, Games, &c.

No copyright exists in toys, games, dolls, advertising novelties, instruments or tools of any kind, glassware, embroideries, garments, laces, woven fabrics, or any similar articles.

Reproductions of Works of Art.

13. *(h) Reproductions of works of art.*—This term refers to such reproductions (engravings, woodcuts, etchings, casts, &c.) as contain in themselves an artistic element distinct from that of the original work of art which has been reproduced.

Drawings or Plastic Works.

14. *(i) Drawings or plastic works of a scientific or technical character.*—This term includes diagrams or models illustrating scientific or technical works, architects' plans, designs for engineering work, &c.

Photographs.

15. (*j*) *Photographs.*—This term covers all positive prints from photographic negatives, including those from moving picture films (the entire series being counted as a single photograph), but not photogravures, half-tones, and other photo-engravings.

Prints and Pictorial Illustrations.

16. (*k*) *Prints and pictorial illustrations.*—This term comprises all printed pictures not included in the various other classes enumerated above.

Articles for Use not Copyrightable.

Articles of utilitarian purpose do not become capable of copyright registration because they consist in part of pictures which in themselves are copyrightable—*e.g.*, puzzles, games, rebuses, badges, buttons, buckles, pins, novelties of every description, or similar articles.

Postal cards cannot be copyrighted as such. The pictures thereon may be registered as "prints or pictorial illustrations" or as "photographs." Text matter on a postal card may be of such a character that it may be registered as a "book."

Mere ornamental scrolls, combinations of lines and colours, decorative borders, and similar designs, or ornamental letters or forms of type are not included in the designation "prints and pictorial illustrations." Trade marks cannot be copyrighted nor registered in the Copyright Office.

How to Secure Registration.

Registrable Works.

17. Copyright registration may be secured for—

(1) Unpublished works.

(2) Published works.

Unpublished Works.

Unpublished works are such as have not at the time of registration been printed or reproduced in copies for sale, or been publicly distributed. They include: (*a*) Lectures, sermons, addresses, or similar productions for oral delivery; (*b*) dramatic and musical compositions; (*c*) photographic prints; (*d*) works of art (paintings, drawings, and sculpture), and (*e*) plastic work.

Registration of Unpublished Works.

In order to secure copyright in such unpublished works, the following steps are necessary:—

18. (1) In the case of lectures, sermons, addresses, and dramatic and musical compositions, deposit one typewritten or manuscript copy of the work.

This copy should be in convenient form, clean and legible, the leaves securely fastened together, and should bear the title of the work corresponding to that given in the application.

The entire work in each case should be deposited. It is not sufficient to deposit a mere outline or epitome, or, in the case of a play, a mere scenario, or a scenario with the synopsis of the dialogue.

Unpublished Photograph.

19. (2) In the case of photographs, deposit one copy of a positive print of the work. (Photo-engravings or photogravures are not photographs within the meaning of this provision.)

Photograph of Work of Art.

20. (3) In the case of works of art, models or designs for works of art, or drawings or plastic works of a scientific or technical character, deposit a photographic reproduction.

In each case the deposited article should be accompanied by an application for registration and a money order for the amount of the statutory fee.

Reproduction of Unpublished Work.

21. Any work which has been registered as an unpublished work, if reproduced in copies for sale or distribution, must be deposited a second time (two copies, accompanied by an application for registration and the statutory fee), in the same manner as is required in the case of works published in the first place.

PUBLISHED WORKS.

Deposit of Copies.

22. After publication of the work with the copyright notice inscribed, two *complete* copies of the best edition of the work must be sent to the Copyright Office, with a proper application for registration correctly filled out and a money order for the amount of the legal fee.

The Statute requires that the deposit of the copyright work shall be made "promptly," which has been defined as "without unnecessary delay." It is not essential, however, that the deposit be made on the very day of publication.

Definition of "Published Work."

23. Published works are such as are printed or otherwise produced and "placed on sale, sold, or publicly distributed"

(*i.e.*, so that all persons who desire copies may obtain them without restriction or condition other than that imposed by the copyright law). Representation on the stage of a play is not a publication of it, nor is the public performance of a musical composition publication. Works intended for sale or general distribution must first be printed with the statutory form of copyright notice inscribed on every copy intended to be circulated.

Notice of Copyright.

Form of Notice.

24. The ordinary form of copyright notice for books, periodicals, dramatic and musical compositions is "Copyright, 19 [the year of publication], by A. B. [the name of the claimant]." The name of the claimant printed in the notice should be the real name of a living person, or his trade name if he always uses one (but not a pseudonym or pen name), or the name of the firm or corporation claiming to own the copyright. The copyright notice should not be printed in the name of one person *for the benefit of another*. The beneficiary's name should be printed in such cases.

Short Form of Notice.

25. In the case of maps, photographs, reproductions of works of art, prints or pictorial illustrations, works of art, models or designs for works of art, and plastic works of a scientific or technical character, the notice may consist of the letter C enclosed within a circle, thus ©, accompanied with the initials, monogram, mark, or symbol of the copyright proprietor. But in such cases the name itself of the copyright proprietor must appear on some accessible portion of the work, or on the mount of the picture or map, or on the margin, back, or permanent base or pedestal of the work.

Notice upon each Copy.

26. The prescribed notice must be affixed to each copy of the work published or offered for sale in the United States. But no notice is required in the case of foreign books printed abroad seeking *ad interim* protection in the United States, as provided in Section 21 of the Copyright Act.

American Manufacture of Copyright Books.

Works Produced in United States.

27. The following works must be manufactured in the United States in order to secure copyright:—

(*a*) All "books" in the English language and books in any language by a citizen or domiciled resident of the United States must be printed from type set within the limits of the United States, either by hand or by the aid of any kind of type-setting machine, or from plates made within the limits of the United States from type set therein, or, if the text of such books be produced by lithographic process or photo-engraving process, then by a process wholly performed within the limits of the United States; and the printing of the text and binding of the book must be performed within the limits of the United States.

(*b*) All *illustrations* within a book produced by lithographic process or photo-engraving process, and all *separate lithographs* or *photo-engravings* must be produced by lithographic or photo-engraving process wholly performed within the limits of the United States, except when the subjects represented in such illustrations in a book or such separate lithographs or photo-engravings "are located in a foreign country and illustrate a scientific work or reproduce a work of art."

Books by Foreign Authors.

28. Books by foreign authors in any language other than English are not required to be printed in the United States.

Books Printed Abroad.

In the case of books printed abroad in the English language, an *ad interim* term of copyright of thirty days from registration made in the Copyright Office within thirty days after publication abroad may be secured; but in order to extend the copyright to the full term of protection, an edition of the work must be published in the United States within the thirty days *ad interim* term, printed or produced within the limits of the United States, as required in Section 15 of the Copyright Act.

Application for Registration.

29. The application for copyright registration required to be sent with each work (see No. 20) must state the following facts, without which no registration can be made:—

(1) The *name* and address of the claimant of copyright.

(2) The *nationality* of the author of the work.

(3) The *title* of the work.

(4) The name and address of the person to whom certificate is to be sent.

(5) In the case of all *published* works the actual date (year, month, and day) when the work was published.

Name of Author.

30. In addition, it is desirable that the application should state for record the name of the author. If, however, the work is published anonymously or under a pseudonym and it is not desired to place on record the real name of the author, this may be omitted. In the case of works made for hire, the employer may be given as the author.

Nationality of Author.

By the nationality of the author is meant citizenship, not race; a person naturalized in the United States should be described as an American. An author, a citizen of a foreign country having no copyright relations with the United States, may secure copyright in this country, if at the time of publication of his work he is a permanent resident of the United States. The fact of such permanent residence in the United States should be expressly stated in the application. Care should be taken that the title of the work, the name of the author, and the name of the copyright claimant should be correctly stated in the application, and that they should agree exactly with the same statements made in the work itself.

APPLICATION FORMS.

31. The Copyright Office has issued the following application forms, which will be furnished on request, and should be used when applying for copyright registration:—

A[1]. Book by citizen or resident of the United States.

A[1]. New ed. New edition of book by citizen or resident of the United States.

A[1] for. Book by citizen or resident of a foreign country, but manufactured in the United States.

A[2]. Edition printed in the United States of a book originally published abroad in the English language.

A[3]. Book by foreign author in foreign language.

A[4]. Ad interim. Book published abroad in the English language.

A[5]. Contribution to a newspaper or periodical.

B[1]. Periodical. For registration of single issue.

B[2]. Periodical. General application and deposit.

C. Lecture, sermon, or address.

D[1]. Published dramatic composition.

D[2]. Dramatic composition not reproduced for sale.

D[3]. Dramatico-musical composition.

E[1]. Published musical composition.

E[2]. Musical composition not reproduced for sale.

F. Published map.

G. Work of art (painting, drawing, or sculpture), or model or design for a work of art.

H. Reproduction of a work of art.

I. Drawing or plastic work of a scientific or technical character.

J¹. Photograph published for sale.

J². Photograph not reproduced for sale.

K. Print or pictorial illustration.

Affidavit of Manufacture.

Affidavit for Book.

32. In the case of books by American authors and all books in the English language the application must be accompanied by an affidavit, showing the following facts:—

(1) That the copies deposited have been printed from type set within the limits of the United States; or from plates made within the limits of the United States from type set therein; or if the text be produced by lithographic process or photo-engraving process, that such process was wholly performed within the limits of the United States. Stating in either case the place and the establishment where such work was done.

(2) That the printing of the text has been performed within the limits of the United States, showing the place and the name of the establishment doing the work.

(3) That the binding of such book has been performed within the limits of the United States, showing the place and the name of the establishment where the work was done. This can be omitted if the work is unbound.

(4) That the completion of the printing of said book was on a stated day, or that the book was published on a given date.

Date of Publication.

Section 62 of the Copyright Act defines the date of publication as "the earliest date when copies of the first authorised edition *were placed on sale, sold, or publicly distributed* by the proprietor of the copyright or under his authority."

Affidavit must be Under Seal.

33. The affidavit may be made before any officer authorised to administer oaths within the United States who can affix his official seal to the instrument.

Errors by Applicants.

The applicant and the officer administering the oath for such affidavit are specially requested to make sure that the instrument is properly executed, so as to avoid the delay of having it returned for amendment. Experience shows that among the common errors made by applicants are the following:—

Failure to write in the "venue"—that is, the name of the county and state—and to make sure that the notary's statement agrees.

Reciting a corporation or partnership as affiant. Oaths can be taken only by individuals.

Failure to state in what capacity the affiant takes the oath, whether as claimant, agent of the claimant, or printer. Where a corporation or firm is the claimant, the affiant should swear as agent.

Failure to state the *exact date* of publication or completion of printing. The month alone is insufficient.

Failure to sign the affidavit. The signature should correspond exactly with the name of the affiant stated at the beginning. Corporation or firm names must not appear in this place.

Failure to obtain signature of the notary after swearing to the contents.

Failure to obtain the seal of the notary.

Swearing before an officer not authorized to act in the place stated in the venue.

Variance between names and dates as stated in the affidavit and the application.

The affidavit must never be made before the day of publication.

By Whom Affidavit may be Made.

34. The affidavit may be made by: (1) the person claiming the copyright; or (2) his duly authorized agent or representative residing in the United States; or (3) the printer who has printed the book. The person making the affidavit must state in which of the above-mentioned capacities he does so.

Book in Foreign Language.

35. In the case of a foreign author applying for a book in a language other than English, no affidavit is required, as such books are not subject to the manufacturing clause.

In the case of a foreign author applying for a book in the English language, the same affidavit must be made as in that of an American author, except where a book is deposited for *ad interim* protection under Section 21. In such cases the affidavit must be filed when the *ad interim* copyright is sought to be extended to the full term.

The affidavit is only required for BOOKS.

Periodicals (Form B).

36. Application should be made in the same manner as for books, depositing two copies, but no affidavit is required.

Separate registration is necessary for each number of the periodical published with a notice of copyright, and can only be made after publication. It is not possible to register the title of the periodical in advance of publication.

Contributions to Periodicals (Form A[5]).

37. If special registration is requested for any contribution to a periodical, *one* copy of the number of the periodical in which the contribution appears should be deposited promptly after publication.

The entire copy should be sent; sending a mere clipping or a page containing the contribution does not comply with the Statute.

The date of publication of a periodical is not necessarily the date stated on the title-page. The application should state the day on which the issue is "first placed on sale, sold, or publicly distributed," which may be earlier or later than the date printed on the title-page.

Ad Interim Applications (Form A[4]).

Ad Interim Copyright.

38. Where a book in the English language has been printed abroad, an *ad interim* copyright may be secured by depositing in the Copyright Office one complete copy of the foreign edition, with an application containing a request for the reservation and a money order for $1. Such applications should state: (1) Name and nationality of the author; (2) Name and nationality of the copyright claimant; (3) Exact date of original publication abroad.

The deposit must be made within thirty days from publication abroad.

Whenever, within the thirty days' period of *ad interim* protection, an edition manufactured in the United States is published, and two copies are deposited, the copyright claim therein may be registered the same as any other book (Form A[2]).

Mailing Applications and Copies.

Address of Mail Matter.

39. All mail matter intended for the Copyright Office should be addressed to the "Register of Copyrights, Library of Congress, Washington, D.C." No letters dealing with copyright matters should be addressed to individuals in the office.

Copyright matter designed for deposit in the Copyright Office will be transmitted by the postmaster free of charge when requested. The postmaster will also, when requested, give a receipt for matter so delivered to him for transmission.

No franking label is issued by the Copyright Office for this purpose.

Fees.

Copyright Fees.

40. The fee required to be paid for copyright registration is $1, except that in case of photographs it is only 50 cents when no certificate of registration is desired.

Remittances.

All remittances to the Copyright Office should be sent by money order or bank draft. Postage stamps should not be sent for fees or postage. Cheques cannot be accepted unless certified. Coin or currency enclosed in letters or packages if sent will be at the remitter's risk.

Publishers may for their own convenience deposit in the Copyright Office a sum of money in advance against which each registration will be charged.

Assignments of Copyright.

41. When a copyright has been assigned the instrument in writing signed by the proprietor of the copyright may be filed in this office for record within six calendar months after its execution without the limits of the United States or three calendar months within the United States.

After having been recorded the original assignment will be returned to the sender with a sealed certificate of record attached.

Fee for Recording Assignment.

42. The fee for recording and certifying an assignment is $1 up to 300 words; $2 from 300 to 1000 words; and another dollar for each additional thousand words or fraction thereof over three hundred words.

Name of Assignee in Claim.

43. After the assignment has been duly recorded, the assignee may substitute his name for that of the assignor in the copyright notice on the work assigned. Such substitution or transfer of ownership will be indexed in this office upon request. at a cost of 10 cents for each work assigned.

NOTICE OF USER OF MUSICAL COMPOSITIONS.

Notice of User of Music.

44. Whenever the owner of the copyright in a musical composition uses such music in phonographs himself or permits anyone else to do so, he must send a notice of such use by him or by any other person to the Copyright Office to be recorded.

Notice in Absence of License.

45. Whenever any person, in the absence of a license intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce the same mechanically, the Act requires that he shall serve notice of such intention upon the copyright proprietor and must also send a duplicate of such notice to the Copyright Office.

APPLICATION FOR THE RENEWAL OR EXTENSION OF SUBSISTING COPYRIGHTS.

Renewals and Extensions.

46. Applications for the renewal or extension of a subsisting copyright (except copyright of a composite work) may be filed within one year prior to the expiration of the existing term by—

(1) The author of the work if still living;

(2) The widow, widower, or children of the author if the author is not living;

(3) The author's executor, if such author, widow, widower, or children be not living;

(4) If the author, widow, widower, and children are all dead, and the author left no will, then the next-of-kin.

Renewal for Composite Work.

47. If the work be a composite work upon which copyright was originally secured by the proprietor thereof, then such proprietor is entitled to the privilege of renewal and extension.

Renewal Fee.

48. The fee for the recording of the renewal claim is 50 cents. Application for the renewal or extension of copyright cannot be recorded in the name of an assignee nor in that of any person not expressly mentioned in Section 24 of the Act.

Searches.

49. Upon application to the Register of Copyrights, search of the records, indexes, or deposits will be made for such information as they may contain relative to copyright claims. Persons desiring searches to be made should state clearly the nature of the work, its title, the name of the claimant of copyright, and probable date of entry; in the case of an assignment, the name of the assignor or assignee or both, and the name of the copyright claimant and the title of the music referred to in case of notice of user.

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The statutory fee for searches is 50 cents for each full hour of time consumed in making such search.

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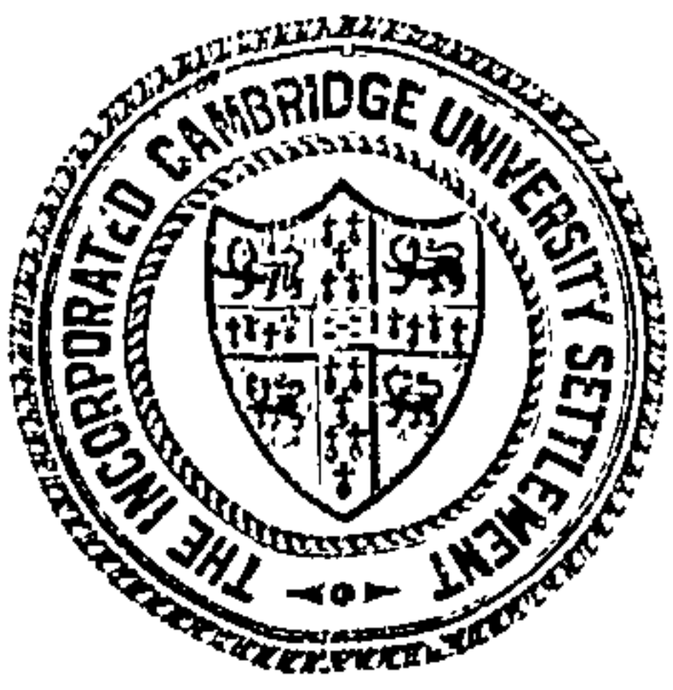

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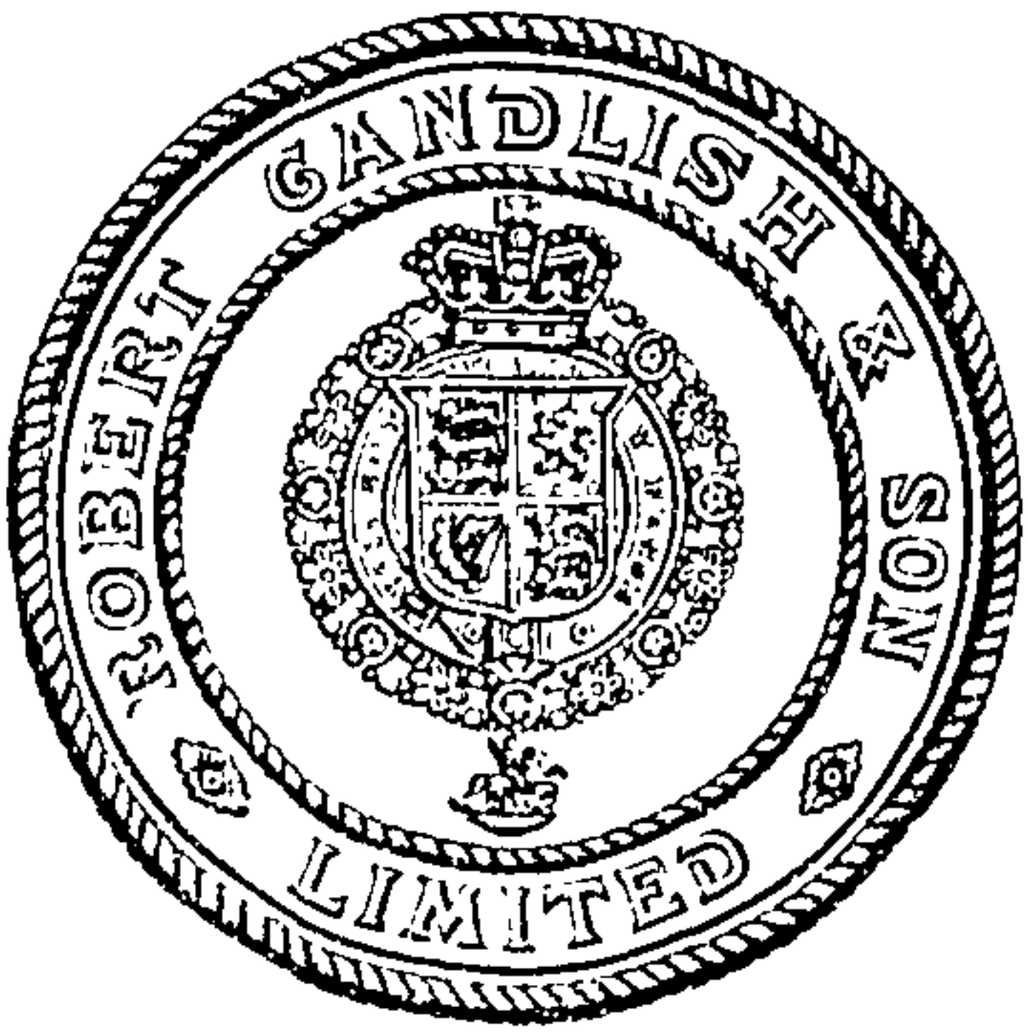

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