

They would now have been protected, apart from any other reason, by the word 'knowingly' in the present subsection.

The Court before which any of the above 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, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit (*y*). Note that this provision applies whether the offender be convicted or not. He may be protected by lack of knowledge or otherwise, but there may nevertheless be infringing copies in his possession.

Destruction or delivery up of plates and copies.

Any person aggrieved (*z*) by a summary conviction of an offence under the above provisions may in England and Ireland appeal to quarter sessions, and in Scotland in manner provided by the Summary Jurisdiction (Scotland) Acts (*a*).

Musical Works

In addition to the summary remedies already described (*b*), there are certain other summary remedies with regard to musical works which have been left in existence by the Copyright Act, 1911, under the

Additional summary remedies.

(*y*) Copyright Act, 1911, s. 11 (3), p. 212 *post*.

(*z*) As to the meaning of 'aggrieved', see Archbold, *Quarter Sessions*, ed. 6, 236; Paley, *Summary Convictions*, ed. 8, 383.

(*a*) Copyright Act, 1911, s. 12, p. 212 *post*. The expression 'Summary Jurisdiction (Scotland) Acts' comes from the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13 (8), but the only Act at present in force is the Summary Jurisdiction (Scotland) Act, 1908 (8 Edw. VII, c. 65) (see s. 4 of that Act), and it would have been better if the present Act had referred to that Act specifically.

(*b*) Copyright Act, 1911, s. 11 (4), p. 212 *post*.

absurdly named Musical (Summary Proceedings) Copyright Act, 1902 (*c*), and the Musical Copyright Act, 1906 (*d*).

The position is complicated by the fact that the former Act contains definitions one of which is not the same as that contained in, and the other is not contained in, the Act of 1911.

Thus 'musical copyright' is defined as the exclusive right of the owner of such copyright under the Copyright Acts in force for the time being (now the Copyright Act, 1911, only) to do or authorize another person to do all or any of the following things in respect of a musical work :

(1) to make copies by writing or otherwise of such work ;

(2) to abridge such work ;

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

'Musical work' means any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced (*e*).

The former of these definitions is illustrated by what has already been said as to the infringement of copyright in musical works under the Act of 1911 (*f*).

The latter is a temerarious definition, upon which the framers of the Act of 1911 have not ventured. It is not very lucid, inasmuch as 'melody' is even more difficult to define than 'musical work', and no definition of it is attempted. Any succession of two notes would seem

(*c*) 2 Edw. VII, c. 15.

(*d*) 6 Edw. VII, c. 36.

(*e*) Musical (Summary Proceedings) Copyright Act, 1902, s. 3, p. 199 *post*.

(*f*) See p. 109 *ante*.

to be a melody, in the modern sense of the word ; some people would say one note could be a melody (*g*). Probably, however, little difficulty will arise in connexion with the brand of music, or what is called music, in connexion with which these summary remedies are usually put into operation.

A court of summary jurisdiction, on the application of the owner of the copyright, if satisfied by evidence that there is reasonable ground for believing that pirated copies of a musical work are being hawked, carried about, sold, or offered for sale (*h*), may, by order, authorize a constable to seize such copies without warrant and to bring them before the Court, and the Court, on proof that the copies are infringing copies, may order them to be destroyed or to be delivered up to the owner of the copyright, if he makes application for such delivery (*i*).

Seizure of
pirated
copies by
order of
Court.

There is no definition in the Act of pirated copy, but there is a definition of 'pirated musical work', a term which occurs nowhere in the Act, and which is defined as any musical work, written, printed, or otherwise reproduced without the consent lawfully given by the owner of the copyright in such musical work (*k*). Pirated copy must be interpreted, one would think, as a result of this queer drafting, as a copy which is equivalent to a pirated musical work as so defined. The Court, however, has refused, it seems, so to apply the definition, and has held that a perforated music roll adapted for the mechanical reproduction of a song called *Bandolero* was not within the present pro-

(*g*) See p. 17 *ante*.

(*h*) As to the meaning of offering for sale, see p. 100 *ante*.

(*i*) Musical (Summary Proceedings) Copyright Act, 1902, s. 1.

(*k*) *Ibid.*, s. 3.

vision (*l*). It has also been held that no order for forfeiture or other dealing with the infringing copies can be made unless the person from whom they were seized has been notified by means of a summons of the intention to apply for such order (*m*). This appears to be still the case, so far as this section is concerned; the Musical Copyright Act, 1906, has made no alteration in this respect.

Search-
warrant.

If a court of summary jurisdiction is satisfied by information on oath that there is reasonable ground for suspecting that on any premises any person is printing, reproducing, or selling, or is exposing, or offering, or has in his possession for sale, any pirated copies of a musical work in which copyright subsists, or has in his possession any plates for the purpose of printing or reproducing pirated copies of such a musical work, the Court may grant a search-warrant authorizing the constable named therein to enter the premises between 6 a.m. and 9 p.m., if necessary by force, and to seize any copies of any such musical work or any plates in respect of which he has reasonable ground for suspecting that an offence as described above is being committed (*n*).

All copies and plates so seized are to 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, are to be forfeited and destroyed or otherwise dealt with as the Court thinks fit (*o*).

(*l*) *Mabe v. Connor*, [1909] 1 K.B. 515.

(*m*) *Ex parte Francis*, [1903] 1 K.B. 275.

(*n*) Musical Copyright Act, 1906, s. 2 (1), p. 201 *post*. This provision was enacted as a consequence of the decision in *Ex parte Francis, Day & Hunter* (No. 2) (1903), 88 L.T. 806.

(*o*) *Ibid.*, s. 2 (2), p. 201 *post*.

'Pirated copies' for the purpose of the Act of 1906 means any copies of any such musical work written, printed, or otherwise reproduced without the consent lawfully given by the owner of the copyright in such musical work (*p*). '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; but 'pirated copies' and 'plates', for the purposes of the Act of 1906, do not 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 (*q*).

It is an anomaly that, now that such rolls and records are infringements subject to certain conditions (*r*), they should not be seizable under the present provision, but a summary provision in the Copyright Act, 1911, applies to plates (*s*). 'Court of summary jurisdiction' in Scotland includes sheriff court, justice of peace court, burgh court, and police court (*t*).

If any person hawks, carries about, sells, or offers 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 authorized in writing, and at the risk of such owner. On seizure they are to be conveyed by such constable before a court of summary jurisdiction, and, on proof that they are infringements of copyright,

Seizure of
pirated
copies on
request of
owner of
copyright.

(*p*) Musical Copyright Act, 1906, s. 3, p. 202 *post*. (*q*) *Ibid*.

(*r*) See p. 130 *ante*.

(*s*) See p. 157 *ante*.

(*t*) This definition is taken from that in the Musical Copyright Act, 1906, s. 3, combined with that in the Summary Jurisdiction (Scotland) Act, 1908 (8 Edw. VII, c. 65), s. 2.

are to be forfeited, or destroyed, or otherwise dealt with as the Court thinks fit (*u*).

Penalties
for dealing
with
pirated
music.

Any person who prints, reproduces, or sells, or exposes (*x*), offers (*x*), or has in his possession for sale, any pirated copies (*y*) of any musical work in which copyright subsists, or has in his possession any plates (*y*) for the purpose of printing or reproducing pirated copies (*y*) of any musical work, is, unless he proves that he acted innocently, guilty of an offence punishable on summary conviction, and is liable to a fine not exceeding £5, 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 £10. But a person so convicted, who has not been previously convicted of such an offence, and who proves that such copies had printed on their title-page a name and address purporting to be that of the printer or publisher, is not liable to any penalty under this provision, unless it is found that the copies were to his knowledge pirated copies (*z*).

Arrest of
offenders.

Any constable may take into custody without warrant any person who in any street or public place sells or exposes (*x*), offers (*x*), 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 authorized in writing, requesting the arrest, at the risk of such owner, of all persons found committing such offences in respect to such

(*u*) Musical (Summary Proceedings) Copyright Act, 1902, s. 2, p. 199 *post*.

(*x*) See p. 100 *ante*.

(*y*) Defined p. 165 *ante*.

(*z*) Musical Copyright Act, 1906, s. 1 (1), p. 200 *post*.

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 (*a*).

'Chief officer of police' for this purpose means (1) in the City of London, the Commissioner of City Police ; (2) in the Metropolitan Police District, the Commissioner of Police of the Metropolis (*b*) ; (3) in other parts of England, the chief or head constable or superintendent or other officer having the chief command of the police (*b*) ; (4) in Scotland, the chief constable or superintendent (*c*) ; (5) in the police district of Dublin Metropolis, either of the Commissioners of Police for the district ; (6) elsewhere in Ireland, the District Inspector of the Royal Irish Constabulary (*d*).

A copy of every such written authority is to be open to inspection at all reasonable hours by any person without payment of any fee, and any person may take copies of it or make extracts from it (*e*).

Any person aggrieved (*f*) by any such summary Appeal conviction may in England or Ireland appeal to quarter sessions, and in Scotland in manner provided by the Summary Jurisdiction (Scotland) Act, 1908 (*g*).

(*a*) Musical Copyright Act, 1906, s. 1 (2), p. 200 *post*.

(*b*) Police Act, 1890 (53 & 54 Vict. c. 45), s. 33, Sched. III.

(*c*) Police (Scotland) Act, 1890 (53 & 54 Vict. c. 67), s. 30, Sched. III.

(*d*) Musical Copyright Act, 1906, s. 3, p. 202 *post*.

(*e*) *Ibid.*, s. 1 (3), p. 201 *post*.

(*f*) As to the meaning of 'aggrieved', see p. 161 *ante*.

(*g*) Musical Copyright Act, 1906, s. 1 (4), p. 201 *post*. The Act mentioned (8 Edw. VII, c. 65) repeals and replaces the Act mentioned in the section here cited ; see s. 4 of the Summary Jurisdiction (Scotland) Act, 1908.

Paintings, Drawings, and Photographs

Penalties
for fraud.

Penalties and forfeitures under the Fine Arts Copyright Act, 1862 (*h*), may be recovered either by action or summarily, in England or Ireland before a court of summary jurisdiction having jurisdiction where the offender resides, and in Scotland before the sheriff court of the county where the offence is committed or the offender resides (*i*).

(*h*) See further, p. 151 *ante*.

(*i*) Fine Arts Copyright Act, 1862, s. 8, as amended by the Statute Law Revision Act, 1893 (56 Vict. c. 14) and the Copyright Act, 1911, s. 36, Sched. II. The section provides that the sheriff's judgment shall not be subject to review, but now all judgments of a sheriff are subject to review by case stated, notwithstanding any statutory provision to the contrary, by s. 60 of the Summary Jurisdiction (Scotland) Act, 1908 (8 Edw. VII, c. 65).

CHAPTER XIV

COMMON LAW RIGHTS

No person is now 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 the Copyright Act, 1911, or of any other statutory enactment for the time being in force (a). Such right and jurisdiction as there may be to restrain a breach of trust or confidence is not abrogated by the above provision (a).

Abroga-
tion of
common
law rights.

There is at the present moment no other statute in force besides the Copyright Act, 1911, by which copyright or any similar right is conferred, and this provision puts an end finally to the long-standing questions with regard to common law rights in connexion with copyright by abolishing such rights. The proprietary right in most species of unpublished works, which has hitherto subsisted, was a common law right, and is now replaced by the rights given by s. 1 of the Act (b).

The words 'any similar right' must be taken to refer to common law rights, which are not 'copyright' in the strict sense of the word. It would have been more artistic, perhaps, if the section had referred specifically

(a) Copyright Act, 1911, s. 31, p. 229 *post*.

(b) See pp. 100 *et seq. ante*. As a matter of history, reference may be made to *Millar v. Taylor* (1769), 4 Burr. 2303; *Donaldson v. Beckett* (1774), 2 Bro. P.C. 129; *Jefferys v. Boosey* (1854), 4 H.L.C. 815. See also *Monckton v. Gramophone Co., Ltd.*, [1912] W.N. 32.

to common law rights, as the marginal note to the section in fact does, at the same time defining what common law rights it was intended to abrogate.

Restraint
of
breaches
of trust
and con-
fidence.

There is, however, a collateral right, which has, in particular cases, the effect of protecting property in a way not very dissimilar from that in which copyright protects it, namely, the right to apply to the Court to restrain a breach of trust or confidence, and this is specifically preserved by the concluding words of the section.

The right has nothing to do with the question of copyright as between employer and employed, which is dealt with elsewhere (c). In the words of Lindley L.J., 'That suggests this question—which has nothing to do with copyright—what right has any agent to use materials obtained by him in the course of his employment and from his employer against the interest of that employer? I am not aware that he has any such right. Such a use is contrary to the relation which exists between principal and agent. It is contrary to the good faith of the employment, and good faith underlies the whole of an agent's obligations to his principal. . . . The principal has, in my judgment, such an interest in them as entitles him to restrain the agent from the use of them except for the purpose for which they were got' (d). Consequently in that case canvassers, who had been employed to procure advertisements for a directory and to supply the blocks and materials necessary for producing them, were restrained from using such materials, after the termination of their employment, for the benefit of a rival publication. A similar principle was applied in the case of the user

(c) See p. 80 *ante*.

(d) *Lamb v. Evans*, [1893] 1 Ch. 218, at p. 226.

by an ex-clerk of a table of dimensions of various types of engines made by his former employers, which he had compiled during his term of service with them (e), and to the user of a list of customers in similar circumstances (f). The fact that the common law right in these cases has nothing to do with copyright was further emphasized in a case where a German printer, from whom the plaintiffs had ordered copies of a copyright drawing of their own, was restrained and had to pay damages, where he had made and imported into England other copies beyond those which he was commissioned by them to make (g). The Court in Scotland, however, refused to restrain a searcher for pedigrees from using his notes, made in one employment, for the benefit of another employer (h).

The breaches dealt with above sometimes merge into something resembling an ordinary breach of contract. Thus where something is supplied *sub modo*, subject to the terms of a contract express or implied, an injunction will be granted to restrain user contrary to the contract of what is so supplied. This is illustrated by cases with regard to the unauthorized publication of the subject-matter of lectures (i) and the unauthorized user of news supplied on certain conditions (j). An in-

(e) *Merryweather v. Moore*, [1892] 2 Ch. 518.

(f) *Robb v. Green*, [1895] 2 Q.B. 315. See also *Louis v. Smellie* (1895), 11 T.L.R. 515, where an ex-employee of a process-server was restrained from using extracts from his former employer's books.

(g) *Tuck & Sons v. Priester* (1887), 19 Q.B.D. 629, approved on another point in *Henry Graves & Co., Ltd. v. Gowrie*, [1903] A.C. 496. The curious case of *Prince Albert v. Strange* (1849), 1 Mac. & G. 25, was somewhat similar. See also *Murray v. Heath* (1831), 1 B. & Ad. 804.

(h) *Earl of Crawford v. Paton*, 1911, S.C. 1017.

(i) See p. 137 *ante*.

(j) *Exchange Telegraph Co., Ltd. v. Gregory & Co.*, [1896] 1 Q.B.

junction was also granted against a photographer, who had taken a negative of the plaintiff for a pecuniary consideration and subsequently sold decorative copies of her photograph as Christmas cards (*k*).

Passing-off.

The right to have the passing-off of a work which is calculated to deceive restrained is entirely distinct from the law of copyright, and the fact that it is not specifically preserved in the above-cited section of the Act throws no doubt on its continued existence.

' Where a man sells a work under the name or title of another man or another man's work, that is not an invasion of copyright ; it is Common Law fraud, and can be redressed by ordinary Common Law remedies, wholly irrespective of any of the conditions or restrictions imposed by the Copyright Acts ' (*l*). It is not, however, necessary that the defendant's act should amount to a common law fraud in order to entitle the person, whose property has been injured, to an injunction. The plaintiff, in order to succeed, must show that his title has a public reputation ; otherwise, the defendant cannot possibly have deceived the public (*m*); and he must also show that the defendant, with or without fraudulent intent (*n*), has in fact acted so as to lead the public to suppose that his publication

147 ; *Exchange Telegraph Co., Ltd. v. Central News, Ltd.*, [1897] 2 Ch. 48 ; *Exchange Telegraph Co., Ltd. v. Howard* (1906), 22 T.L.R. 374.

(*k*) *Pollard v. Photographic Co.* (1888), 40 Ch.D. 345. So *M'Cosh v. George Crow & Co.* (1903), 5 F. 670 ; *Holmes v. Langfer* (1903), *Times*, November 9.

(*l*) *Dicks v. Yates* (1881), 18 Ch.D. 76, at p. 90, per James, L.J.

(*m*) *Licensed Victuallers' Newspaper Co. v. Bingham* (1888), 38 Ch.D. 139.

(*n*) *Clement v. Maddick* (1859), 1 Giff. 98.

is the same as the plaintiff's, in such a way as to damage the plaintiff (o). It is clear that, in ordinary cases, there is no copyright in the title of a publication (p), and therefore proceedings in such cases as are now under discussion are not based on any question of copyright; whether they succeed or fail depends on the establishment of the requisites enumerated above (q). Cases are reported in connexion with newspapers (q), books (r), musical works (s), musical instruction books (t), and concerts (u). A bicycle maker has also been restrained from applying the name of a famous newspaper to his wares (x). On a similar principle, the adoption of

(o) *Borthwick v. Evening Post* (1888), 37 Ch.D. 449.

(p) See p. 11 ante.

(q) The following newspaper proceedings succeeded: *Hogg v. Kirby* (1803), 8 Ves. 215; *Ingram v. Stiff* (1859), 5 Jur. (N.S.) 947; *Walter v. Head* (1881), 25 Sol.J. 757; *Reed v. O'Meara* (1888), 21 L.R.Ir. 216. The following failed: *Bradbury v. Beeton* (1869), 39 L.J.Ch. 57; *Cowen v. Hulton* (1882), 46 L.T. 897; *Walter v. Emmott* (1885), 54 L.J.Ch. 1059; *Borthwick v. Evening Post* (1888), 37 Ch.D. 449; *Licensed Victuallers' Newspaper Co. v. Bingham* (1888), 38 Ch.D. 139; '*Small Owners*,' *Ltd. v. C. Arthur Pearson, Ltd.* (1911), *Times*, December 2.

(r) Successful: *Lord Byron v. Johnston* (1816), 2 Mer. 29; *Mack v. Petter* (1872), L.R. 14 Eq. 431; *Weldon v. Dicks* (1878), 10 Ch.D. 247. Unsuccessful: *Kelly v. Byles* (1879), 13 Ch.D. 682; *Schore v. Schmincké* (1886), 33 Ch.D. 546; *Talbot v. Judges* (1887), 3 T.L.R. 398; *Crotch v. Arnold* (1909), 54 Sol.J. 49.

(s) *Chappell v. Sheard* (1855), 2 K. & J. 117; *Chappell v. Davidson* (1855), 2 K. & J. 122; (1856), 8 D. M. & G. 1; *Gounod v. Wood*, *Gounod v. Hutchings* (1872), *Times*, November 22; *Elkin & Co. v. Francis, Day & Hunter* (1910), *Times*, October 21, 27, all successful. *Barnard v. Pillow*, [1868] W.N. 94, unsuccessful.

(t) *Metzler v. Wood* (1878), 8 Ch.D. 606; *Hutchings v. Sheard*, [1881] W.N. 20, both successful.

(u) *Primrose Press Agency Co. v. Knowles* (1886), 2 T.L.R. 404, successful; *Franke v. Chappell* (1887), 57 L.T. 141, unsuccessful.

(x) *Walter v. Ashton*, [1902] 2 Ch. 282.

another person's *nom de plume* may be restrained (y), and the publication of an advertisement inducing the public to believe, contrary to the fact, that a work is identical with a rival work (z).

(y) *Landa v. Greenberg* (1908), 24 T.L.R. 441.

(z) *Seeley v. Fisher* (1841), 11 Sim. 581. Compare also the cases as to publication in altered form by an assignee, p. 90 *ante*.

CHAPTER XV

DELIVERY OF COPIES TO LIBRARIES

PUBLISHERS must deliver to certain libraries copies of the following works, if published in the United Kingdom: Every book, including every part or division of a book, and every pamphlet, sheet of letterpress, sheet of music, map, plan, chart, and table separately published, but not any second or subsequent edition of any of such works, unless such edition contains additions or alterations either in the letterpress or in the maps, prints, or other engravings belonging thereto (*a*). Copies to be delivered.

The publisher of every such work published in the United Kingdom, whether the subject of copyright or not (*b*), must, within one month after its publication, deliver, at his own expense, a copy of it to the Trustees of the British Museum, who must give a written receipt for it (*c*). British Museum.

Such copy must be a copy of the whole work with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and must be bound, sewn, or stitched together, and be on the best paper on which the work is printed (*d*). This provision seems not to compel a publisher to provide the Museum with a copy

(*a*) Copyright Act, 1911, s. 15 (7), p. 215 *post*.

(*b*) *Routledge v. Low* (1868), L.R. 3 H. L. 100, at pp. 109, 110, per Lord Cairns L.C.

(*c*) Copyright Act, 1911, s. 15 (1), p. 214 *post*.

(*d*) *Ibid.*, s. 15 (3), p. 214 *post*.

of the work bound in the best manner in which the work is published; and if he publishes it bound, he may even, it would seem, deliver it to the Museum merely sewed or stitched, since 'finished' does not appear to refer to the binding, which is dealt with separately later in the subsection. Such at least appears to be the effect of the subsection as drawn. Contrast the similar provision as to the other libraries.

If the work contains hand-coloured plates, they must also be hand-coloured in the copy for the Museum.

Oxford,
Cam-
bridge,
Edin-
burgh,
and
Dublin
Libraries.

Such publisher must also, if written demand is made before the expiration of twelve months after publication, deliver within one month of receipt of the demand or, if the demand was made before publication, within one month of publication, to some dépôt in London named in the demand a copy of the work for, or in accordance with the directions of, the authority controlling the Bodleian Library at Oxford, the University Library at Cambridge, the Advocates' Library at Edinburgh, and the Library of Trinity College, Dublin. In the case of an encyclopaedia, newspaper, review, magazine, or work published in a series of numbers or parts, the demand may include all numbers or parts of the work which may be subsequently published (*e*).

The copy must be on the paper on which the largest number of copies of the work is printed for sale, and in the like condition as the works prepared for sale (*f*).

National
Library of
Wales.

The last-mentioned provisions apply in the case of a newly-introduced institution, the National Library of Wales, with the exception that the works of which copies are to be delivered are not to include works of

(*e*) Copyright Act, 1911, s. 15 (2), p. 214 *post*.

(*f*) Ibid., s. 15 (4), p. 214 *post*.

such classes as may be specified in Board of Trade regulations (*g*).

If a publisher fails to comply with these provisions, he is liable on summary conviction to a fine not exceeding £5 and the value of the work, and such fine is to be paid to the trustees or authority to whom the work ought to have been delivered (*h*). Penalty for default.

'Value' presumably means the value at which the work could be acquired, and not merely its published price; otherwise, in the case of a work of limited circulation, the market value of which has increased after publication, it might be well worth a publisher's while to incur the fine instead of delivering copies.

The publisher is presumably liable to a separate fine for each default, whether committed in the case of the same work or in the case of different works.

The above provisions may apply to works first published in a foreign country, if and so far as the Order made with respect to that country under the provisions of the Act relating to international copyright (*i*) so provides (*j*). Foreign works.

Such annual compensation as was payable immediately before the commencement of the Act in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books continues to be charged on and paid out of the Consolidated Fund of the United Kingdom; but this compensation is not to be paid to a library in any year, unless the Treasury is satisfied that the compensation for the previous year has been applied in Compensation to certain libraries.

(*g*) Copyright Act, 1911, s. 15 (2), (5), pp. 214, 215 *post*.

(*h*) *Ibid.*, s. 15 (6), p. 215 *post*.

(*i*) See p. 186 *post*.

(*j*) *Ibid.*, s. 29 (1), p. 227 *post*.

the purchase of books for the use of and to be preserved in the library (*k*).

This provision refers to the Copyright Act, 1836 (*l*), which abolished the compulsory delivery of copies to the libraries of Sion College, the Universities of St. Andrews, Glasgow, Aberdeen, and Edinburgh, and King's Inns, Dublin, and provided compensation for them according to the average yearly value of the books received by them during the three years ending June 30, 1836.

The present provisions are in substitution for those of the Act of 1836, which is now repealed (*m*).

(*k*) Copyright Act, 1911, s. 34, p. 230 *post*.

(*l*) 6 & 7 Will. IV. c. 110; short title given by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(*m*) By the Copyright Act, 1911, s. 36, Sched. II.

CHAPTER XVI

IMPERIAL COPYRIGHT

THE Copyright Act, 1911, except such of its provisions as are expressly restricted to the United Kingdom (a), extends throughout the King's dominions, subject as hereinafter mentioned (b). The Empire.

The Act does not extend to a self-governing dominion, that is to say the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland (c), unless it is declared by the Legislature of that dominion to be in force therein, either without any modifications or additions, or with such modifications and additions as may be enacted by such Legislature, but these must relate exclusively to procedure and remedies, or be necessary to adapt the Act to the circumstances of the dominion (b). Till then the enactments repealed by the Act remain in force in such dominion (d). Self-gov-
erning Do-
minions.
Adoption
of Act by
Legisla-
ture.

If the Secretary of State (e) certifies by notice in the *London Gazette* that any self-governing dominion has passed legislation under which works, the authors Certificate
of Secre-
tary of
State.

(a) See p. 1 *ante*.

(b) Copyright Act, 1911, s. 25 (1), p. 224 *post*.

(c) *Ibid.*, s. 35 (1), p. 230 *post*.

(d) *Ibid.*, s. 36, p. 232 *post*. See *Henry Graves & Co., Ltd. v. Gorrie*, [1903] A.C. 496 (Canadian law).

(e) That is to say, any of the Secretaries of State, but primarily the Secretary of State for the Colonies (see the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 12 (3)).

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 the King's dominions to which the Act extends (*f*), enjoy within the dominion rights substantially identical with those conferred by the Act, then, while such legislation continues in force, the dominion shall, for the purposes of the rights conferred by the Act, be treated as if it were a dominion to which the Act extends (*g*).

The Secretary of State may give such a certificate 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, differ from those under the Act (*g*).

Repeal of
copyright
enact-
ments by
Legis-
lature.

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 the Copyright Act, 1911), so far as they are operative within the dominion, but no such repeal is to affect prejudicially any legal rights existing at the time of the repeal, and on the Copyright Act, 1911, or any part thereof being so repealed, the dominion is to cease to be a dominion to which the Act extends (*h*).

The last part of this provision must presumably be read subject to the provision set forth above (*i*), whereby the Legislature of a self-governing dominion is permitted to modify the Copyright Act, 1911, in certain specified ways and still remain a dominion to which the Act extends.

(*f*) As to these words, see further, p. 41 *ante*.

(*g*) Copyright Act, 1911, s. 25 (2), p. 224 *post*.

(*h*) *Ibid.*, s. 26 (1), p. 225 *post*.

(*i*) p. 179 *ante*.

In any self-governing dominion to which the Act does not extend, the enactments repealed by the Copyright Act, 1911, continue in force, so far as they are operative in that dominion, until repealed by the Legislature of that dominion (*k*).

Where the King in Council is satisfied that the law of a self-governing dominion to which the Copyright Act, 1911, does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the works were British subjects resident elsewhere than in that dominion, he may by Order in Council (*l*), for the purpose of giving reciprocal protection, direct that the Act, except such parts (if any) as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of his dominions to which the Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within such dominion, and to works first published in such dominion (*n*).

Orders in Council for reciprocal protection.

Save as provided in such an Order, works the authors whereof were resident in a dominion to which the Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under the Act, except such protection as is conferred by the Act on works first published within the parts of the King's dominions to which the Act extends (*o*).

No such Order confers any rights within a self-governing dominion, but the Governor in Council of any

Orders by Governor in Council.

(*k*) Copyright Act, 1911, s. 26 (2), p. 225 *post*.

(*l*) In the manner and subject to the conditions provided *ibid*. s. 32, p. 229 *post*.

(*n*) Copyright Act, 1911, s. 26 (3), p. 225 *post*.

(*o*) *Ibid*. See further, p. 39 *ante*.

self-governing dominion to which the Act extends or which is for the purposes of the Act to be treated as if it were a dominion to which the Act extends (*p*) may, by Order in Council, confer within that dominion the like rights as the King in Council is, under the foregoing provision, authorized to confer within other parts of his dominions (*q*).

The Governor in Council of a self-governing dominion may make, as regards that dominion, Orders in Council for the purposes of international copyright similar to those which the King in Council may make with respect to his dominions other than self-governing dominions (*r*). These latter do not apply to self-governing dominions (*s*).

Other
posses-
sions.

The Legislature of any British possession to which the Copyright Act, 1911, extends may modify or add to any of the provisions of the Act in its application to the possession, but, except so far as the said modifications and additions relate to procedure and remedies, they are to 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 (*t*).

The Governor of the possession is to proclaim the date on which the Act is to come into operation, except in the Channel Islands, where the date is to be fixed by the States, and until then the repeal of the enactments repealed by the Act is not to take effect in such possession (*u*).

(*p*) See p. 179 *ante*.

(*q*) Copyright Act, 1911, s. 26 (3), p. 225 *post*.

(*r*) *Ibid.*, s. 30 (2), p. 228 *post*. See further, p. 186 *post*.

(*s*) *Ibid.*, s. 30 (1), p. 228 *post*.

(*t*) *Ibid.*, s. 27, p. 226 *post*.

(*u*) *Ibid.*, ss. 36, 37 (2), pp. 232, 233 *post*.

Orders in Council for the purpose of international copyright may except any such possession, and in such case the Order and the corresponding provisions of the Act do not apply except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of the Order (*x*).

The King may, by Order in Council (*y*), extend the Copyright Act, 1911, to any territories under his protection and to Cyprus, and thereupon the Act shall, subject to the provisions of the Order, have effect as if any such territory or Cyprus were part of the King's dominions to which the Act extends (*z*).^{Protectorates.}

(*x*) Copyright Act, 1911, s. 30 (1), (3), pp. 228, 229 *post*. See further, p. 190 *post*.

(*y*) In the manner and subject to the conditions provided *ibid.*, s. 32, p. 229 *post*.

(*z*) *Ibid.*, s. 28, p. 226 *post*.

CHAPTER XVII

INTERNATIONAL COPYRIGHT

Inter-
national
conven-
tions.

A CONVENTION concerning the Creation of an International Union for the Protection of Literary and Artistic Works, with an Additional Article and Final Protocol (*a*), was signed at Berne on September 9, 1886, and ratifications were exchanged there on September 5, 1887. The countries ratifying the Convention were Great Britain, Germany, Belgium, Spain, France, Hayti, Italy, Switzerland, and Tunis. There subsequently adhered to it Denmark, Japan, Liberia, Luxemburg, Monaco, and Norway and Sweden. Montenegro also adhered, but subsequently withdrew.

An Additional Act modifying this Convention and an Interpretative Declaration (*a*) were signed at Paris on May 4, 1896, and ratifications were deposited there on September 9, 1897. These were ratified or adhered to, then or subsequently, by all the above countries, except Montenegro, but Great Britain only ratified the Additional Act and Norway and Sweden only ratified the Interpretative Declaration.

The Convention and the Additional Act were brought into force by various Orders in Council, particularly those of November 28, 1887, and March 7, 1898. A revised Convention of Berne, called the Berlin Convention (*aa*), was signed at Berlin on November 13, 1908, on behalf of Great Britain, Germany, Belgium, Spain,

(*a*) Printed p. 256 *post.*

(*aa*) Printed p. 237 *post.*

France, Italy, Switzerland, Tunis, Denmark, Japan, Liberia, Luxemburg, Monaco, Norway, and Sweden. Hayti was not there to sign, but expressed proleptically its concurrence with whatever was agreed. Thus the revised Convention was accepted by all the countries which were then members of the Copyright Union under the old Convention.

The Berlin Convention provides that it shall replace, as regards those countries, the Berne Convention, with its Additional Article and Final Protocol, and the Additional Act and Interpretative Declaration of Paris, but that these shall remain in force with regard to countries (i. e. countries which have adhered to them) which do not ratify the Berlin Convention. Countries which have signed the Berlin Convention may declare at the exchange of ratifications that they desire to remain bound, as regards any specific point, by the old Conventions (*b*).

The former Acts which gave Great Britain power to make Orders in Council for the purposes of international copyright have been repealed by the Copyright Act, 1911, and all future Orders in Council must be made under the provisions of that Act. Existing Orders in Council will remain in force till new Orders are made. The main object for which the Act of 1911 was passed was to enable Great Britain to fulfil her obligations as a signatory of the Berlin Convention. She could not do so until her domestic law was amended so as to permit her to give foreign works, together with domestic works, the fuller protection which the Convention required.

Great Britain has a special Convention with Austria-

(*b*) Art. 27, p. 254 *post*. The present position with regard to ratification is shown in the Table, p. 284 *post*.

Special
inter-
national
arrange-
ments.
Austria-
Hungary.

Hungary, which has taken no part in any of the International Conventions. This was signed at Vienna on April 24, 1893, ratified there on April 14, 1894 (c), and brought into force by Orders in Council dated April 30, 1894, and February 2, 1895. It confers rights similar to those provided by the Berne Convention, but was expressed not to extend to Canada, Cape Colony, New South Wales, or Tasmania.

United
States of
America.

The United States have not signed any of the International Conventions, though they attended the meeting in Berlin, but the President may by proclamation confer on subjects or citizens of a foreign nation the power of acquiring copyright in the United States in the same way as an American citizen (*d*). This power was conferred on subjects of Great Britain by a proclamation of April 9, 1910 (*dd*).

Orders in
Council
applying
the Act.

The King may by Order in Council (*e*) direct that the Copyright Act, 1911 (except such parts, if any, as are specified in the Order), shall apply

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

(c) See *Parl. Papers*, 1896, vol. 95, p. 1 (Cd. 8016).

(d) Under s. 8 of the United States Copyright Act, 1909 (the Act is printed p. 285 *post*). In addition to aliens brought under the Act by this means, the section also includes, as being within the law of copyright, aliens domiciled in the United States at the time of the first publication of the work.

(*dd*) Printed p. 324 *post*. The rules for the registration of claims to copyright in the United States are printed p. 309 *post*.

(e) Made in the manner and on the conditions provided in the Copyright Act, 1911, s. 32, p. 229 *post*.

(f) See p. 39 *ante*. For cases under the old law see *Boucicault v. Delafield* (1863), 1 H. & M. 597; *Boucicault v Chatterton* (1876), 5 Ch.D. 267.

(2) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work (g) subjects or citizens of such foreign country in like manner as if the authors were British subjects ;

(3) in respect of residence in such foreign country, in like manner as if such residence were residence in the parts of the King's dominions to which the Act extends (h).

Thereupon, subject to the provisions of the Act set out in this chapter and of the Order, the Act shall apply accordingly (i). Such an Order may extend to all the several countries named or described therein (k).

When rights are acquired in a foreign country by the owner of a British copyright in pursuance of such international arrangements, the English Courts have no jurisdiction to deal with an infringement or threatened infringement in the foreign country ; if they did, they would thereby be seeking to enforce foreign law in a foreign country (l).

It has been held that where a foreign author sues in England in respect of the infringement in this country of a foreign copyright, he must prove that he is entitled to protection in the country of origin of the work, and that, that right once established, his remedy depends entirely on English law (m). Under the Berlin Convention, however, the enjoyment and exercise of the rights of an author in a country of the Union other

(g) See pp. 41, 43 *ante*.

(h) See p. 41 *ante*.

(i) Copyright Act, 1911, s. 29 (1), p. 227 *post*.

(k) *Ibid.*, s. 29 (2), p. 228 *post*.

(l) 'Morocco Bound' *Syndicate, Ltd. v. Harris*, [1895] 1 Ch. 534 (dramatic performing rights under the Berne Convention).

(m) *Baschet v. London Illustrated Standard Co.*, [1900] 1 Ch. 73 (artistic works under the Berne Convention).

than the country of origin of the work are independent of the existence of protection in the country of origin (*n*).

Limitation as to mechanical musical contrivances.

Where a musical work is one on which copyright is conferred by Order in Council as above provided, 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 (*o*).

Condition precedent to making Order.

Before making such an Order in respect of any foreign country other than a country with which the King has entered into a convention relating to copyright (*p*), the King shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to him expedient to require for the protection of works entitled to copyright under the Act (*q*).

Special provisions of Order.
Duration of copyright.

The Order may provide that the term of copyright within the parts of the King's dominions to which the Act extends shall not exceed that conferred by the law of the country to which the Order relates (*r*). This is in accordance with the Berlin Convention, which provides that, if the term of life and fifty years is not uniformly adopted, the term shall be regulated by the law of the country where protection is claimed, and must not (*ne pourra*) exceed the term fixed in the country of origin of the work (*s*).

Ownership of copyright.

In applying the provisions of the Act as to ownership of copyright (*t*), the Order may make such modifi-

(*n*) Art. 4, p. 240 *post*.

(*o*) Copyright Act, 1911, s. 19 (7), p. 219 *post*. See the Berlin Convention, Art. 13, p. 245 *post*.

(*q*) *Ibid.*, s. 29 (1), p. 227 *post*.

(*s*) Art. 7, p. 242 *post*.

(*p*) See pp. 184 *et seq.* *ante*.

(*r*) *Ibid.*

(*t*) See p. 71 *ante*.

cations as appear necessary, regard being had to the law of the country to which the Order relates (*u*).

In applying the provisions of the Act as to existing works (*v*), the Order may make such modifications as appear necessary (*x*), 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 s. 5 of the International Copyright Act, 1886 (*y*).

Existing
works.

The provisions of the Act as to the delivery of

(*u*) Copyright Act, 1911, s. 29 (1), p. 227 *post*.

(*v*) See p. 51 *ante*.

(*x*) Section 6 of the repealed International Copyright Act, 1886 (49 & 50 Vict. c. 33), made an Order in Council date back to the date of production of a work, but provided that where any person had before the date of the Order lawfully produced any work in the United Kingdom, nothing in the section should diminish or prejudice any rights or interests arising from or in connexion with such production which were subsisting and valuable at such date, and this provision was given a somewhat wide interpretation in *Moul v. Groenings*, [1891] 2 Q.B. 443; *Schauer v. J. C. & J. Field, Ltd.*, [1893] 1 Ch. 35, and *Hanfstaengl Art Publishing Co. v. Holloway*, [1893], 2 Q.B. 1. It is now provided (s. 32 (1), p. 229 *post*) that an Order shall not affect prejudicially any rights or interests acquired or accrued at the date when it comes into operation, and shall provide for the protection of such rights and interests.

(*y*) Copyright Act, 1911, s. 29 (1), p. 227 *post*. The Act of 1886 (49 & 50 Vict. c. 33), s. 5, now repealed, provided that if after the expiration of ten years, or any other term prescribed by an Order in Council under the International Copyright Acts, next after the end of the year in which the work, or, in the case of a book published in numbers, each number of the book was first produced, an authorized translation (that is to say, a complete and substantially accurate translation (*Wood v. Chart* (1870), L.R. 10 Eq. 193)) in the English language of such work or number had not been produced, the right given by the Act of preventing the production in and importation into the United Kingdom of an unauthorized translation of the work should cease.

Delivery of copies to libraries.

copies of works (z) shall not apply to works first published in the country to which the Order relates, except so far as is provided by the Order (a).

Conditions and formalities.

The Order may provide that the enjoyment of the rights conferred by the Act shall be subject to the accomplishment of such conditions and formalities, if any, as may be prescribed by the Order (b).

Registration is now abolished for the purposes of copyright, and the only formality of a similar kind which now appears to remain under the Act is that of giving notice in writing for the purpose of putting the Commissioners of Customs and Excise in motion to prevent the importation of infringing copies. The above provision, however, enables the British Government to require the fulfilment of such conditions and formalities as it may think fit in the case of foreign works (c).

Extent of Order.

An Order applies to all the King's dominions to which the Act extends except self-governing dominions (d) and any other possession specified in the Order to which it appears to the King expedient that it should not apply (e).

Where it appears to the King expedient to except from the provisions of any Order any part of his dominions not being a self-governing dominion, he may

(z) See p. 175 *ante*.

(a) Copyright Act, 1911, s. 29 (1), p. 227 *post*.

(b) *Ibid*.

(c) Reference may perhaps be made to the cases as to registration under the Berne Convention, *Fishburn v. Hollingshead*, [1891] 2 Ch. 371; *Hanfstaengl Art Publishing Co. v. Holloway*, [1893] 2 Q.B. 1; *Hanfstaengl v. Empire Palace*, [1894] 3 Ch. 109; *Hanfstaengl v. American Tobacco Co.*, [1895] 1 Q.B. 347 (all cases of artistic works) *Sarpy v. Holland*, [1908] 2 Ch. 198 (musical works). See also *Avanzo v. Mudie* (1854), 10 Ex. 203 (formalities as to a print).

(d) See p. 178 *ante*.

(e) Copyright Act, 1911, s. 30 (1), p. 228 *post*.

by the same or any other Order in Council declare that the Order and the provisions of the Act as to international copyright shall not apply to such part, and thereupon they shall not so apply, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order (*f*).

In self-governing dominions to which the Act extends (*g*), the Governor in Council may, as respects that dominion, make the like Orders with regard to international copyright as the King in Council is authorized to make with respect to his dominions other than self-governing dominions, and the provisions of the Act in that behalf, with the necessary modifications, shall apply accordingly (*h*).

If it appears to the King 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 the King by Order in Council to direct that the provisions of the Act conferring copyright on works first published within the parts of his dominions to which the 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 dominions, and thereupon such provisions shall not apply to such works (*i*).

This provision must be read subject to the proviso that an Order shall not affect prejudicially any rights or interests acquired or accrued at the date when it comes into operation, and shall provide for the protection of such rights and interests (*k*).

(*f*) Copyright Act, 1911, s. 30 (3), p. 229 *post*.

(*g*) See p. 178 *ante*.

(*h*) *Ibid.*, s. 30 (2), p. 228 *post*.

(*i*) Copyright Act, 1911, s. 23, p. 222 *post*.

(*k*) *Ibid.*, s. 32 (1), p. 229 *post*.

APPENDIX I

THE FINE ARTS COPYRIGHT ACT, 1862

(25 & 26 Vict. c. 68)

[Short title given by the Short Titles Act, 1896
(59 & 60 Vict. c. 14).]

An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works. [29th July 1862.]

WHEREAS by Law, as now established, the Authors of Paintings, Drawings, and Photographs have no Copyright in such their Works, *and it is expedient that the Law should in that respect be amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:*

Words in italics repealed by the Statute Law Revision Act, 1893 (56 Vict. c. 14). The incongruous remainder of the recital is still unrepealed.

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:

Penalties
on fraudu-
lent Pro-
ductions
and Sales.

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

As to this section, see p. 151 *ante*.

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 (a)*, may be recovered by the Person hereinbefore *and in any such Act as aforesaid (a)* empowered to recover the same respectively, and hereinafter called the Complainant or the Complainer, as follows :

Recovery of pecuniary Penalties.

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 England and Ireland.

In *Scotland* by Action before the Court of Session in ordinary Form, or by summary Action before the Sheriff of the County where the Offence may be committed or the Offender resides, *who, upon Proof of the Offence or Offences, either by Confession of the Party offending, or by the Oath or Affirmation of One or more credible Witnesses, shall convict the Offender, and find him liable to the Penalty or Penalties aforesaid, as also in Expenses, and it shall be lawful for the Sheriff in pronouncing such Judgment for the Penalty or Penalties and Costs, to insert in such Judgment a Warrant, in the event of such Penalty or Penalties and Costs not being paid, to levy and recover the Amount of the same by Poinding : Provided always, that it shall be lawful to the Sheriff, in the event of his dismissing the Action and assoilzieing the Defender, to find the Complainer liable in Expenses (b)*, 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 (b)*, Suspension, Reduction, or otherwise.

In Scotland.

(a) Repealed by the Copyright Act, 1911, s. 36, Sched. II.

(b) Repealed by the Statute Law Revision Act, 1893 (56 Vict. c. 14). As to this section, see pp. 152, 168 *ante*. The provisions as to finality of judgment are impliedly repealed by the Summary Jurisdiction (Scotland) Act, 1908 (8 Edw. VII, c. 65), s. 60. The remainder of the Act was repealed by the Copyright Act, 1911, s. 36, Sched. II.

THE CANADA COPYRIGHT ACT, 1875

(38 & 39 Vict. c. 53)

AN Act to give effect to an Act of the Parliament of the Dominion of Canada respecting Copyright.

[2nd August 1875.]

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

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

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

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

Repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

1. This Act may be cited for all purposes as the Canada Copyright Act, 1875. Short title of Act.

2. In the construction of this Act the words 'book' and 'copyright' shall have respectively the same meaning as in the Act of the fifth and sixth years of Her Majesty's reign, chapter forty-five, intituled 'An Act to amend the Law of Copyright'. Definition of terms.

See s. 1 of the Copyright Act, 1842 (5 & 6 Vict. c. 45). Probably the definition of 'copyright' must now be replaced by that contained in the repealing Act, the Copyright Act, 1911, s. 1 (2), p. 204 *post*. There is, however, no definition of 'book' in the latter Act, and therefore presumably the definition of 'book' referred to in the section must still be applied. See the discussion of this matter, p. 26 *ante*.

3. It shall be lawful for Her Majesty in Council to assent to the said reserved Bill, as contained in the schedule to this Act annexed, and if Her Majesty shall be pleased to signify Her assent thereto, the said Bill shall come into operation at such time and in such manner as Her Majesty may by Order in Council direct; anything *in the Act of the twenty-eighth and twenty-ninth years of the reign of Her Majesty, chapter ninety-three, or in any other Act to the contrary notwithstanding*. Her Majesty may assent to the Bill in schedule.

The words in italics were repealed by the Statute Law Revision Act, 1898 (61 & 62 Vict. c. 22).

4. Where any book in which, at the time when the said reserved Bill comes into operation, there is copyright in the United Kingdom, or any book in which thereafter there shall be such copyright, becomes entitled to copyright in Canada in pursuance of the provisions of the said reserved Bill, it shall be unlawful for any person, not being the owner, in the United Kingdom, of the copyright in such book, or some person authorized by him, to import into the United Kingdom any copies of such book reprinted or republished in Canada; and for the purposes of such importation the seventeenth section of the said Act of the fifth and sixth years of the reign of Her Majesty, chapter forty-five, shall apply to all such books in the same manner as if they had been reprinted out of the British dominions. Colonial reprints not to be imported into United Kingdom.

S. 17 of the Copyright Act, 1842 (5 & 6 Vict. c. 45), referred to above, and repealed by the Copyright Act, 1911, inflicts penalties for importing or knowingly selling, publishing, or exposing for sale, or letting to hire, or having in one's possession for sale or hire, such books, and empowers Customs officers to seize them. Probably this must now be regarded as replaced by the similar provisions in s. 14 of the repealing Act (p. 212 *post*) ; see the discussion of this matter, p. 26 *ante*.

Order in Council of 7th July 1868 to continue in force subject to this Act.

5. The said Order in Council, dated the seventh day of July one thousand eight hundred and sixty-eight, shall continue in force so far as relates to books which are not entitled to copyright for the time being, in pursuance of the said reserved Bill.

SCHEDULE.

[This sets out the terms of the Canadian Bill, which, on receiving the Royal assent, became the Act 38 Vict. c. 88. It is now replaced by the Copyright Act, Revised Statutes of Canada, 1906, c. 70.]

THE MUSICAL (SUMMARY PROCEEDINGS) COPYRIGHT ACT, 1902

(2 Edw. VII, c. 15)

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

Seizure, &c. of pirated copies.

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 :

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 (a).

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. Power to seize copies on hawkers.

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

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 : Definitions.

- (1) To make copies by writing or otherwise of such musical work.
- (2) To abridge such musical work.
- (3) To make any new adaptation, arrangement, or setting of such musical work, or of the melody thereof, in any notation or system.

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

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

4. This Act may be cited as the Musical (Summary Pro-

Short
title and
com-
mence-
ment.

ceedings) Copyright Act, 1902, and shall come into operation on the first day of October one thousand nine hundred and two, and shall apply only to the United Kingdom.

THE MUSICAL COPYRIGHT ACT, 1906

(6 Edw. VII, c. 36)

An Act to amend the law relating to Musical Copy-
right. [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 posses-
sion 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 (*a*).

(2) Any constable may take into custody without warrant any person who in any street or public place sells or exposes,

1 (*a*) p. 166.

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 (*b*).

(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.

(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. 38 & 39
Vict. c. 62.

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 (*a*). Right of
entry by
police for
execution
of Act.

(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 (b).

Defini-
tions.

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 : (a)*

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 :

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 :

2 (b) p. 164.

3 (a) Repealed by the Copyright Act, 1911, s. 36, Sched. II.

5 & 6
Vict. c. 45.
7 & 8 Vict.
c. 12.
49 & 50
Vict. c. 33.

53 & 54
Vict. c. 45.

53 & 54
Vict. c. 67.

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.

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

THE COPYRIGHT ACT, 1911

(1 & 2 Geo. V, c. 46)

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.

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 (a) literary (b) dramatic (c) musical (d) and artistic (e) work, if—

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

(b) in the case of an unpublished (f) work, the author was at the date of the making of the work a British

1 (a) p. 29.

(c) p. 14.

(e) p. 21.

(g) p. 39.

(b) p. 3.

(d) p. 17.

(f) p. 35.

subject or resident within such parts of His Majesty's dominions as aforesaid (*h*) ;

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 (*i*) and to foreign countries (*k*).

(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 (*l*), to perform (*m*), or in the case of a lecture to deliver (*n*), the work or any substantial part thereof in public ; if the work is unpublished, to publish the work or any substantial part thereof (*o*) ; and shall include the sole right,—

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

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

(*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 (*r*) ;

(*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 (*s*), 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

1 (*h*) p. 41.

(*k*) p. 186.

(*m*) p. 122.

(*o*) p. 133.

(*q*) p. 128.

(*s*) p. 130.

(*i*) p. 179.

(*l*) p. 101.

(*n*) p. 136.

(*p*) p. 120.

(*r*) p. 129.

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 (*t*).

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 (*a*): Provided that the following acts shall not constitute an infringement of copyright:

Infringe-
ment of
copyright.

(i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary (*b*):

(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 (*c*):

(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 (*d*):

(iv) The publication in a collection, mainly composed of non-copyright matter, bona 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

1 (*t*) p. 36. 2 (*a*) p. 71. (*b*) pp. 107, 109, 113, 119, 137.
(*c*) p. 118. (*d*) p. 119.

years, and that the source from which such passages are taken is acknowledged (*e*) :

(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 (*f*) :

(vi) The reading or recitation in public by one person of any reasonable extract from any published work (*g*).

(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 (*h*).

(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 (*i*).

2 (*e*) p. 108.

(*f*) p. 138.

(*g*) pp. 122, 126.

(*h*) p. 99.

(*i*) p. 126.

3. The term for which copyright shall subsist shall, ^{Term of} except as otherwise expressly provided by this Act, be the ^{copy-} life of the author and a period of fifty years after his ^{right.} death (a) :

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 (b).

4. If at any time after the death of the author of a Com- literary, dramatic, or musical work which has been pub- ^{pulsory} lished or performed in public a complaint is made to the ^{licences.} 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 (a).

3 (a) p. 44.

(b) p. 46.

4 (a) p. 49.

Owner-
ship 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 (a):
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 (b); 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 (c), 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 (d).

(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 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 (e):

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copy-

5 (a) p. 71.

(b) p. 77.

(c) p. 80.

(d) p. 86.

(e) p. 89.

right, 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 (*f*).

(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 (*g*).

Civil Remedies.

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 (*a*). Civil remedies for infringement of copyright.

(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 (*b*).

(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

5 (*f*) p. 95.

6 (*a*) p. 142.

(*g*) pp. 72, 93.

(*b*) p. 150.

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—

- (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 (c).

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 (a).

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 (a).

Restriction on remedies

9.—(1) Where the construction of a building or other structure which infringes or which, if completed, would

6 (c) p. 147.

7 (a) p. 144.

8 (a) p. 148.

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 (a). in the case of architecture.

(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 (b).

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement (a). Limitation of actions.

Summary Remedies.

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 (a).

(2) If any person knowingly makes or has in his posses-

9 (a) p. 144.

(b) pp. 145, 157.

10 (a) p. 149.

11 (a) p. 155.

Penalties for dealing with infringing copies, &c.

sion 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 (*b*).

(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 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 (*c*).

(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.

2 Edw. VII, c. 15.
6 Edw. VII, c. 36.

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 (*a*).

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.

Importation of copies.

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

11 (*b*) p. 157.

(*c*) p. 161.

12 (*a*) p. 161.

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. ^{39 & 40} ^{Vict. c. 36.}

(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, 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.

(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 (*a*).

Delivery of Books to Libraries.

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 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.

(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 letter-press, 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 (a).

Special Provisions as to certain Works.

16.—(1) In the case of a work of joint authorship, copy-right 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 (a), and in the provisions of this Act 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 (b).

Works of
joint
authors.

(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

15 (a) p. 175.

16 (a) p. 47.

(b) p. 49.

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 (c) :

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 (d).

(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 (e).

(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 (f).

Post-
humous
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 (a).

(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 prima facie proof of the copyright being with the owner of the manuscript (b).

16 (c) p. 73.

(e) p. 73.

17 (a) pp. 45, 48.

(d) p. 44.

(f) p. 73.

(b) pp. 76, 134.

18. 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 (a).

Provisions
as to
Govern-
ment
publica-
tions.

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 (a), 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 (b), 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 (c), 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 (d).

Provisions
as to
mechani-
cal instru-
ments.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within the 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

18 (a) p. 65.

19 (a) p. 17.

(b) p. 45.

(c) p. 75.

(d) p. 41.

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
- (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 person 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 halfpenny 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 (e).

(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 (f).

(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 (*g*).

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 (*a*). Provision as to political speeches.

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 (*a*), 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 (*b*). Provisions as to photographs.

22.—(1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, Provisions as to designs

19 (*g*) p. 63.

21 (*a*) p. 46.

20 (*a*) p. 140.

(*b*) p. 41.

registrable under 7 Edw. VII, c. 29. 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.

(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 (a).

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 (a).

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 (a) :

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—

- (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 theretofore 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 (b) ;

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 (c) :

- (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 (*d*).

(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 subsections (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.

Application to British Possessions.

Applica-
tion of
Act to
British do-
minions.

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 (*a*).

(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

24 (*d*) p. 60.

25 (*a*) p. 179.

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, differ from those under this Act (*b*).

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 (*a*).

Legisla-
tive
powers of
self-gover-
ning do-
minions.

(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 (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

25 (*b*) p. 179.

23 (*a*) p. 180.

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 (c) :

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 (d).

For the purposes of this subsection, the expression 'a dominion to which this 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
Legisla-
tures of
British
posses-
sions
to pass
supple-
mental
legisla-
tion.

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 (a).

Applica-
tion to
protec-
torates.

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 (a).

26 (c) p. 181.

27 (a) p. 182.

(d) p. 182.

28 (a) p. 183.

PART II.

INTERNATIONAL COPYRIGHT.

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—

Power to extend Act to foreign works.

(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 (a) :

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 (b) ;

(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 ;

29 (a) p. 186.

(b) p. 188.

- (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 ;
- (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 (*c*).

49 & 50
Vict. c. 33

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

Applica-
tion of
Part II to
British
posses-
sions.

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 (*a*).

(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 (*b*).

29 (*c*) p. 188.

30 (*a*) p. 190.

(*b*) p. 191.

(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 (c).

PART III.

SUPPLEMENTAL PROVISIONS.

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 (a). Abrogation of common law rights.

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. Provisions as to Orders in Council.

(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.

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 (a). Saving of university copyright. 15 Geo. III; c. 53.

30 (c) p. 191.

31 (a) p. 169.

33 (a) p. 69.

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 (a).

Interpretation.

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

‘Literary work’ includes maps, charts, plans, tables, and compilations (a) ;

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

‘Artistic work’ includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs (c) ;

‘Work of sculpture’ includes casts and models (d) ;

‘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 :

34 (a) p. 177.
(c) p. 21.

35 (a) p. 3.
(d) pp. 21, 22.

(b) p. 14.

- ‘ Engravings ’ include etchings, lithographs, woodcuts, 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 encyclopaedia, 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 (e) ;
- ‘ 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 (f) ;
- ‘ 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 (g) ;
- ‘ Self-governing dominion ’ means the Dominion of Canada, the Commonwealth of Australia, the

35 (e) p. 58.

(f) p. 122.

(g) pp. 28, 136.

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 (*h*).

(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 (*i*).

(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 (*j*).

(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 (*k*).

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 :

35 (*h*) p. 35.

(*j*) pp. 41, 43.

(*i*) p. 39.

(*k*) pp. 41, 42.

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.

37.—(1) This Act may be cited as the Copyright Act, 1911. Short
title and
com-
mence-
ment.

(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 ;

(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 by the Governor.

SCHEDULES.

FIRST SCHEDULE.

EXISTING RIGHTS.

Existing Right.	Substituted Right.
(a) <i>In the case of Works other than Dramatic and Musical Works.</i> Copyright.	Copyright as defined by this Act. ¹
(b) <i>In the case of Musical and Dramatic Works.</i> 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 eighteen of the Copyright Act, 1842.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Geo. II, c. 13.	The Engraving Copyright Act, 1734.	The whole Act.
7 Geo. III. c. 38.	The Engraving Copyright Act, 1767.	The whole Act.
15 Geo. III. c. 53.	The Copyright Act, 1775 .	The whole Act.
17 Geo. III, c. 57.	The Prints Copyright Act, 1777.	The whole Act.
54 Geo. III, c. 56.	The Sculpture Copyright Act, 1814.	The whole Act.
3 & 4 Will. IV, c. 15.	The Dramatic Copyright Act, 1833	The whole Act.
5 & 6 Will. IV, c. 65.	The Lectures Copyright Act, 1835.	The whole Act.
6 & 7 Will. IV, c. 59.	The Prints and Engravings Copyright (Ireland) Act, 1836.	The whole Act.
6 & 7 Will. IV, 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.

SECOND SCHEDULE—*continued.*

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
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.
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. VII. 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'.

APPENDIX II

THE BERLIN CONVENTION, 1908.

(Translation.)

*Convention de Berne révisée
pour la Protection des
Œuvres littéraires et artis-
tiques.*

*Revised Convention of Berne
for the Protection of Liter-
ary and Artistic Works.*

SA Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de l'Empire Allemand; Sa Majesté le Roi des Belges; Sa Majesté le Roi de Danemark; Sa Majesté le Roi d'Espagne; le Président de la République Française; Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et d'Irlande, Empereur des Indes; Sa Majesté le Roi d'Italie; Sa Majesté l'Empereur du Japon; le Président de la République de Libéria; Son Altesse Royale le Grand-Duc de Luxembourg, Duc de Nassau; Son Altesse Sérénissime le Prince de Monaco; Sa Majesté le Roi de Norvège; Sa Majesté le Roi de Suède; le Conseil Fédéral de la Confédération Suisse; Son Altesse le Bey de Tunis.

His Majesty the German Emperor, King of Prussia, in the name of the German Empire; 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 the United Kingdom of Great Britain and Ireland, Emperor of India; 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.

Également animés du désir de protéger d'une manière aussi efficace et aussi uniforme que possible les droits des auteurs sur leurs œuvres littéraires et artistiques,

Being equally animated by the desire to protect in as effective and uniform a manner as possible the rights of authors over their literary and artistic works,

Ont résolu de conclure une Convention à l'effet de reviser la Convention de Berne du 9 Septembre 1886, l'Article additionnel et le Protocole de clôture joints à la même Convention, ainsi que l'Acte additionnel et la Déclaration interprétative de Paris, du 4 Mai, 1896.

Ils ont, en conséquence, nommé pour leurs Plénipotentiaires, savoir :

[Ici suivent les noms des Plénipotentiaires.]

Lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des articles suivants :—

ARTICLE 1^{er}.

Les pays contractants sont constitués à l'état d'Union pour la protection des droits des auteurs sur leurs œuvres littéraires et artistiques.

ARTICLE 2.

L'expression 'œuvres littéraires et artistiques' comprend toute production du domaine littéraire, scientifique ou artistique, quel qu'en soit le mode ou la forme de reproduction, telle que : les livres, brochures, et autres écrits : les œuvres dramatiques ou dramatico-

Have resolved to conclude a Convention for the purpose of revising the Convention of Berne of the 9th September, 1886, the Additional Article and the Final Protocol attached to the same Convention, as well as the Additional Act and the Interpretative Declaration of Paris of the 4th May, 1896.

They have consequently appointed as their Plenipotentiaries, that is to say :

[Here follow the Plenipotentiaries' names.]

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles :—

ARTICLE 1.

The Contracting States are constituted into an 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

musicales, les œuvres chorégraphiques et les pantomimes, dont la mise en scène est fixée par écrit ou autrement ; les compositions musicales avec ou sans paroles ; les œuvres de dessin, de peinture, d'architecture, de sculpture, de gravure et de lithographie ; les illustrations, les cartes géographiques ; les plans, croquis et ouvrages plastiques, relatifs à la géographie, à la topographie, à l'architecture ou aux sciences.

Sont protégés comme des ouvrages originaux, sans préjudice des droits de l'auteur de l'œuvre originale, les traductions, adaptations, arrangements de musique et autres reproductions transformées d'une œuvre littéraire ou artistique, ainsi que les recueils de différentes œuvres.

Les pays contractants sont tenus d'assurer la protection des œuvres mentionnées ci-dessus.

Les œuvres d'art appliquées à l'industrie sont protégées autant que permet de le faire la législation intérieure de chaque pays.

ARTICLE 3.

La présente Convention s'applique aux œuvres photographiques et aux

works and pantomimes (a), the acting form of which is fixed in writing or otherwise ; musical compositions with or without words ; works of design (b), painting, architecture, sculpture, engraving and lithography ; illustrations, geographical charts ; plans, sketches, and plastic works relative to geography, topography, architecture or science.

Translations, adaptations, arrangements of music and other reproductions in an altered form of 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.

ARTICLE 3.

The present Convention shall apply to photographic works and to works pro-

(a) 'Entertainments in dumb show' would be a better translation, since 'pantomime' in English has a very special meaning.

(b) This translation seems to be a mistake for 'works of drawing'.

œuvres obtenues par un procédé analogue à la photographie. Les pays contractants sont tenus d'en assurer la protection.

ARTICLE 4.

Les auteurs ressortissant à l'un des pays de l'Union jouissent, dans les pays autres que le pays d'origine de l'œuvre, pour leurs œuvres, soit non publiées, soit publiées pour la première fois dans un pays de l'Union, des droits que les lois respectives accordent actuellement ou accorderont par la suite aux nationaux, ainsi que des droits spécialement accordés par la présente Convention.

La jouissance et l'exercice de ces droits ne sont subordonnés à aucune formalité ; cette jouissance et cet exercice sont indépendants de l'existence de la protection dans le pays d'origine de l'œuvre. Par suite, en dehors des stipulations de la présente Convention, l'étendue de la protection ainsi que les moyens de recours garantis à l'auteur pour sauvegarder ses droits se règlent exclusivement d'après la législation du pays où la protection est réclamée.

duced by a process analogous to photography. The contracting countries shall be bound to make provision for their protection.

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 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.

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 (c).

(c) Compare *'Morocco Bound' Syndicate, Ltd. v. Harris*, [1895] 1 Ch. 534 ; *Baschet v. London Illustrated Standard Co.*, [1900] 1 Ch. 73 ; and p. 187 *ante*.

Est considéré comme pays d'origine de l'œuvre : pour les œuvres non publiées, celui auquel appartient l'auteur ; pour les œuvres publiées, celui de la première publication ; et pour les œuvres publiées simultanément dans plusieurs pays de l'Union, celui d'entre eux dont la législation accorde la durée de protection la plus courte. Pour les œuvres publiées simultanément dans un pays étranger à l'Union et dans un pays de l'Union, c'est ce dernier pays qui est exclusivement considéré comme pays d'origine.

Par œuvres publiées, il faut, dans le sens de la présente Convention, entendre les œuvres éditées. La représentation d'une œuvre dramatique ou dramatico-musicale, l'exécution d'une œuvre musicale, l'exposition d'une œuvre d'art et la construction d'une œuvre d'architecture ne constituent pas une publication.

ARTICLE 5.

Les ressortissants de l'un des pays de l'Union, qui publient pour la première fois leurs œuvres dans un autre pays de l'Union, ont, dans ce dernier pays, les mêmes droits que les auteurs nationaux.

(d) The phrase should be translated 'issued to the public'. There is no question whatever of a 'publisher'.

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.

By published works must be understood, for the purposes of the present Convention, works copies of which are issued by a publisher (b). 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.

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.

ARTICLE 6.

Les auteurs ne ressortissant pas à l'un des pays de l'Union, qui publient pour la première fois leurs œuvres dans l'un de ces pays, jouissent, dans ce pays, des mêmes droits que les auteurs nationaux, et dans les autres pays de l'Union des droits accordés par la présente Convention.

ARTICLE 7.

La durée de la protection accordée par la présente Convention comprend la vie de l'auteur et cinquante ans après sa mort.

Toutefois, dans le cas où cette durée ne serait pas uniformément adoptée par tous les pays de l'Union, la durée sera réglée par la loi du pays où la protection sera réclamée et elle ne pourra excéder la durée fixée dans le pays d'origine de l'œuvre. Les pays contractants ne seront, en conséquence, tenus d'appliquer la disposition de l'alinéa précédent que dans la mesure où elle se concilie avec leur droit interne.

Pour les œuvres photographiques et les œuvres obtenues par un procédé analogue à la photographie, pour les œuvres posthumes, pour les œuvres anonymes ou pseudonymes, la durée de la protection est réglée par

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.

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 as such provisions are consistent with their domestic laws (c).

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

(c) Compare the Copyright Act, s. 29 (1), p. 227 *ante*.

la loi du pays où la protection est réclamée, sans que cette durée puisse excéder la durée fixée dans le pays d'origine de l'œuvre.

ARTICLE 8.

Les auteurs d'œuvres non publiées, ressortissant à l'un des pays de l'Union, et les auteurs d'œuvres publiées pour la première fois dans un de ces pays jouissent, dans les autres pays de l'Union, pendant toute la durée du droit sur l'œuvre originale, du droit exclusif de faire ou d'autoriser la traduction de leurs œuvres.

ARTICLE 9.

Les romans-feuilletons, les nouvelles et toutes autres œuvres, soit littéraires, soit scientifiques, soit artistiques, quel qu'en soit l'objet, publiés dans les journaux ou recueils périodiques d'un des pays de l'Union, ne peuvent être reproduits dans les autres pays sans le consentement des auteurs.

A l'exclusion des romans-feuilletons et des nouvelles, tout article de journal peut être reproduit par un autre journal, si la reproduction n'en est pas expressément interdite. Toutefois, la source doit être indiquée; la sanction de cette obligation est déterminée par la législation du pays où la protection est réclamée.

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 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 authorizing a translation of their works.

ARTICLE 9.

Serial stories, tales (*f*), 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.

With the exception of serial stories and tales (*f*), 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.

(*f*) 'Short stories' would be a better translation.

La protection de la présente Convention ne s'applique pas aux nouvelles du jour ou aux faits divers qui ont le caractère de simples informations de presse.

ARTICLE 10.

En ce qui concerne la faculté de faire licitement des emprunts à des œuvres littéraires ou artistiques pour des publications destinées à l'enseignement ou ayant un caractère scientifique, ou pour des chrestomathies, est réservé l'effet de la législation des pays de l'Union et des arrangements particuliers existants ou à conclure entre eux.

ARTICLE 11.

Les stipulations de la présente Convention s'appliquent à la représentation publique des œuvres dramatiques ou dramatico-musicales, et à l'exécution publique des œuvres musicales, que ces œuvres soient publiées ou non.

Les auteurs d'œuvres dramatiques ou dramatico-musicales sont, pendant la durée de leur droit sur l'œuvre originale, protégés contre la représentation publique non autorisée de la traduction de leurs ouvrages.

Pour jouir de la protection du présent article, les auteurs, en publiant leurs

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.

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 (*selections of choice passages from an author or authors*), 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.

Authors of dramatic or dramatico-musical works shall be protected during the existence of their right over the original work against the unauthorized public representation of translations of their works.

In order to enjoy the protection of the present Article, authors shall not be

œuvres, ne sont pas tenus d'en interdire la représentation ou l'exécution publique.

ARTICLE 12.

Sont spécialement comprises parmi les reproductions illicites auxquelles s'applique la présente Convention les appropriations indirectes non autorisées d'un ouvrage littéraire ou artistique, telles que : adaptations, arrangements de musique, transformations d'un roman, d'une nouvelle ou d'une poésie en pièce de théâtre et réciproquement, etc., lorsqu'elles ne sont que la reproduction de cet ouvrage, dans la même forme ou sous une autre forme, avec des changements, additions ou retranchements, non essentiels, et sans présenter le caractère d'une nouvelle œuvre originale.

ARTICLE 13.

Les auteurs d'œuvres musicales ont le droit exclusif d'autoriser : (1) l'adaptation de ces œuvres à des instruments servant à les reproduire mécaniquement ; (2) l'exécution publique des mêmes œuvres au moyen de ces instruments.

Des réserves et conditions relatives à l'application de cet article pourront être

bound in publishing their works to forbid the public representation or performance thereof.

ARTICLE 12.

The following shall be specially included among the unlawful reproductions to which the present Convention applies : Unauthorized indirect appropriations of a literary or artistic work, such as adaptations, musical arrangements, transformations of a novel, tale (*g*), or piece of poetry into a dramatic piece and *vice versa*, &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 13.

The authors of musical works shall have the exclusive right of authorizing (1) the adaptation of those works to instruments which can reproduce them mechanically ; (2) the public performance of the said works by means of these instruments.

Reservations and conditions relating to the application of this Article may be

(*g*) Rather 'short story'.

déterminées par la législation intérieure de chaque pays, en ce qui le concerne ; mais toutes réserves et conditions de cette nature n'auront qu'un effet strictement limité au pays qui les aurait établies.

La disposition de l'alinéa 1^{er} n'a pas d'effet rétroactif et, par suite, n'est pas applicable, dans un pays de l'Union, aux œuvres qui, dans ce pays, auront été adaptées licitement aux instruments mécaniques avant la mise en vigueur de la présente Convention.

Les adaptations faites en vertu des alinéas 2 et 3 du présent Article et importées, sans autorisation des parties intéressées, dans un pays où elles ne seraient pas licites, pourront y être saisies.

ARTICLE 14.

Les auteurs d'œuvres littéraires, scientifiques ou artistiques ont le droit exclusif d'autoriser la reproduction et la représentation publique de leurs œuvres par la cinématographie.

Sont protégées comme œuvres littéraires ou artistiques les productions cinématographiques lorsque, par les dispositifs de la mise en scène ou les combinaisons des incidents représentés, l'auteur aura donné à l'œuvre un caractère personnel et original.

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 authorizing 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 work a personal and original character.

Sans préjudice des droits de l'auteur de l'œuvre originale, la reproduction par la cinématographie d'une œuvre littéraire, scientifique ou artistique est protégée comme une œuvre originale.

Les dispositions qui précèdent s'appliquent à la reproduction ou production obtenue par tout autre procédé analogue à la cinématographie.

ARTICLE 15.

Pour que les auteurs des ouvrages protégés par la présente Convention soient, jusqu'à preuve contraire, considérés comme tels et admis, en conséquence, devant les tribunaux des divers pays de l'Union, à exercer des poursuites contre les contrefacteurs, il suffit que leur nom soit indiqué sur l'ouvrage en la manière usitée.

Pour les œuvres anonymes ou pseudonymes, l'éditeur dont le nom est indiqué sur l'ouvrage est fondé à sauvegarder les droits appartenant à l'auteur. Il est, sans autres preuves, réputé ayant cause de l'auteur anonyme ou pseudonyme.

ARTICLE 16.

Toute œuvre contrefaite peut être saisie par les autorités compétentes des pays de l'Union où l'œuvre

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

For anonymous or pseudonymous works the publisher, whose name is indicated on the work, 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 16.

Pirated works may be seized by the competent authorities of any country of the Union where the

originale a droit à la protection légale.

Dans ces pays, la saisie peut aussi s'appliquer aux reproductions provenant d'un pays où l'œuvre n'est pas protégée ou a cessé de l'être.

La saisie a lieu conformément à la législation intérieure de chaque pays.

ARTICLE 17.

Les dispositions de la présente Convention ne peuvent porter préjudice, en quoi que ce soit, au droit qui appartient au Gouvernement de chacun des pays de l'Union de permettre, de surveiller, d'interdire, par des mesures de législation ou de police intérieure, la circulation, la représentation, l'exposition de tout ouvrage ou production à l'égard desquels l'autorité compétente aurait à exercer ce droit.

ARTICLE 18.

La présente Convention s'applique à toutes les œuvres qui, au moment de son entrée en vigueur, ne sont pas encore tombées dans le domaine public de leur pays d'origine par l'expiration de la durée de la protection.

Cependant, si une œuvre, par l'expiration de la durée de protection qui lui était antérieurement reconnue, est tombée dans le domaine

original work enjoys 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.

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 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.

If, however, through the expiration of the term of protection which was previously granted, a work has fallen into the public do-

public du pays où la protection est réclamée, cette œuvre n'y sera pas protégée à nouveau.

L'application de ce principe aura lieu suivant les stipulations contenues dans les Conventions spéciales existantes ou à conclure à cet effet entre pays de l'Union. A défaut de semblables stipulations, les pays respectifs régleront, chacun pour ce qui le concerne, les modalités relatives à cette application.

Les dispositions qui précèdent s'appliquent également en cas de nouvelles accessions à l'Union et dans le cas où la durée de la protection serait étendue par application de l'Article 7.

ARTICLE 19.

Les dispositions de la présente Convention n'empêchent pas de revendiquer l'application de dispositions plus larges qui seraient édictées par la législation d'un pays de l'Union en faveur des étrangers en général.

ARTICLE 20.

Les Gouvernements des pays de l'Union se réservent le droit de prendre entre eux des arrangements particuliers, en tant que ces arrangements conféreront aux auteurs des droits plus étendus que ceux accordés par

main 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.

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.

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.

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

l'Union, ou qu'ils renfermeraient d'autres stipulations non contraires à la présente Convention. Les dispositions des arrangements existants qui répondent aux conditions précitées restent applicables.

ARTICLE 21.

Est maintenu l'office international institué sous le nom de 'Bureau de l'Union internationale pour la protection des œuvres littéraires et artistiques.'

Ce Bureau est placé sous la haute autorité du Gouvernement de la Confédération Suisse, qui en règle l'organisation et en surveille le fonctionnement.

La langue officielle du Bureau est la langue française.

ARTICLE 22.

Le Bureau international centralise les renseignements de toute nature relatifs à la protection des droits des auteurs sur leurs œuvres littéraires et artistiques. Il les coordonne et les publie. Il procède aux études d'utilité commune intéressant l'Union et rédige, à l'aide des documents qui sont mis à sa disposition par les diverses Administrations, une feuille périodique, en langue française, sur les questions concernant l'objet de l'Union. Les Gouvernements des pays

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 21.

The International Office established under the name of the 'Office of the International Union for the Protection of Literary and Artistic Works' shall be maintained.

That Office is placed under the high authority of the Government of the Swiss Confederation, which regulates its organization and supervises its working.

The official language of the 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

de l'Union se réservent d'autoriser, d'un commun accord, le Bureau à publier une édition dans une ou plusieurs autres langues, pour le cas où l'expérience en aurait démontré le besoin.

Le Bureau international doit se tenir en tout temps à la disposition des membres de l'Union pour leur fournir, sur les questions relatives à la protection des œuvres littéraires et artistiques, les renseignements spéciaux dont ils pourraient avoir besoin.

Le Directeur du Bureau international fait sur sa gestion un rapport annuel qui est communiqué à tous les membres de l'Union.

ARTICLE 23.

Les dépenses du Bureau de l'Union internationale sont supportées en commun par les pays contractants. Jusqu'à nouvelle décision, elles ne pourront pas dépasser la somme de soixante mille francs par année. Cette somme pourra être augmentée au besoin par simple décision d'une des Conférences prévues à l'Article 24.

Pour déterminer la part contributive de chacun des pays dans cette somme totale des frais, les pays contractants et ceux qui adhéreront ultérieurement à l'Union sont divisés en six classes

objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorize 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 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.

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 contribute in the

contribuant chacune dans la proportion d'un certain nombre d'unités, savoir :

1 ^{re} classe	. . .	25 unités.
2 ^{me} „	. . .	20 „
3 ^{me} „	. . .	15 „
4 ^{me} „	. . .	10 „
5 ^{me} „	. . .	5 „
6 ^{me} „	. . .	3 „

Ces coefficients sont multipliés par le nombre des pays de chaque classe, et la somme des produits ainsi obtenus fournit le nombre d'unités par lequel la dépense totale doit être divisée. Le quotient donne le montant de l'unité de dépense.

Chaque pays déclarera, au moment de son accession, dans laquelle des susdites classes il demande à être rangé.

L'Administration Suisse prépare le budget du Bureau et en surveille les dépenses, fait les avances nécessaires et établit le compte annuel qui sera communiqué à toutes les autres Administrations.

ARTICLE 24.

La présente Convention peut être soumise à des revisions en vue d'y introduire les améliorations de nature à perfectionner le système de l'Union.

Les questions de cette nature, ainsi que celles qui intéressent à d'autres points de vue le développement de l'Union, sont traitées dans des Conférences qui auront

proportion of a certain number of units, viz :

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.

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.

ARTICLE 24.

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 (*h*) in other respects, shall be considered in Conferences to be held successively in the coun-

(*h*) Translate rather 'which are concerned with the development of the Union'.

lieu successivement dans les pays de l'Union entre les délégués des dits pays. L'Administration du pays où doit siéger une Conférence prépare, avec le concours du Bureau international, les travaux de celle-ci. Le Directeur du Bureau assiste aux séances des Conférences et prend part aux discussions sans voix délibérative.

Aucun changement à la présente Convention n'est valable pour l'Union que moyennant l'assentiment unanime des pays qui la composent.

ARTICLE 25.

Les États étrangers à l'Union et qui assurent la protection légale des droits faisant l'objet de la présente Convention peuvent y accéder sur leur demande.

Cette accession sera notifiée par écrit au Gouvernement de la Confédération Suisse, et par celui-ci à tous les autres.

Elle emportera, de plein droit, adhésion à toutes les clauses et admission à tous les avantages stipulés dans la présente Convention. Toutefois, elle pourra contenir l'indication des dispositions de la Convention du 9 Septembre 1886 ou de l'Acte additionnel du 4 Mai 1896 qu'ils jugeraient nécessaire de substituer, pro-

tries of 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.

No alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

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.

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 sub-

visoirement au moins, aux dispositions correspondantes de la présente Convention.

ARTICLE 26.

Les pays contractants ont le droit d'accéder en tout temps à la présente Convention pour leurs colonies ou possessions étrangères.

Ils peuvent, à cet effet, soit faire une déclaration générale par laquelle toutes leurs colonies ou possessions sont comprises dans l'accession, soit nommer expressément celles qui y sont comprises, soit se borner à indiquer celles qui en sont exclues.

Cette déclaration sera notifiée par écrit au Gouvernement de la Confédération Suisse, et par celui-ci à tous les autres.

ARTICLE 27.

La présente Convention remplacera, dans les rapports entre les États contractants, la Convention de Berne du 9 Septembre 1886, y compris l'Article additionnel et le Protocole de clôture de même jour, ainsi que l'Acte additionnel et la Déclaration interprétative du 4 Mai 1896. Les actes conventionnels précités resteront en vigueur dans les rapports avec les États qui ne ratifieraient pas la présente Convention.

stitute, provisionally at least, for the corresponding provisions of 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.

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.

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.

Les États signataires de la présente Convention pourront, lors de l'échange des ratifications, déclarer qu'ils entendent, sur tel ou tel point, rester encore liés par les dispositions des Conventions auxquelles ils ont souscrit antérieurement.

ARTICLE 28.

La présente Convention sera ratifiée, et les ratifications en seront échangées à Berlin au plus tard le 1^{er} Juillet 1910.

Chaque Partie contractante remettra, pour l'échange des ratifications, un seul instrument, qui sera déposé, avec ceux des autres pays, aux archives du Gouvernement de la Confédération Suisse. Chaque Partie recevra en retour un exemplaire du procès-verbal d'échange des ratifications, signé par les Plénipotentiaires qui y auront pris part.

ARTICLE 29.

La présente Convention sera mise à exécution trois mois après l'échange des ratifications et demeurera en vigueur pendant un temps indéterminé, jusqu'à l'expiration d'une année à partir du jour où la dénonciation en aura été faite.

Cette dénonciation sera adressée au Gouvernement de la Confédération Suisse. Elle ne produira son effet qu'à l'égard du pays qui l'aura faite, la 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 (*i*).

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 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.

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

(*i*) See p. 284 *post*.

restant exécutoire pour les autres pays de l'Union.

ARTICLE 30.

Les États qui introduiront dans leur législation la durée de protection de cinquante ans prévue par l'Article 7, alinéa 1^{er}, de la présente Convention, le feront connaître au Gouvernement de la Confédération Suisse par une notification écrite qui sera communiquée aussitôt par ce Gouvernement à tous les autres États de l'Union.

Il en sera de même pour les États qui renonceront aux réserves faites par eux en vertu des Articles 25, 26, et 27.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait à Berlin, le 13 Novembre mil neuf cent huit, en un seul exemplaire, qui sera déposé dans les archives du Gouvernement de la Confédération Suisse et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux pays contractants.

[Signé et scellé par les Plénipotentiaires de la part de l'Allemagne, la Belgique, le Danemark, l'Espagne, la France, la Grande-Bretagne, l'Italie, le Japon, la République de Libéria, le Luxembourg, Monaco, la Norvège, la Suède, la Suisse, la Tunisie.]

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 the respective Plenipotentiaries have signed the present Convention, and have affixed thereto their seals.

Done at Berlin, the 13th day of November, 1908, in a single copy, which shall be deposited in the archives of the Government of the Swiss Confederation, and of which duly certified copies shall be transmitted by the diplomatic channel to the contracting countries.

[Signed and sealed by the Plenipotentiaries of Germany, Belgium, Denmark, Spain, France, Great Britain, Italy, Japan, Liberia, Luxembourg, Monaco, Norway, Sweden, Switzerland, Tunis.]

THE BERNE CONVENTION, 1886

AND THE

ACT OF PARIS AND INTERPRETATIVE DECLARATION, 1896

COLLATED WITH

THE BERLIN CONVENTION, 1908

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

The provisions of the latter which are entirely omitted from the Berlin Convention are shown in *italics*.

Berlin Convention, 1908.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.
[NOTE.—The Interpretative De-
claration 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

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 (*a*), painting, sculpture, and engraving; lithographs,

(*a*) A mistranslation for 'drawing'.

Berlin Convention, 1908.

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, architecture, sculpture, engraving and lithography; illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture or science.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

illustrations, geographical charts; plans, sketches, and plastic works relating to geography, topography, architecture, or to the sciences in general; finally, 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

Berlin Convention, 1908.

Translations, adaptations, arrangements of music and other reproductions in an 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.

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.

Berne Convention, 1886.
Additional Act of Paris and Interpretative Declaration, 1896.

admitted to the benefit of the provisions of the Berne Convention and of the present additional Act.

Berne Convention.

Article 6.—Lawful translations shall be protected as original works. Hence they shall enjoy the protection stipulated for in Articles 2 and 3 as regards their unauthorized reproduction in the countries of the Union.

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

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 to-day 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

Berlin Convention, 1908.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

already existing, or which may hereafter be entered into by them.

It is understood that an authorized photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, within the meaning of the said 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 authorized 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

Berlin Convention, 1908.

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 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.

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

Berne Convention, 1886.
Additional Act of Paris and Interpretative Declaration, 1906.

itself subsists, and within the limits of private agreements between the parties entitled.

Berne Convention.

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 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.

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. . . .

Berlin Convention, 1908.

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.

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.

By published works must be understood, for the pur-

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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.

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.

Interpretative Declaration.

§ 2.—By 'works published' must be understood works

Berlin Convention, 1908.

poses of the present Convention, works copies of which are issued by a publisher (*b*). 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.

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.

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, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

copies of which are issued by a publisher (*b*) 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.

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,

(*b*) Translate rather 'issued to the public'

Berlin Convention, 1908.

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 as such provisions are consistent with their domestic laws.

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.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

shall enjoy for such works the protection granted by the Berne Convention and by the present Additional Act.

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.

Additional Act.

Article 2.— Posthumous works shall be included among the works protected.

Berlin Convention, 1908.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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 authorizing 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 authorizing 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.

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

Berlin Convention, 1908.

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.

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 conse-

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorizing 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 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 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 [*faits divers*].

Berlin Convention, 1908.

quences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.

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.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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 authorization 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 [*faits divers*].

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

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

Berlin Convention, 1908.

for chrestomathics, 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.

Authors of dramatic or dramatico-musical works shall be protected during the existence of their right over the original work against the unauthorized 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.

Article 12.—The following shall be specially included

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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 9.—The stipulations of Article 2 shall apply to the public representation of dramatic or dramatico-musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works, or their lawful representatives, shall be protected in like manner during the existence of their exclusive right of translation against the unauthorized public representation of translations of their works.

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.

Article 10.—The following shall be specially included

Berlin Convention, 1908.

among the unlawful reproductions to which the present Convention applies: Unauthorized indirect appropriations of a literary or artistic work, such as adaptations, musical arrangements, transformations of a novel, tale, or piece of poetry into a dramatic piece, or vice versa, &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 13.—The authors of musical works shall have the exclusive right of authorizing (1) the adaptation of those works to instruments which can reproduce them mechanically; (2) the public performance of the said

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

among the unlawful reproductions to which the present Convention applies: Unauthorized 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 reservation 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.

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.

Berlin Convention, 1908.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

works by means of these instruments.

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 authorizing the reproduction and public representation of their works by cinematography.

Cinematograph productions shall be protected as

Berlin Convention, 1908.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

literary or artistic works if, by the arrangement of the acting form or the combinations of the incidents represented, the author has given the 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 anony-

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

Berlin Convention, 1908.

mous or pseudonymous author.

Article 16.—Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys 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.

Article 17.—The provisions of the present Convention cannot in any way derogate from the right belonging to the Government

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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, according to Article 2, by the law of the country of origin have been fulfilled.

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.

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 13.—It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to

Berlin Convention, 1908.

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 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.

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 con-

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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.

Article 14.—The present Convention, under the reservations and conditions to be determined by a 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.

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

Berlin Convention, 1908.

cerned, the manner in which the said principle is to be applied.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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.

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.

Berlin Convention, 1908.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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.

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.

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 ar-

Berne Convention.

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

Berlin Convention, 1908.

rangements which answer to the above-mentioned conditions shall remain applicable.

Article 21. — The International Office established under the name of the 'Office of the International Union for the Protection of Literary and Artistic Works' shall be maintained.

That Office is placed under the high authority of the Government of the Swiss Confederation, which regulates its organization and supervises its working.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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 16. — An International Office shall be established under the name of the 'Office of the International Union for the Protection of Literary and Artistic Works'.

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 organization of the International Office provided for by Article 16 of the

Berlin Convention, 1908.

The official language of the 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 Governments of the countries of the Union reserve to themselves the power to authorize 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

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

Convention shall be settled by a regulation which shall be drawn up by the Government of the Swiss Confederation.

The official language of the International Office shall be French.

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 which concern the objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorize 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 shall always hold itself at the disposal of members of the Union with the view to

Berlin Convention, 1908.

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.

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.

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 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	„

These coefficients are multiplied by the number of countries of each class, and

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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.

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 shall 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	„

These coefficients shall be multiplied by the number of countries of each class, and

Berlin Convention, 1908.

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.

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.

Article 24.—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 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

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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.

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 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 the Union by Delegates of the said countries.

Closing Protocol. — § 5.
The Administration of the country where a Conference is to meet shall prepare, with the assistance of the Inter-

Berlin Convention, 1908.

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.

No alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

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.

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 adherence to all the clauses and admission to all the advantages provided by

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

national 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 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.

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 im-

Berlin Convention, 1908.

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.

Article 26. — Contracting countries shall have the right to accede to the present Convention 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.

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.

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 In-

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

ply full adhesion to all the clauses and admission to all the advantages provided by the present Convention.

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.

Berlin Convention, 1908.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

terpretative 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 by the Plenipotentiaries who took part.

Article 29.—The present Convention shall be put in force three months after the exchange of ratifications,

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 a copy of the *procès-verbal* of the exchange of ratifications signed by the Plenipotentiaries who took part.

Article 20.—The present Convention shall be put in force three months after the exchange of ratifications,

Berlin Convention, 1908.

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.

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.

Berne Convention, 1886.
Additional Act of Paris and
Interpretative Declaration, 1896.

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 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.

COUNTRIES WHICH HAVE RATIFIED THE BERLIN CONVENTION, 1908.

I. Belgium, Germany, Hayti, Liberia, Luxemburg, Monaco, Portugal, Spain, and Switzerland have ratified without reservation.

II. France, Japan, Norway, and Tunis have ratified with certain reservations.

(i) France and Tunis, as regards works of applied art, preserve the provisions of the Berne Convention, 1886, and the Additional Act of Paris and Interpretative Declaration, 1896.

(ii) Japan, as regards the exclusive right of translation, preserves Article 5 of the Berne Convention, 1886, as amended by the Additional Act of Paris, 1896, and, as regards the public performance of musical works, preserves Article 9, paragraph 3, of the Berne Convention, 1886.

(iii) Norway, as regards architectural works of art, articles in newspapers and periodicals, and retroactivity, preserves Articles 4, 7, and 14 respectively of the Berne Convention, 1886.

NOTE :—Until ratification of the Berlin Convention, 1908, Denmark and Italy continue subject to the Berne Convention, 1886, and the Additional Act of Paris and Interpretative Declaration, 1896, Great Britain to the Berne Convention, 1886, and the Additional Act of Paris, 1896, and Sweden to the Berne Convention, 1886, and the Interpretative Declaration, 1896.

APPENDIX III

UNITED STATES LAW

THE COPYRIGHT ACT OF MARCH 4, 1909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person entitled thereto, upon complying with the provisions of this Act, shall have the exclusive right :

- (a) To print, reprint, publish, copy, and vend the copyrighted work ; Exclusive right to print, publish, and vend.
- (b) To translate the copyrighted work into other languages or dialects, or make any other version thereof, if it be a literary work ; to dramatize it if it be a nondramatic work ; to convert it into a novel or other nondramatic work if it be a drama ; to arrange or adapt it if it be a musical work ; to complete, execute, and finish it if it be a model or design for a work of art ; Exclusive right to translate, dramatize, arrange and adapt, &c.
- (c) To deliver or authorize the delivery of the copyrighted work in public for profit if it be a lecture, sermon, address, or similar production ; Exclusive right to deliver lectures, sermons, &c.
- (d) To perform or represent the copyrighted work publicly if it be a drama or, if it be a dramatic work and not reproduced in copies for sale, to vend any manuscript or any record whatsoever thereof ; to make or to procure the making of any transcription or record thereof by or from which, in whole or in part, it may in any manner or by any method be exhibited, performed, represented, produced, or reproduced ; and to exhibit, perform, represent, produce, or reproduce it in any manner or by any method whatsoever ; To represent dramatic works, or make record, or exhibit or perform, &c.
- (e) To perform the copyrighted work publicly for profit if it be a musical composition and for the purpose of public performance for profit ; and for the purposes set forth in subsection (a) hereof, to make any arrangement or setting of it or of the melody of it in any system of notation or To perform music and make arrangement, setting, or record.

any form of record in which the thought of an author may be recorded and from which it may be read or reproduced : *Provided*, That the provisions of this Act, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after this Act goes into effect, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights : *And provided further, and as a condition of extending the copyright control to such mechanical reproductions*, That whenever the owner of a musical copyright has used or permitted or knowingly acquiesced in the use of the copyrighted work upon the parts of instruments serving to reproduce mechanically the musical work, any other person may make similar use of the copyrighted work upon the payment to the copyright proprietor of a royalty of two cents on each such part manufactured, to be paid by the manufacturer thereof ; and the copyright proprietor may require, and if so the manufacturer shall furnish, a report under oath on the twentieth day of each month on the number of parts of instruments manufactured during the previous month serving to reproduce mechanically said musical work, and royalties shall be due on the parts manufactured during any month upon the twentieth of the next succeeding month. The payment of the royalty provided for by this section shall free the articles or devices for which such royalty has been paid from further contribution to the copyright except in case of public performance for profit : *And provided further*, That it shall be the duty of the copyright owner, if he uses the musical composition himself for the manufacture of parts of instruments serving to reproduce mechanically the musical work, or licenses others to do so, to file notice thereof, accompanied by a recording fee, in the copyright office, and any failure to file such notice shall be a complete defence to any suit, action, or proceeding for any infringement of such copyright.

Act not retro-active.

Music by foreign author.

Control of mechanical musical reproduction.

Royalty for use of music on records, &c.

Notice of use of music on records.

Licence to use music on records.

In case of the failure of such manufacturer to pay to the copyright proprietor within thirty days after demand in writing the full sum of royalties due at said rate at the date of such demand the court may award taxable costs to the plaintiff and a reasonable counsel fee, and the court may, in its discretion, enter judgment therein for any sum in addition over the amount found to be due as royalty in accordance with the terms of this Act, not exceeding three times such amount.

Failure to pay royalties.

The reproduction or rendition of a musical composition by or upon coin-operated machines shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs.

Reproduction of music on coin-operated machines.

SEC. 2. That nothing in this Act shall be construed to annul or limit the right of the author or proprietor of an unpublished work, at common law or in equity, to prevent the copying, publication, or use of such unpublished work without his consent, and to obtain damages therefor.

Right at common law or in equity.

SEC. 3. That the copyright provided by this Act shall protect all the copyrightable component parts of the work copyrighted, and all matter therein in which copyright is already subsisting, but without extending the duration or scope of such copyright. The copyright upon composite works or periodicals shall give to the proprietor thereof all the rights in respect thereto which he would have if each part were individually copyrighted under this Act.

Component parts of copyrightable work. Composite works or periodicals.

SEC. 4. That the works for which copyright may be secured under this Act shall include all the writings of an author.

Works protected.

SEC. 5. That the application for registration shall specify to which of the following classes the work in which copyright is claimed belongs :

Classification of copyright works.

- (a) Books, including composite and cyclopaedic works, directories, gazetteers, and other compilations ;
- (b) Periodicals, including newspapers ;
- (c) Lectures, sermons, addresses, prepared for oral delivery ;
- (d) Dramatic or dramatico-musical compositions ;

Books, composite, cyclopaedic works ; directories, gazetteers, &c.

- (e) Musical compositions ;
- (f) Maps ;
- (g) Works of art; models or designs for works of art ;
- (h) Reproductions of a work of art ;
- (i) Drawings or plastic works of a scientific or technical character ;
- (j) Photographs ;
- (k) Prints and pictorial illustrations :

Classifica-
tion does
not limit
copyright.

Provided, nevertheless, That the above specifications shall not be held to limit the subject-matter of copyright as defined in section four of this Act, nor shall any error in classification invalidate or impair the copyright protection secured under this Act.

Compila-
tions,
abridg-
ments,
drama-
tizations,
transla-
tions, new
editions.

SEC. 6. That compilations or abridgments, adaptations, arrangements, dramatizations, translations, or other versions of works in the public domain, or of copyrighted works when produced with the consent of the proprietor of the copyright in such work, or works republished with new matter, shall be regarded as new works subject to copyright under the provisions of this Act ; but the publication of any such new works shall not affect the force or validity of any subsisting copyright upon the matter employed or any part thereof, or be construed to imply an exclusive right to such use of the original works, or to secure or extend copyright in such original works.

Subsisting
copyright
not
affected.

Not sub-
ject-mat-
ter of
copyright:
works in
public
domain ;
Govern-
ment
publica-
tions.

SEC. 7. That no copyright shall subsist in the original text of any work which is in the public domain, or in any work which was published in this country or any foreign country prior to the going into effect of this Act and has not been already copyrighted in the United States, or in any publication of the United States Government, or any reprint, in whole or in part, thereof : *Provided, however,* That the publication or republication by the Government, either separately or in a public document, of any material in which copyright is subsisting shall not be taken to cause any abridgment or annulment of the copyright or to authorize any use or appropriation of such copyright material without the consent of the copyright proprietor.

SEC. 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 :

Copyright to author or proprietor for terms specified in Act.
Foreign authors who may secure copyright 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

Alien authors domiciled in U.S.

(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.

Authors, when citizens of countries granting reciprocal rights.

International agreement.

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 (a).

Presidential proclamation.

SEC. 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 twenty-one of this Act.

Publication with notice initiates copyright.

SEC. 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 register of copyrights shall issue to him the certificate provided for in section fifty-five of this Act.

Registration of copyright.
Copyright certificate.

(a) See the proclamation printed p. 324 *post*.

Copyright protection of unpublished works: lectures, dramas, music, &c.

Deposit of copies after publication.

Two complete copies of best edition.

Periodical contributions.

Work not reproduced in copies for sale.

No action for infringement until deposit of copies.

Failure to deposit copies. Register of copyrights may demand copies.

SEC. 11. That copyright may also be had of the works of an author of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production or a dramatic or musical composition; of a photographic print if the work be a photograph; or of a photograph or other identifying reproduction thereof if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt the copyright proprietor from the deposit of copies under sections twelve and thirteen of this Act where the work is later reproduced in copies for sale.

SEC. 12. That after copyright has been secured by publication of the work with the notice of copyright as provided in section nine of this Act, there shall be promptly deposited in the copyright office or in the mail addressed to the register 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 fifteen 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 eleven 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.

SEC. 13. That should the copies called for by section twelve of this Act not be promptly deposited as herein provided, the register of copyrights may at any time after the publication of the work, upon actual notice, require the proprietor of the copyright to deposit them, and after the said demand shall have been made, in default of the

deposit of copies of the work within three months from any part of the United States, except an outlying territorial possession of the United States, or within six months from any outlying territorial possession of the United States, or from any foreign country, the proprietor of the copyright shall be liable to a fine of one hundred dollars and to pay to the Library of Congress twice the amount of the retail price of the best edition of the work, and the copyright shall become void.

Failure to deposit on demand.
Fine \$100 and retail price of 2 copies, best edition.
Forfeiture of copyright.

SEC. 14. That the postmaster to whom are delivered the articles deposited as provided in sections eleven and twelve of this Act shall, if requested, give a receipt therefor and shall mail them to their destination without cost to the copyright claimant.

Postmaster's receipt.

SEC. 15. That of the printed book or periodical specified in section five, subsections (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 typesetting 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 book 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.

Printed from type set within the United States.
Book in foreign language excepted.
Lithographic or photo-engraving process.
Printing and binding of the book.
Illustrations in a book.
Separate lithographs and photo-engravings.
Books for blind excepted.
Books in foreign languages excepted.

Affidavit
of American manu-
facture.

SEC. 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 authorized to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorized 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 state also 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 the date of publication.

Printing
and binding
of the
book.

Establish-
ment
where
printing
was done.

Date of
publica-
tion.

False
affidavit,
a misde-
meanor;
fine,
\$1,000
and for-
feiture of
copyright.

SEC. 17. That any person who, for the purpose of obtaining registration of a claim to copyright, shall knowingly make a false affidavit as to his having complied with the above conditions shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, and all of his rights and privileges under said copyright shall thereafter be forfeited.

Notice of
copyright.

SEC. 18. That the notice of copyright required by section nine of this Act shall consist either of the word 'Copyright' or the abbreviation 'Copr.', accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of works specified in subsections (f) to (k), inclusive, of section five of this Act, the notice may consist of the letter C inclosed within a circle, thus: ©, accompanied by the initials, monogram,

Notice on
maps,

mark, or symbol of the copyright proprietor: *Provided*, That on some accessible portion of such copies or of the margin, back, permanent base, or pedestal, or of the substance on which such copies shall be mounted, his name shall appear. But in the case of works in which copyright is subsisting when this Act shall go into effect, the notice of copyright may be either in one of the forms prescribed herein or in one of those prescribed by the Act of June eighteenth, eighteen hundred and seventy-four.

copies of works of art, photographs, and prints. Notice on accessible portion. Notice on existing copyright works.

SEC. 19. That the notice of copyright shall be applied, in the case of a book or other printed publication, upon its title-page or the page immediately following, or if a periodical either upon the title-page or upon the first page of text of each separate number or under the title heading, or if a musical work either upon its title-page or the first page of music: *Provided*, That one notice of copyright in each volume or in each number of a newspaper or periodical published shall suffice.

Notice of copyright on book. On periodical. One notice in each volume or periodical.

SEC. 20. That where the copyright proprietor has sought to comply with the provisions of this Act with respect to notice, the omission by accident or mistake of the prescribed notice from a particular copy or copies shall not invalidate the copyright or prevent recovery for infringement against any person who, after actual notice of the copyright, begins an undertaking to infringe it, but shall prevent the recovery of damages against an innocent infringer who has been misled by the omission of the notice; and in a suit for infringement no permanent injunction shall be had unless the copyright proprietor shall reimburse to the innocent infringer his reasonable outlay innocently incurred if the court, in its discretion, shall so direct.

Omission of notice by accident or mistake. Innocent infringement.

SEC. 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

Book published abroad in the English language.

Ad interim copyright for 30 days.	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.
Extension to full term.	SEC. 22. That whenever within the period of such ad interim protection an authorized edition of such book shall be published within the United States, in accordance with the manufacturing provisions specified in section fifteen of this Act, and whenever the provisions of this Act as to
Deposit of copies, filing of affidavit.	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 copy- right : 1st term, 28 years.	SEC. 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 : <i>Provided</i> , That in the case of any posthumous work or of any periodical, cyclopaedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright : <i>And provided further</i> , That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopaedic or other composite work when such contribution has been separately registered, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term
Post- humous works, periodi- cals, cy- clopaedic or compo- site works.	
Renewal term 28 years.	
Other copy- righted works, first term 28 years. Renewal term 28 years; to author, widow, children, heirs or next of kin.	

of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright : *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall determine at the expiration of twenty-eight years from first publication.

Notice that renewal term is desired. Copyright ends in 28 years unless renewed.

SEC. 24. That the copyright subsisting in any work at the time when this Act goes into effect may, at the expiration of the term provided for under existing law, be renewed and extended by the author of such work if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then by the author's executors, or in the absence of a will, his next of kin, for a further period such that the entire term shall be equal to that secured by this Act, including the renewal period : *Provided, however*, That if the work be a composite work upon which copyright was originally secured by the proprietor thereof, then such proprietor shall be entitled to the privilege of renewal and extension granted under this section : *Provided*, That application for such renewal and extension shall be made to the copyright office and duly registered therein within one year prior to the expiration of the existing term.

Extension of subsisting copyrights.

Proprietor entitled to renewal for composite work. Renewal application.

SEC. 25. That if any person shall infringe the copyright in any work protected under the copyright laws of the United States such person shall be liable :

Infringement of copyright.

(a) To an injunction restraining such infringement ;

Injunction.

(b) To pay to the copyright proprietor such damages as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits such damages as to the court shall appear to be just, and in assessing such damages the court may, in its discretion, allow the amounts as hereinafter stated, but in the case of

Damages.

Proving sales.

Newspaper reproduction of photograph; recovery, \$50-\$200. Maximum recovery, \$5,000. Minimum recovery, \$250.	a newspaper reproduction of a copyrighted photograph such damages shall not exceed the sum of two hundred dollars nor be less than the sum of fifty dollars, and such damages shall in no other case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty :
Painting, statue, or sculpture, \$10 for every infringing copy.	First. In the case of a painting, statue, or sculpture, ten dollars for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees ;
Other works, \$1 for every infringing copy.	Second. In the case of any work enumerated in section five of this Act, except a painting, statue, or sculpture, one dollar for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees ;
Lectures, \$50 for every infringing delivery.	Third. In the case of a lecture, sermon, or address, fifty dollars for every infringing delivery ;
Dramatic or musical works, \$100 for first and \$50 for every subsequent infringing performance.	Fourth. In the case of dramatic or dramatico-musical or a choral or orchestral composition, one hundred dollars for the first and fifty dollars for every subsequent infringing performance ; in the case of other musical compositions, ten dollars for every infringing performance ;
Other musical compositions, \$10 for every infringing performance.	(c) To deliver up on oath, to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all articles alleged to infringe a copyright ;
Delivering up infringing articles.	(d) To deliver up on oath for destruction all the infringing copies or devices, as well as all plates, molds, matrices, or other means for making such infringing copies as the court may order ;
Destruction of infringing copies, &c.	(e) Whenever the owner of a musical copyright has used or permitted the use of the copyrighted work upon the parts of musical instruments serving to reproduce mechanically the musical work, then in case of infringement of such copyright by the unauthorized manufacture, use, or sale of interchangeable parts, such as disks, rolls, bands, or cylinders for use in mechanical music-producing machines
Infringement by mechanical musical instruments.	

adapted to reproduce the copyrighted music, no criminal action shall be brought, but in a civil action an injunction may be granted upon such terms as the court may impose, and the plaintiff shall be entitled to recover in lieu of profits and damages a royalty as provided in section one, subsection (e), of this Act: *Provided also*, That whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, relying upon the compulsory license provision of this Act, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at his last address disclosed by the records of the copyright office, sending to the copyright office a duplicate of such notice; and in case of his failure so to do the court may, in its discretion, in addition to sums hereinabove mentioned, award the complainant a further sum, not to exceed three times the amount provided by section one, subsection (e), by way of damages, and not as a penalty, and also a temporary injunction until the full award is paid.

Injunction may be granted.

Recovery of royalty.

Notice to proprietor of intention to use.

Damages, three times amount provided.

Temporary injunction.

Rules and regulations for practice and procedure under this section shall be prescribed by the Supreme Court of the United States.

Rules for practice and procedure.

SEC. 26. That any court given jurisdiction under section thirty-four of this Act may proceed in any action, suit, or proceeding instituted for violation of any provision hereof to enter a judgment or decree enforcing the remedies herein provided.

Judgment enforcing remedies.

SEC. 27. That the proceedings for an injunction, damages, and profits, and those for the seizure of infringing copies, plates, molds, matrices, and so forth, aforementioned, may be united in one action.

Proceedings, injunction, &c., may be united in one action.

SEC. 28. That any person who wilfully and for profit shall infringe any copyright secured by this Act, or who shall knowingly and wilfully aid or abet such infringement, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not exceeding one year or by a fine of not less than one hundred dollars nor more than one thousand dollars, or both, in the

Penalty for wilful infringement.

Oratorios, cantatas, &c., may be performed.

discretion of the court: *Provided, however.* That nothing in this Act shall be so construed as to prevent the performance of religious or secular works, such as oratorios, cantatas, masses, or octavo choruses by public schools, church choirs, or vocal societies, rented, borrowed, or obtained from some public library, public school, church choir, school choir, or vocal society, provided the performance is given for charitable or educational purposes and not for profit.

False notice of copyright (penalty for).

Fraudulent removal of notice; fine \$100-\$1,000.

Issuing, selling, or importing article bearing false notice; fine \$100.

SEC. 29. That any person who, with fraudulent intent, shall insert or impress any notice of copyright required by this Act, or words of the same purport, in or upon any uncopyrighted article, or with fraudulent intent shall remove or alter the copyright notice upon any article duly copyrighted shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars and not more than one thousand dollars. Any person who shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country, or who shall knowingly import any article bearing such notice or words of the same purport, which has not been copyrighted in this country, shall be liable to a fine of one hundred dollars.

Importation prohibited of articles bearing false notice and piratical copies.

Prohibition of importation of books.

SEC. 30. That the importation into the United States of any article bearing a false notice of copyright when there is no existing copyright thereon in the United States, or of any piratical copies of any work copyrighted in the United States, is prohibited.

SEC. 31. That during the existence of the American copyright in any book the importation into the United States of any piratical copies thereof or of any copies thereof (although authorized by the author or proprietor) which have not been produced in accordance with the manufacturing provisions specified in section fifteen of this Act, or any plates of the same not made from type set within the limits of the United States, or any copies thereof produced by lithographic or photo-engraving process not performed within the limits of the United States, in accordance with the provisions of section fifteen of this Act, shall be, and is

hereby, prohibited: *Provided, however,* That, except as regards piratical copies, such prohibition shall not apply:

(a) To works in raised characters for the use of the blind;

(b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization;

(c) To the authorized edition of a book in a foreign language or languages of which only a translation into English has been copyrighted in this country;

(d) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four subdivisions following, that is to say:

First. When imported, not more than one copy at one time, for individual use and not for sale; but such privilege of importation shall not extend to a foreign reprint of a book by an American author copyrighted in the United States;

Second. When imported by the authority or for the use of the United States;

Third. When imported, for use and not for sale, not more than one copy of any such book in any one invoice, in good faith, by or for any society or institution incorporated for educational, literary, philosophical, scientific, or religious purposes, or for the encouragement of the fine arts, or for any college, academy, school, or seminary of learning, or for any State, school, college, university, or free public library in the United States;

Fourth. When such books form parts of libraries or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph, or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale: *Provided,* That copies imported as above may not lawfully be used in any way to violate the rights of

Exceptions to prohibition of importation:

Works for the blind.

Foreign newspapers or magazines.

Books in foreign languages of which only translations are copyrighted.

Importation of authorized foreign books permitted.

For individual use and not for sale.

For the use of the United States.

For the use of societies, libraries, &c.

Libraries purchased en bloc.

Books brought personally into the United States.

Imported copies not to be used to violate copyright.

the proprietor of the American copyright or annul or limit the copyright protection secured by this Act, and such unlawful use shall be deemed an infringement of copyright.

Seizure of unlawfully imported copies.

SEC. 32. That any and all articles prohibited importation by this Act which are brought into the United States from any foreign country (except in the mails) shall be seized and forfeited by like proceedings as those provided by law for the seizure and condemnation of property imported into the United States in violation of the customs revenue laws. Such articles when forfeited shall be destroyed in such manner as the Secretary of the Treasury or the court, as the case may be, shall direct: *Provided, however,* That all copies of authorized editions of copyright books imported in the mails or otherwise in violation of the provisions of this Act may be exported and returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury, in a written application, that such importation does not involve wilful negligence or fraud.

Copies of authorized books imported may be returned.

Secretary of Treasury and Postmaster-General to make rules to prevent unlawful importation.

SEC. 33. That the Secretary of the Treasury and the Postmaster-General are hereby empowered and required to make and enforce such joint rules and regulations as shall prevent the importation into the United States in the mails of articles prohibited importation by this Act, and may require notice to be given to the Treasury Department or Post Office Department, as the case may be, by copyright proprietors or injured parties, of the actual or contemplated importation of articles prohibited importation by this Act, and which infringe the rights of such copyright proprietors or injured parties.

Jurisdiction of courts in copyright cases.

SEC. 34. That all actions, suits, or proceedings arising under the copyright laws of the United States shall be originally cognizable by the circuit courts of the United States, the district court of any Territory, the supreme court of the District of Columbia, the district courts of Alaska, Hawaii, and Porto Rico, and the courts of first instance of the Philippine Islands (*b*).

(*b*) By s. 256 of the Judiciary Act, 1911, the jurisdiction vested

SEC. 35. That civil actions, suits, or proceedings arising under this Act may be instituted in the district of which the defendant or his agent is an inhabitant, or in which he may be found. District in which suit may be brought.

SEC. 36. That any such court or judge thereof shall have power, upon bill in equity filed by any party aggrieved, to grant injunctions to prevent and restrain the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as said court or judge may deem reasonable. Any injunction that may be granted restraining and enjoining the doing of anything forbidden by this Act may be served on the parties against whom such injunction may be granted anywhere in the United States, and shall be operative throughout the United States and be enforceable by proceedings in contempt or otherwise by any other court or judge possessing jurisdiction of the defendants. Injunctions may be granted.

SEC. 37. That the clerk of the court, or judge granting the injunction, shall, when required so to do by the court hearing the application to enforce said injunction, transmit without delay to said court a certified copy of all the papers in said cause that are on file in his office. Certified copy of papers filed.

SEC. 38. That the orders, judgments, or decrees of any court mentioned in section thirty-four of this Act arising under the copyright laws of the United States may be reviewed on appeal or writ of error in the manner and to the extent now provided by law for the review of cases determined in said courts, respectively. Judgments, &c., may be reviewed on appeal or writ of error.

SEC. 39. That no criminal proceeding shall be maintained under the provisions of this Act unless the same is commenced within three years after the cause of action arose. No criminal proceedings shall be maintained after three years.

SEC. 40. That in all actions, suits, or proceedings under this Act, except when brought by or against the United States or any officer thereof, full costs shall be allowed, and the court may award to the prevailing party a reasonable attorney's fee as part of the costs. Full costs shall be allowed.

in the Courts of the United States is exclusive of the Courts of the several States in all cases arising under the copyright laws of the United States.

Copyright distinct from property in material object.

Transfer of any copy of copyrighted work permitted.

Copyright may be assigned, mortgaged, or bequeathed by will.

Assignment executed in foreign country to be acknowledged.

Assignments to be recorded.

Register of copyrights to record assignments.

Assignee's name may

SEC. 41. That the copyright is distinct from the property in the material object copyrighted, and the sale or conveyance, by gift or otherwise, of the material object shall not of itself constitute a transfer of the copyright, nor shall the assignment of the copyright constitute a transfer of the title to the material object; but nothing in this Act shall be deemed to forbid, prevent, or restrict the transfer of any copy of a copyrighted work the possession of which has been lawfully obtained.

SEC. 42. That copyright secured under this or previous Acts of the United States may be assigned, granted, or mortgaged by an instrument in writing signed by the proprietor of the copyright, or may be bequeathed by will.

SEC. 43. That every assignment of copyright executed in a foreign country shall be acknowledged by the assignor before a consular officer or secretary of legation of the United States authorized by law to administer oaths or perform notarial acts. The certificate of such acknowledgement under the hand and official seal of such consular officer or secretary of legation shall be prima facie evidence of the execution of the instrument.

SEC. 44. That every assignment of copyright shall be recorded in the copyright office within three calendar months after its execution in the United States or within six calendar months after its execution without the limits of the United States, in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, whose assignment has been duly recorded.

SEC. 45. That the register of copyrights shall, upon payment of the prescribed fee, record such assignment, and shall return it to the sender with a certificate of record attached under seal of the copyright office, and upon the payment of the fee prescribed by this Act he shall furnish to any person requesting the same a certified copy thereof under the said seal.

SEC. 46. That when an assignment of the copyright in a specified book or other work has been recorded the

assignee may substitute his name for that of the assignor in the statutory notice of copyright prescribed by this Act.

be substituted in copyright notice.

SEC. 47. That all records and other things relating to copyrights required by law to be preserved shall be kept and preserved in the copyright office, Library of Congress, District of Columbia, and shall be under the control of the register of copyrights, who shall, under the direction and supervision of the Librarian of Congress, perform all the duties relating to the registration of copyrights.

Copyright records.

SEC. 48. That there shall be appointed by the Librarian of Congress a register of copyrights, at a salary of four thousand dollars per annum, and one assistant register of copyrights, at a salary of three thousand dollars per annum, who shall have authority during the absence of the register of copyrights to attach the copyright office seal to all papers issued from the said office and to sign such certificates and other papers as may be necessary. There shall also be appointed by the Librarian such subordinate assistants to the register as may from time to time be authorized by law.

Register of copyrights and assistant register of copyrights.

SEC. 49. That the register of copyrights shall make daily deposits in some bank in the District of Columbia, designated for this purpose by the Secretary of the Treasury as a national depository, of all moneys received to be applied as copyright fees, and shall make weekly deposits with the Secretary of the Treasury, in such manner as the latter shall direct, of all copyright fees actually applied under the provisions of this Act, and annual deposits of sums received which it has not been possible to apply as copyright fees or to return to the remitters, and shall also make monthly reports to the Secretary of the Treasury and to the Librarian of Congress of the applied copyright fees for each calendar month, together with a statement of all remittances received, trust funds on hand, moneys refunded, and unapplied balances.

Register of copyrights to deposit and account for fees.

Shall make monthly report of fees.

SEC. 50. That the register of copyrights shall give bond to the United States in the sum of twenty thousand dollars, in form to be approved by the Solicitor of the Treasury and with sureties satisfactory to the Secretary of the Treasury, for the faithful discharge of his duties.

Bond of register of copyrights.

Annual report of register of copyrights.

SEC. 51. That the register of copyrights shall make an annual report to the Librarian of Congress, to be printed in the annual report on the Library of Congress, of all copyright business for the previous fiscal year, including the number and kind of works which have been deposited in the copyright office during the fiscal year, under the provisions of this Act.

Seal of copyright office.

SEC. 52. That the seal provided under the Act of July eighth, eighteen hundred and seventy, and at present used in the copyright office, shall continue to be the seal thereof, and by it all papers issued from the copyright office requiring authentication shall be authenticated.

Rules for the registration of copyrights.

SEC. 53. That, subject to the approval of the Librarian of Congress, the register of copyrights shall be authorized to make rules and regulations for the registration of claims to copyright as provided by this Act (c).

Record books.

SEC. 54. That the register of copyrights shall provide and keep such record books in the copyright office as are required to carry out the provisions of this Act, and whenever deposit has been made in the copyright office of a copy of any work under the provisions of this Act he shall make entry thereof.

Entry of copyright.

Certificate of registration.

SEC. 55. That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain his name and address, the title of the work upon which copyright is claimed, the date of the deposit of the copies of such work, and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book the certificate shall also state the receipt of the affidavit as provided by section sixteen of this Act, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The register of copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for, which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same, and the said certificate

Certificate for book to state receipt of affidavit.

Certificate may be given to any person.

(c) See the rules and regulations printed p. 309 *post*.

shall be admitted in any court as prima facie evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration.

Receipt for copies deposited.

SEC. 56. That the register of copyrights shall fully index all copyright registrations and assignments and shall print at periodic intervals a catalogue of the titles of articles deposited and registered for copyright, together with suitable indexes, and at stated intervals shall print complete and indexed catalogues for each class of copyright entries, and may thereupon, if expedient, destroy the original manuscript catalogue cards containing the titles included in such printed volumes and representing the entries made during such intervals. The current catalogues of copyright entries and the index volumes herein provided for shall be admitted in any court as prima facie evidence of the facts stated therein as regards any copyright registration.

Index to copyright registrations.

Catalogue of copyright entries.

Catalogue cards.

Catalogues and indexes prima facie evidence.

SEC. 57. That the said printed current catalogues as they are issued shall be promptly distributed by the copyright office to the collectors of customs of the United States and to the postmasters of all exchange offices of receipt of foreign mails, in accordance with revised lists of such collectors of customs and postmasters prepared by the Secretary of the Treasury and the Postmaster-General, and they shall also be furnished to all parties desiring them at a price to be determined by the register of copyrights, not exceeding five dollars per annum for the complete catalogue of copyright entries and not exceeding one dollar per annum for the catalogues issued during the year for any one class of subjects. The consolidated catalogues and indexes shall also be supplied to all persons ordering them at such prices as may be determined to be reasonable, and all subscriptions for the catalogues shall be received by the Superintendent of Public Documents, who shall forward the said publications; and the moneys thus received shall be paid into the Treasury of the United States and accounted for under

Distribution of catalogue of copyright entries.

Subscription price.

Superintendent of documents to receive subscriptions.

such laws and Treasury regulations as shall be in force at the time.

Record books, &c., open to inspection.

Copies may be taken of entries in record books.

Disposition of copyright deposits.

Preservation of copyright deposits.

Disposal of copyright deposits.

SEC. 58. That the record books of the copyright office, together with the indexes to such record books, and all works deposited and retained in the copyright office, shall be open to public inspection ; and copies may be taken of the copyright entries actually made in such record books, subject to such safeguards and regulations as shall be prescribed by the register of copyrights and approved by the Librarian of Congress.

SEC. 59. That of the articles deposited in the copyright office under the provisions of the copyright laws of the United States or of this Act, the Librarian of Congress shall determine what books and other articles shall be transferred to the permanent collections of the Library of Congress, including the law library, and what other books or articles shall be placed in the reserve collections of the Library of Congress for sale or exchange, or be transferred to other governmental libraries in the District of Columbia for use therein.

SEC. 60. That of any articles undisposed of as above provided, together with all titles and correspondence relating thereto, the Librarian of Congress and the register of copyrights jointly shall, at suitable intervals, determine what of these received during any period of years it is desirable or useful to preserve in the permanent files of the copyright office, and, after due notice as hereinafter provided, may within their discretion cause the remaining articles and other things to be destroyed : *Provided*, That there shall be printed in the Catalogue of Copyright Entries from February to November, inclusive, a statement of the years of receipt of such articles and a notice to permit any author, copyright proprietor, or other lawful claimant to claim and remove before the expiration of the month of December of that year anything found which relates to any of his productions deposited or registered for copyright within the period of years stated, not reserved or disposed of as provided for in this Act : *And provided further*, That no manuscript of an unpublished work shall

be destroyed during its term of copyright without specific notice to the copyright proprietor of record, permitting him to claim and remove it. Manuscript copies to be preserved.

SEC. 61. That the register of copyrights shall receive, and the persons to whom the services designated are rendered shall pay, the following fees: For the registration of any work subject to copyright, deposited under the provisions of this Act, one dollar, which sum is to include a certificate of registration under seal: *Provided*, That in the case of photographs the fee shall be fifty cents where a certificate is not demanded. For every additional certificate of registration made, fifty cents. For recording and certifying any instrument of writing for the assignment of copyright, or any such licence specified in section one, subsection (e), or for any copy of such assignment or licence, duly certified, if not over three hundred words in length, one dollar; if more than three hundred and less than one thousand words in length, two dollars; if more than one thousand words in length, one dollar additional for each one thousand words or fraction thereof over three hundred words. For recording the notice of user or acquiescence specified in section one, subsection (e), twenty-five cents for each notice if not over fifty words, and an additional twenty-five cents for each additional one hundred words. For comparing any copy of an assignment with the record of such document in the copyright office and certifying the same under seal, one dollar. For recording the extension or renewal of copyright provided for in sections twenty-three and twenty-four of this Act, fifty cents. For recording the transfer of the proprietorship of copyrighted articles, ten cents for each title of a book or other article, in addition to the fee prescribed for recording the instrument of assignment. For any requested search of copyright office records, indexes, or deposits, fifty cents for each full hour of time consumed in making such search: *Provided*, That only one registration at one fee shall be required in the case of several volumes of the same book deposited at the same time.

Fees.
Fee for registration.
Fee for certificate.
Fee for recording assignment.
Fee for copy of assignment.
Fee for recording notice of user upon mechanical musical instruments.
Fee for comparing copy of assignment.
Fee for recording renewal of copyright.
Fee for recording transfer of proprietorship.
Fee for search.
Only one registration required for work in several volumes.

Defini-
tions:
'Date of
publica-
tion.'

SEC. 62. That in the interpretation and construction of this Act 'the date of publication' shall in the case of a work of which copies are reproduced for sale or distribution be held to be the earliest date when copies of the first authorized edition were placed on sale, sold, or publicly distributed by the proprietor of the copyright or under his authority, and the word 'author' shall include an employer in the case of works made for hire.

Repealing
clause.

SEC. 63. That all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, but nothing in this Act shall affect causes of action for infringement of copyright heretofore committed now pending in courts of the United States, or which may hereafter be instituted; but such causes shall be prosecuted to a conclusion in the manner heretofore provided by law.

Date of
enforce-
ment.

SEC. 64. That this Act shall go into effect on the first day of July, nineteen hundred and nine.

Approved, March 4, 1909.

RULES AND REGULATIONS FOR THE REGISTRATION OF CLAIMS TO COPYRIGHT

[*Bulletin No. 15 issued by the Copyright Office, Washington, 1910.*]

1. Copyright under the act of Congress entitled: 'An ^{Copyright} act to amend and consolidate the acts respecting copyright,' ^{under act.} approved March 4, 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.

2. The persons entitled by the act to copyright protection ^{Persons} for their works are: ^{entitled to}

(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 (a).

(a) Presidential copyright proclamations have been issued securing to the citizens or subjects of the following countries copyright privileges in the United States: Austria, Belgium, Chile, China, Costa Rica, Cuba, Denmark, France, Germany (including mechanical contrivances), Great Britain and her possessions, Guatemala, Honduras, Italy, Japan, Luxemburg, Mexico, Netherlands (Holland) and possessions, Norway, Portugal, Salvador, Spain, and Switzerland.

In the case of Nicaragua, diplomatic relations having been

(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 can not claim it.

(3) The *executors, administrators, or assigns* of the above-mentioned author or proprietor.

REGISTRATION.

Copyright
registra-
tion.

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 can not 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 July 1, 1909, which has not been already copyrighted in the United States (sec. 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, etc., single poems, and the words of a song

temporarily severed, copyright protection for works of Nicaraguan authors can not be secured in the United States until diplomatic relations with that country have been re-established. [*They have now been re-established.*]

when printed and published without music; librettos; descriptions of moving pictures or spectacles; encyclopaedias; 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.

5. The term 'book' can not be applied to—

Blank books, etc., not copyrightable.

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; formulae 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.

6. (b) *Periodicals*.—This term includes newspapers, magazines, reviews, and serial publications appearing oftener than once a year; bulletins or proceedings of societies, etc., 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.

Periodicals.

7. (c) *Lectures, sermons, addresses*, or similar productions, prepared for oral delivery.

Lectures, etc.

8. (d) *Dramatic and dramatico-musical compositions*, such as dramas, comedies, operas, operettas and similar works.

Dramatic compositions, etc.

The designation 'dramatic composition' does not include the following: Dances, ballets, or other choreographic 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.')

Dramati-
co-musical
composi-
tions, etc.

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
composi-
tions.

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 [*sic*], 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,
etc.

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.

13. *(h) Reproductions of works of art.*—This term refers to such reproductions (engravings, woodcuts, etchings, casts, etc.) as contain in themselves an artistic element distinct from that of the original work of art which has been reproduced. Reproductions of works of art.

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, etc. Drawings or plastic works.

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. Photographs.

16. *(k) Prints and pictorial illustrations.*—This term comprises all printed pictures not included in the various other classes enumerated above. Prints and pictorial illustrations.

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. Articles for use not copyrightable.

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 colors, decorative borders, and similar designs, or ornamental letters or forms of type are not included in the designation 'prints and pictorial illustrations'. Trade-marks can not be copyrighted nor registered in the Copyright Office.

HOW TO SECURE REGISTRATION.

17. Copyright registration may be secured for :

- (1) Unpublished works.
- (2) Published works.

Registerable 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 works.

In order to secure copyright in such unpublished works, the following steps are necessary:

Registra-
tion of
unpub-
lished
works.

18. (1) In the case of lectures, sermons, addresses, and dramatic and musical compositions, deposit one type-written 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.

Unpub-
lished
photo-
graphs.

19. (2) In the case of photographs, deposit one copy of a positive print of the work. (Photo-engravings or photo-gravures are not photographs within the meaning of this provision.)

Photo-
graph 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.

Reproduc-
tion of
unpub-
lished
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. Deposit of copies.

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.

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. Definition of 'published work'.

NOTICE OF COPYRIGHT.

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. 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, inclosed within a circle, thus (C), accom- Short form of notice.

panied 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 typesetting 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. Books printed abroad.

28. Books by foreign authors in any language other than English are not required to be printed in the United States.

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 : Applica-
tion for
registra-
tion.

(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 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.

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. 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. Name of
author.

Nation-
ality of
author.

APPLICATION FORMS.

Applica-
tion 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 :

A¹. Book by citizen or resident of the United States.

A¹ for. Book by citizen or resident of a foreign country, but manufactured in the United States.

A². Edition printed in the United States of a book originally published abroad in the English language.

A³. Book by foreign author in foreign language.

A⁴. Ad interim. Book published abroad in the English language.

A⁵. Contribution to a newspaper or periodical.

B¹. Periodical. For registration of single issue.

B². Periodical. General application and deposit.

C. Lecture, sermon, or address.

D¹. Published dramatic composition.

D². Dramatic composition not reproduced for sale.

D³. Dramatico-musical composition.

E¹. Published musical composition.

E². 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.

Section 62 of the copyright act defines the date of publication as ' the earliest date when copies of the first authorized edition *were placed on sale, sold, or publicly distributed* by the proprietor of the copyright or under his authority '.

Date of publication.

33. The affidavit may be made before any officer authorized to administer oaths within the United States who can affix his official seal to the instrument.

Affidavit must be under seal.

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 :

Errors by applicants.

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 a 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).

Periodi-
cals.

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 A⁵).

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. Contributions to periodicals.

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 A⁴).

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 application should state : (1) Name and nationality of the author ; (2) Name and nationality of the copyright claimant ; (3) Exact date of original publication abroad. Ad interim copyright.

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 A²).

MAILING APPLICATIONS AND COPIES.

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. Address of mail matter.

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. Checks can not be accepted unless certified. Coin or currency inclosed in letter 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.

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; \$1 from 300 to 1,000 words; and another dollar for each additional thousand words or fraction thereof over 300 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.

44. Whenever the owner of the copyright in a musical composition uses such music in phonographs himself or permits any one 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 of user of music.

45. Whenever any person in the absence of a licence 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. Notice in absence of licence.

APPLICATION FOR THE RENEWAL OR EXTENSION OF
SUBSISTING COPYRIGHTS.

46. Application 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 : Renewals and extensions.

(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.

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 for composite work.

48. The fee for the recording of the renewal claim is 50 cents. Application for the renewal or extension of copyright can not be recorded in the name of an assignee nor in that of any person not expressly mentioned in section 24 of the act. Renewal fee.

SEARCHES.

49. Upon application to the Register of Copyrights search of the records, indexes, or deposits will be made for such Searches.

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.

Search fee. The statutory fee for searches is 50 cents for each full hour of time consumed in making such search.

April 9,
1910. **BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.**

A PROCLAMATION.

**Copy-
rights.
Preamble.** Whereas it is provided by the Act of Congress of March 4, 1909, entitled ' An Act to amend and consolidate the Acts respecting Copyright ', that the benefits of said Act, excepting the benefits under Section I (e) thereof, as to which special conditions are imposed, shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only upon certain conditions set forth in Section 8 of said Act, to wit :

(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 :

And, whereas, it is also provided by said section that ' 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' :

And, whereas satisfactory evidence has been received that in 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 the law permits and since July 1, 1909, has permitted to citizens of the United States the benefit of copyright on substantially the same basis as to citizens of those countries :

Now, therefore, I, William Howard Taft, President of the United States of America, do declare and proclaim that one of the alternative conditions specified in Section 8 of the Act of March 4, 1909, is now fulfilled, and since July 1, 1909, has continuously been fulfilled, in respect to the citizens or subjects of 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, and that the citizens or subjects of the aforementioned countries are and since July 1, 1909, have been entitled to all of the benefits of the said Act other than the benefits under Section 1 (e) thereof, as to which the inquiry is still pending.

Countries entitled to benefits.

Musical productions not included.

In testimony whereof, I have herewith set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this ninth day of April in the year of our Lord one thousand nine hundred (Seal) and ten, and of the Independence of the United States of America the one hundred and thirty-fourth.

WM. H. TAFT.

By the President :

P. C. KNOX,
Secretary of State.

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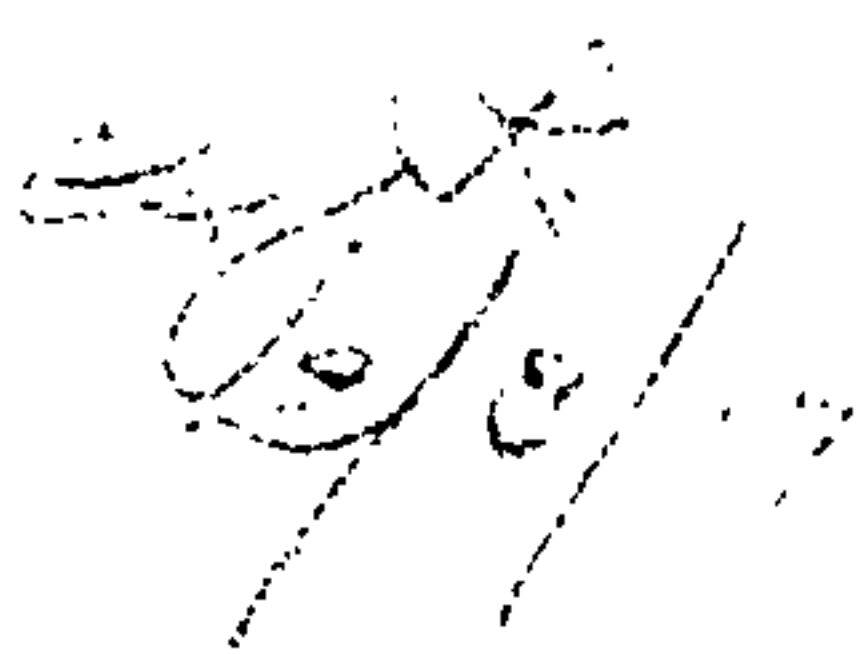
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