

thereof respectively, within one month after demand made thereof in writing as aforesaid, to the said officer of the said Company of Stationers for the time being, which copies the said officer shall and he is hereby required to receive at the hall of the said company, for the use of the library for which such demand shall be made within such twelve months as aforesaid; and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library. 5 & 6 Vict. c. 45.

9. Provided also, and be it enacted, that if any publisher shall be desirous of delivering the copy of such book as shall be demanded on behalf of any of the said libraries at such library, it shall be lawful for him to deliver the same at such library, free of expense, to such librarian or other person authorized to receive the same (who is hereby required in such case to receive and give a receipt in writing for the same), and such delivery shall to all intents and purposes of this Act be held as equivalent to a delivery to the said officer of the Stationers' Company. Publishers may deliver the copies to the libraries, instead of at the Stationers' Company.

10. And be it enacted, that if any publisher of any such book, or of any second or subsequent edition of any such book, shall neglect to deliver the same, pursuant to this Act, he shall for every such default forfeit besides the value of such copy of such book or edition which he ought to have delivered, a sum not exceeding five pounds, to be recovered by the librarian or other officer (properly authorized) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction before two justices of the peace for the county or place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any court of record in the United Kingdom, in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client. Penalty for default in delivering copies for the use of the libraries.

11. And be it enacted, that a book of registry, wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books, and assignments thereof, and in dramatic and musical pieces, whether in manuscript or otherwise, and licenses affecting such copyright, shall be kept at the hall of the Stationers' Company, by the officer appointed by the said company for the purposes of this Act, and shall at all convenient times be open to the inspection of any person, on payment of One shilling for every entry which shall be searched for or inspected in the said book; and that such officer shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, and impressed with the stamp of the said company, to be provided by them for that purpose, and which they are hereby required to provide, to any person requiring the same, on payment to him of the sum of five shillings; and such copies so certified and impressed shall be received in evidence in all courts, and in all summary proceedings, and shall be *primâ facie* proof of the proprietorship or assignment of copyright or license as therein expressed, but subject to be rebutted by other evidence, and in the case of dramatic or musical pieces shall be *primâ facie* proof of the right of representation or performance, subject to be rebutted as aforesaid. Book of registry to be kept at Stationers' Hall.

12. And be it enacted, that if any person shall wilfully make or cause to be made any false entry in the registry book of the Stationers' Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in Making a false entry in the book of registry a misdemeanour.

5 & 6 Vict. c. 45.

Entries of copy-
right may be
made in the book
of registry.

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

Remedy for the
piracy of books
by action on the
case.

In actions for
piracy the defen-
dant to give
notice of the
objections to the
plaintiff's title on

the said book, he shall be guilty of an indictable misdemeanour, and shall be punished accordingly.

13. And be it enacted, that after the passing of this Act it shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book of the Stationers' Company of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this Act annexed, upon payment of the sum of five shillings to the officer of the said company; and that it shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.

14. And be it enacted, that if any person shall deem himself aggrieved by any entry made under colour of this Act in the said book of registry, it shall be lawful for such person to apply by motion to the Court of Queen's Bench, Court of Common Pleas, or Court of Exchequer, in term time, or to apply by summons to any judge of either of such courts in vacation, for an order that such entry may be expunged or varied; and that upon any such application by motion or summons to either of the said courts, or to a judge as aforesaid, such court or judge shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such court or judge shall seem just; and the officer appointed by the Stationers' Company for the purposes of this Act shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

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

16. And be it enacted, that after the passing of this Act, in any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire, any such book,

the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein; and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objection stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication with the title, time, and place specified in such notice.

5 & 6 Vict. c. 45.
which he means to rely.

17. And be it enacted, that after the passing of this Act it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions; and if any person, not being such proprietor or person authorized as aforesaid, shall import or bring, or cause to be imported or brought, for sale or hire, any such printed book, into any part of the British dominions, contrary to the true intent and meaning of this Act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire, any such book, then every such book shall be forfeited, and shall be seized by any officer of customs or excise, and the same shall be destroyed by such officer; and every person so offending, being duly convicted thereof before two justices of the peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or shall cause to be sold, published, or exposed to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this Act, five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book.

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

Books may be seized by officers of customs or excise.

18. And be it enacted, that when any publisher or other person shall, before or at the time of the passing of this Act, have projected, conducted, and carried on, or shall hereafter project, conduct, and carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles,

As to the copyright in encyclopædias, periodicals, and works published in a series, reviews, or magazines.

5 & 6 Vict. c. 45.

or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or other conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this Act; except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act: Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article, or portion separately or singly without the consent previously obtained of the author thereof, or his assigns: Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right; but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition when published in a separate form, according to this Act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

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

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

19. And be it enacted, that the proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, shall be entitled to all the benefits of the registration at Stationers Hall under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work, or other work published in a series of books or parts, the time of the first publication of the first volume, number, or part thereof, or of the first number or volume first published after the passing of this Act in any such work which shall have been published heretofore, and the name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof.

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

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

right, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this Act, to the first publication of any book: Provided always, that in case of any dramatic piece, or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing, or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance.

5 & 6 Vict. c. 45.

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

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

22. And be it enacted, that no assignment of the copyright of any book consisting of or containing a dramatic piece or musical composition shall be holden to convey to the assignee the right of representing or performing such dramatic piece or musical composition, unless an entry in the said registry book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right should pass by such assignment.

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

23. And be it enacted, that all copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry book, and which shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright, in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover.

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

24. And be it enacted, that no proprietor of copyright in any book which shall be first published after the passing of this Act shall maintain any action or suit, at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made, in the book of registry of the Stationers Company, of such book, pursuant to this Act: Provided always, that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid: Provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the Act passed in the third year of the reign of his late Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the book of registry aforesaid.

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

Proviso for dramatic piece.

25. And be it enacted that all copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal pro-

Copyright shall be personal property.

- 5 & 6 Vict. c. 45. perty, and in Scotland shall be deemed to be personal and movable estate.
- General Issue. 26. And be it enacted, that if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become non-suited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath; and that all actions, suits, bills, indictments, or informations for any offence that shall be committed against this Act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect; provided that such limitation of time shall not extend or be construed to extend to any actions, suits, or other proceedings which under the authority of this Act shall or may be brought, sued, or commenced for or in respect of any copies of books to be delivered for the use of the British Museum, or of any one of the four libraries hereinbefore mentioned.
- Limitation of actions; not to extend to actions, &c. in respect of the delivery of books. 27. Provided always, and be it enacted, that nothing in this Act contained shall affect or alter the rights of the two universities of Oxford and Cambridge, the colleges or houses of learning within the same, the four Universities in Scotland, the College of the Holy and Undivided Trinity of Queen Elizabeth, near Dublin, and the several colleges of Eton, Westminster, and Winchester, in any copyrights heretofore and now vested or hereafter to be vested in such universities and colleges respectively, anything to the contrary herein contained notwithstanding.
- Saving the rights of the Universities, and the Colleges of Eton, Westminster, and Winchester. 28. Provided also, and be it enacted, that nothing in this Act contained shall affect, alter, or vary any right subsisting at the time of passing of this Act, except as herein expressly enacted; and all contracts, agreements, and obligations made and entered into before the passing of this Act, and all remedies relating thereto, shall remain in full force, anything herein contained to the contrary notwithstanding.
- Saving all subsisting rights, contracts, and engagements. 29. And be it enacted, that this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions.
- Extent of the Act. 30. Repealed by Statute Law Revision (2) Act, 1874.

SCHEDULE TO WHICH THE PRECEDING ACT REFERS.

No. 1.

FORM OF MINUTE OF CONSENT TO BE ENTERED AT STATIONERS' HALL.

We the undersigned, *A. B.* of _____ the author of a certain book, intituled *Y. Z.* [or the personal representative of the author *as the case may be*], and *C. D.* of _____ do hereby certify, that we have consented and agreed to accept the benefits of the Act passed in the fifth year of the reign of Her Majesty Queen Victoria, cap. _____, for the extension of the term of copyright therein provided by the said Act, and hereby declare that such extended term of copyright therein is the property of the said *A. B.* or *C. D.*

Dated this _____ day of _____ 18 .

(Signed) *A. B.*
C. D.

Witness
To the Registering Officer appointed by the Stationers' Company.

No. 2.

FORM OF REQUIRING ENTRY OF PROPRIETORSHIP.

I *A.B.* of do hereby certify, that I am the proprietor of the copyright of a book, intituled *Y.Z.*, and I hereby require you to make entry in the register book of the Stationers' Company of my proprietorship of such copyright, according to the particulars underwritten.

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

Dated this day of 18 . (Signed) *A.B.*
 Witness, *C.D.*

No. 3.

ORIGINAL ENTRY OF PROPRIETORSHIP OF COPYRIGHT OF A BOOK.

Time of making the Entry.	Title of Book.	Name of the Publisher, and Place of Publication.	Name and Place of abode of the Proprietor of the Copyright.	Date of First Publication.
	<i>Y.Z.</i>	<i>A.B.</i>	<i>C.D.</i>	

No. 4.

FORM OF CONCURRENCE OF THE PARTY, ASSIGNING IN ANY BOOK PREVIOUSLY REGISTERED.

I *A.B.* of being the assigner of the copyright of the book hereunder described, do hereby require you to make entry of the assignment of the copyright therein.

Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
<i>Y.Z.</i>	<i>A.B.</i>	<i>C.D.</i>

Dated this day of 18 . (Signed) *A.B.*

No. 5.

FORM OF ENTRY OF ASSIGNMENT OF COPYRIGHT IN ANY BOOK PREVIOUSLY REGISTERED.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
	[Set out the title of the book, and refer to the page of the registry book in which the original entry of the copyright thereof is made.]	<i>A.B.</i>	<i>C.D.</i>

5 & 6 VICT. C. 100.

5 & 6 VICT. CAP. 100.

Copyright of Designs, repealed by Patents, Designs and Trade
Marks Act, 1883.

6 & 7 VICT. CAP. 65.

6 & 7 VICT. C. 65.

An Act to amend the Laws relating to the Copyright of Designs.
[22nd August, 1843.]

Repealed by Patents, Designs, and Trade Marks Act, 1883.

6 & 7 VICT. CAP. 96.

6 & 7 VICT. C. 96.

An Act to amend the Law respecting defamatory Words and Libel.
[24th August, 1843.]

For the better protection of private character, and for more effectually securing the liberty of the press, and for better preventing abuses in exercising the said liberty: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that in any action for defamation it shall be lawful for the defendant (after notice in writing of his intention so to do, duly given to the plaintiff at the time of filing or delivering the plea in such action) to give in evidence, in mitigation of damages, that he made or offered an apology to the plaintiff for such defamation before the commencement of the action, or as soon afterwards as he had an opportunity of doing so, in case the action shall have been commenced before there was an opportunity of making or offering such apology.

Offer of an apology admissible in evidence in mitigation of damages.

In an action against a newspaper for libel, the defendant may plead that it was inserted without malice and without neglect, and may pay money into court as amends.

2. And be it enacted, that in an action for a libel contained in any public newspaper or other periodical publication it shall be competent to the defendant to plead: that such libel was inserted in such newspaper or other periodical publication without actual malice, and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in such newspaper or other periodical publication a full apology for the said libel, or, if the newspaper or periodical publication in which the said libel appeared should be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper or periodical publication to be selected by the plaintiff in such action; and that every such defendant shall upon filing such plea be at liberty to pay into court a sum of money by way of amends for the injury sustained by the publication of such libel, and such payment into court shall be of the same effect and be available in the same manner and to the same extent, and be subject to the same rules and regulations as to payment of costs and the form of pleading, except so far as regards the pleading of the additional facts hereinbefore required to be pleaded by such defendant, as if actions for libel had not been excepted from the personal actions in which it is lawful to pay money into court under an Act passed in the session of Parliament held in the fourth year of his late Majesty, intituled "An Act for the further Amendment of the

3 & 4 Will. 4,
c. 42.

Law and the better Advancement of Justice;" and that to such plea to such action it shall be competent to the plaintiff to reply generally, denying the whole of such plea. 6 & 7 VICT. c. 96.

3. And be it enacted, that if any person shall publish or threaten to publish any libel upon any other person, or shall directly or indirectly threaten to print or publish, or shall directly or indirectly propose to abstain from printing or publishing, or shall directly or indirectly offer to prevent the printing or publishing, of any matter or thing touching any other person, with intent to extort any money or security for money, or any valuable thing from such or any other person, or with intent to induce any person to confer or procure for any person any appointment or office of profit or trust, every such offender, on being convicted thereof, shall be liable to be imprisoned, with or without hard labour, in the common gaol or house of correction, for any term not exceeding three years: provided always, that nothing herein contained shall in any manner alter or affect any law now in force in respect of the sending or delivery of threatening letters or writings. Publishing or threatening to publish a libel, or proposing to abstain from publishing anything, with intent to extort money, punishable by imprisonment and hard labour.

4. And be it enacted, that if any person shall maliciously publish any defamatory libel knowing the same to be false, every such person, being convicted thereof, shall be liable to be imprisoned in the common gaol or house of correction for any term not exceeding two years, and to pay such fine as the court shall award. False defamatory libel punishable by imprisonment and fine:

5. And be it enacted, that if any person shall maliciously publish any defamatory libel, every such person, being convicted thereof, shall be liable to fine or imprisonment or both, as the court may award, such imprisonment not to exceed the term of one year. Malicious defamatory libel, by imprisonment or fine.

6. And be it enacted, that on the trial of any indictment or information for a defamatory libel, the defendant having pleaded such plea as hereinafter mentioned, the truth of the matters charged may be inquired into, but shall not amount to a defence, unless it was for the public benefit that the said matters charged should be published; and that to entitle the defendant to give evidence of the truth of such matters charged as a defence to such indictment or information it shall be necessary for the defendant, in pleading to the said indictment or information, to allege the truth of the said matters charged in the manner now required in pleading a justification to an action for defamation, and further to allege that it was for the public benefit that the said matters charged should be published, and the particular fact or facts by reason whereof it was for the public benefit that the said matters charged should be published, to which plea the prosecutor shall be at liberty to reply generally, denying the whole thereof; and that if after such plea the defendant shall be convicted on such indictment or information it shall be competent to the court, in pronouncing sentence to consider whether the guilt of the defendant is aggravated or mitigated by the said plea, and by the evidence given to prove or to disprove the same: Provided always, that the truth of the matters charged in the alleged libel complained of by such indictment or information shall in no case be inquired into without such plea of justification: Provided also, that, in addition to such plea, it shall be competent to the defendant to plead a plea of not guilty: Provided also, that nothing in this Act contained shall take away or prejudice any defence under the plea of not guilty which it is now competent to the defendant to make under such plea to any action or indictment or information for defamatory words or libel. Proceedings upon the trial of an indictment or information for a defamatory libel.

7. And be it enacted, that whensoever, upon the trial of any indict-

6 & 7 Vict. c. 96.

Evidence to
rebut *prima
facie* case of
publication by
an agent.

On prosecution
for private libel
defendant
entitled to costs
on acquittal.

Interpretation of
Act.

Commencement
and extent of
Act.

ment or information for the publication of a libel, under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent, or knowledge, and that the said publication did not arise from want of due care or caution on his part.

8. And be it enacted, that in the case of any indictment or information by a private prosecutor for the publication of any defamatory libel, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the said defendant by reason of such indictment or information; and that upon a special plea of justification to such indictment or information, if the issue be found for the prosecutor, he shall be entitled to recover from the defendant the costs sustained by the prosecutor by reason of such plea, such costs so to be recovered by the defendant or prosecutor respectively to be taxed by the proper officer of the court before which the said indictment or information is tried.

9. And be it enacted, that wherever throughout this Act, in describing the plaintiff or the defendant, or the party affected or intended to be affected by the offence, words are used importing the singular number or the masculine gender only, yet they shall be understood to include several persons as well as one person, and females as well as males, unless when the nature of the provision or the context of the Act shall exclude such construction.

10. [And be it enacted, that this Act shall take effect from the first day of November next; and that] nothing in this Act contained shall extend to Scotland.

The part within brackets is repealed by the Statute Law Revision (2) Act, 1874.

7 VICT. CAP. 12.

7 VICT. c. 12.

An Act to amend the Law relating to International Copyright.
[10th May, 1844.]

1. Repealed by the Statute Law Revision (2) Act, 1874.

2. And be it enacted, that it shall be lawful for Her Majesty, by any order of Her Majesty in Council, to direct that, as respects all or any particular class or classes of the following works (namely), books, prints, articles of sculpture, and other works of art, to be defined in such order, which shall after a future time, to be specified in such order, be first published in any foreign country to be named in such order, the authors, inventors, designers, engravers, and makers thereof respectively, their respective executors, administrators, and assigns, shall have the privilege of copyright therein during such period or respective periods as shall be defined in such order, not exceeding, however, as to any of the above-mentioned works, the term of copyright which authors, inventors, designers, engravers, and makers of the like works respectively first published in the United Kingdom may be then entitled to under the hereinbefore recited Acts respectively, or under any Acts which may hereafter be passed in that behalf.

3. And be it enacted, that in case any such order shall apply to books, all and singular the enactments of the said Copyright Amendment Act, and of any other Act for the time being in force with

Her Majesty,
by Order in
Council, may
direct that
authors, &c., of
works first
published in
foreign countries
shall have copy-
right therein
within Her
Majesty's domi-
nions.

If the order
applies to books
the copyright
law as to books

relation to the copyright in books first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained, apply to and be in force in respect of the books to which such order shall extend, and which shall have been registered as hereinafter is provided, in such and the same manner as if such books were first published in the United Kingdom, save and except such of the said enactments, or such parts thereof, as shall be excepted in such order, and save and except such of the said enactments as relate to the delivery of copies of books at the British Museum, and to or for the use of the other libraries mentioned in the said Copyright Amendment Act.

7 VICT. C. 12.
first published in this country shall apply to the books to which the order relates, with certain exceptions.

4. And be it enacted, that in case any such order shall apply to prints, articles of sculpture, or to any such other works of art as aforesaid, all and singular the enactments of the said Engraving Copyright Acts and the said Sculpture Copyright Acts, or of any other Act for the time being in force with relation to the copyright in prints or articles of sculpture first published in this country, and of any Act for the time being in force with relation to the copyright in any similar works of art first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained respectively, apply to and be in force in respect of the prints, articles of sculpture, and other works of art to which such order shall extend, and which shall have been registered as hereinafter is provided, in such and the same manner as if such articles and other works of art were first published in the United Kingdom, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

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

5. And be it enacted, that it shall be lawful for Her Majesty, by any order of Her Majesty in Council, to direct that the authors of dramatic pieces and musical compositions which shall after a future time, to be specified in such order, be first publicly represented or performed in any foreign country to be named in such order, shall have the sole liberty of representing or performing in any part of the British dominions such dramatic pieces or musical compositions during such period as shall be defined in such order, not exceeding the period during which authors of dramatic pieces and musical compositions first publicly represented or performed in the United Kingdom may for the time be entitled by law to the sole liberty of representing and performing the same; and from and after the time so specified in any such last-mentioned order the enactments of the said dramatic Literary Property Act, and of the said Copyright Amendment Act, and of any other Act for the time being in force with relation to the liberty of publicly representing and performing dramatic pieces or musical compositions, shall, subject to such limitation as to the duration of the right conferred by any such order as shall be therein contained, apply to and be in force in respect of the dramatic pieces and musical compositions to which such order shall extend, and which shall have been registered as hereinafter is provided, in such and the same manner as if such dramatic pieces and musical compositions had been first publicly represented and performed in the British dominions, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

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

6. Provided always, and be it enacted, that no author of any book, dramatic piece or musical composition, or his executors, administra-

Particulars to be observed as to Registry and to

7 Vict. c. 12.
 delivery of
 copies.

tors, or assigns, and no inventor, designer, or engraver of any print, or maker of any article of sculpture, or other work of art, his executors, administrators, or assigns, shall be entitled to the benefit of this Act, or of any Order in Council to be issued in pursuance thereof, unless, within a time or times to be in that behalf prescribed in each such Order in Council, such book, dramatic piece, musical composition, print, article of sculpture, or other work of art, shall have been so registered, and such copy thereof shall have been so delivered as hereinafter is mentioned; (that is to say,) as regards such book, and also such dramatic piece or musical composition (in the event of the same having been printed), the title to the copy thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the copyright thereof, the time and place of the first publication, representation, or performance thereof, as the case may be, in the foreign country named in the Order in Council under which the benefit of this Act shall be claimed, shall be entered in the register book of the Company of Stationers in London, and one printed copy of the whole of such book, and of such dramatic piece or musical composition, in the event of the same having been printed, and of every volume thereof, upon the best paper upon which the largest number or impression of the book, dramatic piece, or musical composition shall have been printed for sale, together with all maps and prints relating thereto, shall be delivered to the officer of the Company of Stationers at the Hall of the said Company; and as regards dramatic pieces and musical compositions in manuscript, the title to the same, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the right of representing or performing the same, and the time and place of the first representation or performance thereof in the country named in the Order in Council under which the benefit of the Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London; and as regards prints, the title thereof, the name and place of abode of the inventor, designer, or engraver thereof, the name of the proprietor of the copyright therein, and the time and place of the first publication thereof in the foreign country named in the Order in Council under which the benefits of the Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London, and a copy of such print upon the best paper upon which the largest number or impressions of the print shall have been printed for sale, shall be delivered to the officer of the Company of Stationers at the hall of the said company; and as regards any such article of sculpture, or any such other work of art as aforesaid, a descriptive title thereof, the name and place of abode of the maker thereof, the name of the proprietor of the copyright therein, and the time and place of its first publication in the foreign country named in the Order in Council under which the benefit of this Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London; and the officer of the said Company of Stationers receiving such copies so to be delivered as aforesaid shall give a receipt in writing for the same, and such delivery shall to all intents and purposes be a sufficient delivery under the provisions of this Act.

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

7. Provided always, and be it enacted, that if a book be published anonymously it shall be sufficient to insert in the entry thereof in such register book the name and place of abode of the first publisher thereof, instead of the name and place of abode of the author thereof, together with a declaration that such entry is made either on behalf

of the author or on behalf of such first publisher, as the case may require. 7 Vict. c. 12.

8. And be it enacted, that the several enactments in the said Copyright Amendment Act contained with relation to keeping the said register book, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the applications to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the books, dramatic pieces, musical compositions, prints, articles of sculpture, and other works of art, to which any Order in Council issued in pursuance of this Act shall extend, and to the entries and assignments of copyright and proprietorship therein, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said Copyright Amendment Act may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only.

The provisions of the Copyright Amendment Act as regards entries in the register book of the Company of Stationers, &c., to apply to entries under this Act.

9. And be it enacted, that every entry made in pursuance of this Act of a first publication shall be *prima facie* proof of a rightful first publication; but if there be a wrongful first publication, and any party have availed himself thereof to obtain an entry of a spurious work, no order for expunging or varying such entry shall be made unless it be proved to the satisfaction of the court or of the judge taking cognisance of the application for expunging or varying such entry, first, with respect to a wrongful publication in a country to which the author or first publisher does not belong, and in regard to which there does not subsist with this country any treaty of international copyright, that the party making the application was the author or first publisher, as the case requires; second, with respect to a wrongful first publication either in the country where a rightful first publication has taken place, or in regard to which there subsists with this country a treaty of international copyright, that a court of competent jurisdiction in any such country where such wrongful first publication has taken place has given judgment in favour of the right of the party claiming to be the author or first publisher.

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

10. And be it enacted, that all copies of books wherein there shall be any subsisting copyright under or by virtue of this Act, or of any Order in Council made in pursuance thereof, printed or reprinted in any foreign country except that in which such books were first published, shall be and the same are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright thereof, or his agent authorised in writing, and if imported contrary to this prohibition, the same and the importers thereof shall be subject to the enactments in force relating to goods prohibited to be imported by any Act relating to the customs; and as respects any such copies so prohibited to be imported, and also as respects any copies unlawfully printed in any place whatsoever of any books wherein there shall be any such subsisting copyright as aforesaid, any person who shall in any part of the British dominions import such prohibited or unlawfully printed copies, or who, knowing such copies to be so unlawfully imported or unlawfully printed, shall sell, publish, or expose to sale or hire, or shall cause to be sold, published, or exposed

Copies of books wherein copyright is subsisting under this Act printed in foreign countries other than those wherein the book was first published prohibited to be imported.

7 Vict. c. 12.

to sale or hire, or have in his possession for sale or hire, any such copies so unlawfully imported or unlawfully printed, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought and prosecuted in the same courts and in the same manner, and with the like restrictions upon the proceedings of the defendant, as are respectively prescribed in the said Copyright Amendment Act with relation to actions thereby authorized to be brought by proprietors of copyright against persons importing or selling books unlawfully printed in the British dominions.

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

11. And be it enacted, that the said officer of the said Company of Stationers shall receive at the hall of the said company every book, volume, or print so to be delivered as aforesaid, and within one calendar month after receiving such book, volume, or print, shall deposit the same in the library of the British Museum.

Second or subsequent editions.

12. Provided always, and be it enacted, that it shall not be requisite to deliver to the said officer of the said Stationers' Company any printed copy of the second or of any subsequent edition of any book or books so delivered as aforesaid, unless the same shall contain additions or alterations.

Orders in Council may specify different periods for different foreign countries and for different classes of works.

13. And be it enacted that the respective terms to be specified by such Orders in Council respectively for the continuance of the privilege to be granted in respect of works to be first published in foreign countries may be different for works first published in different foreign countries and for different classes of such works; and that the times to be prescribed for the entries to be made in the register book of the Stationers Company, and for the deliveries of the books and other articles to the said officer of the Stationers' Company, as hereinbefore is mentioned, may be different for different foreign countries and for different classes of books or other articles.

No Order in Council to have any effect unless it states that reciprocal protection is secured.

14. Provided always, and be it enacted, that no such Order in Council shall have any effect unless it shall be therein stated, as the ground for issuing the same, that due protection has been secured by the foreign power so named in such Order in Council for the benefit of parties interested in works first published in the dominions of Her Majesty similar to those comprised in such order.

Orders in Council to be published in Gazette, and to have same effect as this Act.

15. And be it enacted, that every Order in Council to be made under the authority of this Act shall as soon as may be after the making thereof by Her Majesty in council be published in the *London Gazette*, and from the time of such publication shall have the same effect as if every part thereof were included in this Act.

Orders in Council to be laid before Parliament.

16. And be it enacted, that a copy of every Order of Her Majesty in Council made under this Act shall be laid before both Houses of Parliament within six weeks after issuing the same, if Parliament be then sitting, and if not, then within six weeks after the commencement of the then next session of Parliament.

Orders in Council may be revoked.

17. And be it enacted, that it shall be lawful for Her Majesty by an Order in Council from time to time to revoke or alter any Order in Council previously made under the authority of this Act, but nevertheless without prejudice to any rights acquired previously to such revocation or alteration.

Translations.

18. Provided always, and be it enacted, that nothing in this Act contained shall be construed to prevent the printing, publication, or sale of any translation of any book the author whereof and his assigns may be entitled to the benefit of this Act.

This section is repealed so far as is inconsistent with the provisions of 15 Vict. c. 12. (See sec. 1 of the latter Act.)

19. And be it enacted, that neither the author of any book, nor the

author or composer of any dramatic piece or musical composition, nor the inventor, designer, or engraver of any print, nor the maker of any article of sculpture, or of such other work of art as aforesaid, which shall after the passing of this Act be first published out of Her Majesty's dominions, shall have any copyright therein respectively, or any exclusive right to the public representation or performance thereof, otherwise than such (if any) as he may become entitled to under this Act.

7 VICT. C. 12.
 Authors of works first published in foreign countries not entitled to copyright except under this Act.

20. And be it enacted, that in the construction of this Act the word "book" shall be construed to include "volume," "pamphlet," "sheet of letter-press," "sheet of music," "map," "chart," or "plan:" and the expression "articles of sculpture" shall mean all such sculptures, models, copies, and casts as are described in the said Sculpture Copyright Acts, and in respect of which the privileges of copyright are thereby conferred; and the words "printing" and "re-printing" shall include engraving and any other method of multiplying copies; and the expression "Her Majesty" shall include the heirs and successors of Her Majesty; and the expression "Order of Her Majesty in Council," "Order in Council," and "Order," shall respectively mean Order of Her Majesty acting by and with the advice of Her Majesty's most honourable Privy Council; and the expression "Officer of the Company of Stationers" shall mean the officer appointed by the said Company of Stationers for the purposes of the said Copyright Amendment Act; and in describing any persons or things any word importing the plural number shall mean also one person or thing, and any word importing the singular number shall include several persons or things, and any word importing the masculine shall include also the feminine gender; unless in any of such cases there shall be something in the subject or context repugnant to such construction.

Interpretation clause.

21. Repealed by Statute Law Revision (2) Act, 1874.

8 & 9 VICT. CAP. 75.

An Act to amend an Act passed in the Session of Parliament held in the Sixth and Seventh Years of the Reign of Her present Majesty, intituled "An Act to amend the Law respecting defamatory Words and Libel."—[31st July, 1845.]

8 & 9 VICT. C. 75.

WHEREAS by an Act passed in the session of Parliament held in the sixth and seventh years of the reign of Her present Majesty, intituled "An Act to amend the Law respecting defamatory Words and Libel," it is, amongst other things, enacted and provided, that the defendant in an action for a libel contained in any public newspaper or other periodical publication may plead certain matters therein mentioned, and may upon filing such plea be at liberty to pay into court a sum of money by way of amends for the injury sustained by the publication of such libel; and it is thereby further enacted, that such payment into court shall be of the same effect, and be available in the same manner and to the same extent, and be subject to the same rules and regulations as to payment of costs and the form of pleading, except so far as regards the pleading of the additional facts thereinbefore required to be pleaded by such defendant, as if actions for libel had not been excepted from the personal actions in which it is lawful to pay money into court, under an Act passed in the session of Parliament held in the fourth year of his late Majesty, intituled "An Act for the further Amendment of the Law, and the better Advancement of Justice:" And whereas the said Act of the fourth year of the reign of his

6 & 7 VICT. C. 96.

3 & 4 WILL. 4, C. 42.

8 & 9 Vict. c. 75. into Majesty relates only to proceedings in the superior courts in England, but by an Act passed in the session of Parliament held in the third and fourth years of the reign of Her present Majesty, intituled "An Act
 3 & 4 Vict. c. 105. for abolishing Arrest on Mesne Process in civil Actions, except in certain Cases, for extending the Remedies of Creditors against the Property of Debtors, and for the further Advancement of Justice, in Ireland," a like provision is made for payment of money into court in all personal actions pending in any of the superior courts in Ireland as is contained in the said Act of the fourth year of the reign of his late Majesty in regard to actions pending in the superior courts in England, with a like exception of actions for libel; and it is expedient to prevent any doubts as to the application of the said recited Act of the sixth and seventh years of the reign of Her present Majesty to actions pending in the superior courts in Ireland, which may be created by reason of the omission of a reference in the last-mentioned Act to the said Act of the third and fourth years of the reign of Her present Majesty: Be it therefore enacted and declared by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that when in any action pending in the superior courts in Ireland for a libel contained in any public newspaper or other periodical publication the defendant shall plead the matters allowed to be pleaded by the said first-mentioned Act, and shall on filing such plea pay money into court as provided by such Act, such payment into court shall be of the same effect, and be available in the same manner and to the same extent, and be subject to the same rules and regulations now in force or hereafter to be made as to payment of costs and the form of pleading, except so far as regards the pleading of the additional facts so required to be pleaded by such defendant, as if actions for libel had not been excepted from the personal actions in which it is lawful to pay money into court under the said recited Act of the third and fourth years of the reign of Her present Majesty.

In cases of action for libel in Ireland, where defendant shall plead matters allowed by 3 & 4 Will. 4, c. 42, and pay money into court, such payment to be of same effect as if required by said Act.

Defendant not to file such plea without paying money into court by way of amends.

2. And be it declared and enacted, that it shall not be competent to any defendant in such action, whether in England or in Ireland, to file any such plea, without at the same time making a payment of money into court by way of amends [as provided by said Act], but every such plea so filed without payment of money into court shall be deemed a nullity, and may be treated as such by the plaintiff in the action.

The words within brackets are repealed, as to the Supreme Court of Judicature in England, by 42 & 43 Vict. c. 59.

10 & 11 VICT. CAP. 95.

10 & 11 VICT.
 c. 95. *An Act to amend the Law relating to the Protection in the Colonies of works entitled to Copyright in the United Kingdom.*—[22nd July, 1847.]

5 & 6 Vict. c. 45. WHEREAS by an Act passed in the session of Parliament holden in the fifth and sixth years of Her present Majesty, intituled "An Act to amend the Law of Copyright," it is amongst other things enacted, that it shall not be lawful for any person not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed or published in any part of the United Kingdom

wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions: And whereas by an Act passed in the session of Parliament holden in the eighth and ninth years of the reign of Her present Majesty, intituled "An Act to regulate the Trade of the British Possessions abroad," books wherein the copyright is subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, are absolutely prohibited to be imported into the British possessions abroad: And whereas by the said last-recited Act it is enacted, that all laws, byelaws, usages, or customs in practice, or endeavoured or pretended to be in force or practice in any of the British possessions in America, which are in anywise repugnant to the said Act or to any Act of Parliament made or to be made in the United Kingdom, so far as such Act shall relate to and mention the said possessions, are and shall be null and void to all intents and purposes whatsoever: Now be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that in case the Legislature or proper legislative authorities in any British possession shall be disposed to make due provision for securing or protecting the rights of British authors in such possessions, and shall pass an Act or make an ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to Her Majesty, and in case Her Majesty shall be of opinion that such Act or Ordinance is sufficient for the purpose of securing to British authors reasonable protection within such possession, it shall be lawful for Her Majesty, if she think fit so to do, to express her royal approval of such Act or ordinance, and thereupon to issue an Order in Council declaring that so long as the provisions of such Act or ordinance continue in force within such colony the prohibitions contained in the aforesaid Acts, and hereinbefore recited, and any prohibitions contained in the said Acts or in any other Acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards such colony; and thereupon such Act or ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council, anything in the said last-recited Act or in any other Act to the contrary notwithstanding.

10 & 11 VICT.
c. 75.

8 & 9 VICT. c. 93.

Her Majesty may suspend in certain cases the prohibitions against the admission of pirated books into the colonies in certain cases.

2. And be it enacted, that every such Order in Council shall, within one week after the issuing thereof, be published in the *London Gazette*, and that a copy thereof, and of every such Colonial Act or ordinance so approved as aforesaid by Her Majesty, shall be laid before both Houses of Parliament within six weeks after the issuing of such order, if Parliament be then sitting, or if Parliament be not then sitting, then within six weeks after the opening of the next Session of Parliament.

Orders in council to be published in Gazette. Orders in Council and the Colonial Acts or ordinances to be laid before Parliament.

13 & 14 VICT. C.A.P. 104.

An Act to extend and amend the Acts relating to the Copyright of Designs.—[14th August, 1850.]

13 & 14 VICT.
c. 104.

Repealed by Patents, Designs and Trade Marks Act, 1883.

15 VICT. CAP. 12.

15 VICT. c. 12. *An Act to enable Her Majesty to carry into effect a Convention with France on the Subject of Copyright; to extend and explain the International Copyright Acts; and to explain the Acts relating to Copyright in Engravings.*—[28th May, 1852.]

7 & 8 VICT. c. 12. WHEREAS an Act was passed in the seventh year of the reign of Her present Majesty, intituled "An Act to amend the Law relating to International Copyright," hereinafter called "The International Copyright Act:" and whereas a convention has lately been concluded between Her Majesty and the French Republic, for extending in each country the enjoyment of copyright in works of literature and the fine arts first published in the other, and for certain reductions of duties now levied on books, prints, and musical works published in France: and whereas certain of the stipulations on the part of Her Majesty contained in the said treaty require the authority of Parliament: and whereas it is expedient that such authority should be given, and that Her Majesty should be enabled to make similar stipulations in any treaty on the subject of copyright which may hereafter be concluded with any foreign power: 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:

Translations.

Partial repeal of 7 & 8 Vict. c. 12, s. 18.

Her Majesty may by Order in Council, direct, that the authors of books published in foreign countries may for a limited time prevent unauthorized translations.

Thereupon the law of copyright shall extend to prevent such translations.

Her Majesty may by Order in Council direct that the authors of dramatic works represented in foreign countries may

1. The eighteenth section of the said Act of the seventh year of Her present Majesty, chapter twelve, shall be repealed, so far as the same is inconsistent with the provisions hereinafter contained.

2. Her Majesty may, by Order in Council, direct that the authors of books which are, after a future time, to be specified in such order, published in any foreign country, to be named in such order, their executors, administrators, and assigns, shall, subject to the provisions hereinafter contained or referred to, be empowered to prevent the publication in the British Dominions of any translations of such books not authorized by them, for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such books hereinafter mentioned are respectively first published, and in the case of books published in parts, not extending as to each part beyond the expiration of five years from the time at which the authorized translation of such part is first published.

3. Subject to any provisions or qualifications contained in such order, and to the provisions herein contained or referred to, the laws and enactments for the time being in force for the purpose of preventing the infringement of copyright in books published in the British dominions shall be applied for the purpose of preventing the publication of translations of the books to which such order extends which are not sanctioned by the authors of such books, except only such parts of the said enactments as relate to the delivery of copies of books for the use of the British Museum, and for the use of the other libraries therein referred to.

4. Her Majesty may, by Order in Council, direct that authors of dramatic pieces which are, after a future time, to be specified in such order, first publicly represented in any foreign country, to be named in such order, their executors, administrators, and assigns, shall, subject to the provisions hereinafter mentioned or referred to, be empowered to prevent the representation in the British dominions of

any translation of such dramatic pieces not authorized by them, for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such dramatic pieces hereinafter mentioned are first published or publicly represented.

15 Vict. c. 12.
for a limited time prevent unauthorized translations.

5. Subject to any provisions or qualifications contained in such last-mentioned order, and to the provisions hereinafter contained or referred to, the laws and enactments for the time being in force for ensuring to the author of any dramatic piece first publicly represented in the British dominions the sole liberty of representing the same shall be applied for the purpose of preventing the representation of any translations of the dramatic pieces to which such last-mentioned order extends, which are not sanctioned by the authors thereof.

Thereupon the law for protecting the representation of such pieces shall extend to prevent unauthorized translations.

6. Nothing herein contained shall be so construed as to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country.

Adaptations, &c. of dramatic pieces to the English stage not prevented.

7. Notwithstanding anything in the said International Copyright Act or in this Act contained, any article of political discussion which has been published in any newspaper or periodical in a foreign country may, if the source from which the same is taken be acknowledged, be republished or translated in any newspaper or periodical in this country; and any article relating to any other subject which has been so published as aforesaid may, if the source from which the same is taken be acknowledged, be republished or translated in like manner, unless the author has signified his intention of preserving the copyright therein, and the right of translating the same, in some conspicuous part of the newspaper or periodical in which the same was first published, in which case the same shall, without the formalities required by the next following section, receive the same protection as is by virtue of the International Copyright Act or this Act extended to books.

All articles in newspapers, &c., relating to politics may be republished or translated; and also all similar articles on any subject, unless the author has notified his intention to reserve the right.

8. No author, or his executors, administrators, or assigns, shall be entitled to the benefit of this Act, or of any Order in Council issued in pursuance thereof, in respect of the translation of any book or dramatic piece, if the following requisitions are not complied with: (that is to say),

No author to be entitled to benefit to this Act without complying with the requisitions herein specified.

1. The original work from which the translation is to be made must be registered and a copy thereof deposited in the United Kingdom in the manner required for original works by the said International Copyright Act, within three calendar months of its first publication in the foreign country.
2. The author must notify on the title page of the original work, or if it is published in parts, on the title page of the first part, or if there is no title page, on some conspicuous part of the work, that it is his intention to reserve the right of translating it:
3. The translation sanctioned by the author, or a part thereof, must be published either in the country mentioned in the Order in Council by virtue of which it is to be protected or in the British dominions, not later than one year after the registration and deposit in the United Kingdom of the original work, and the whole of such translation must be published within three years of such registration and deposit:
4. Such translation must be registered, and a copy thereof deposited in the United Kingdom within a time to be mentioned in that behalf in the order by which it is protected, and in the manner provided by the said International Copyright Act for the registration and deposit of original works:

15 Vict. c. 12.

5. In the case of books published in parts, each part of the original work must be registered and deposited in this country in the manner required by the said International Copyright within three months after the first publication thereof in the foreign country :
6. In the case of dramatic pieces the translation sanctioned by the author must be published within three calendar months of the registration of the original work :
7. The above requisition shall apply to articles originally published in newspapers or periodicals if the same be afterwards published in a separate form, but shall not apply to such articles as originally published.

Pirated copies prohibited to be imported, except with consent of proprietor ;

Provisions of 5 & 6 Vict. c. 45, as to forfeiture, &c., of pirated works, &c. to extend to works prohibited to be imported under this Act.

Foregoing provisions and 7 & 8 Vict. c. 12, to be read as one Act.

French translations to be protected as hereinbefore mentioned, without further Order in Council.

9. All copies of any works of literature or art wherein there is any subsisting copyright by virtue of the International Copyright Act and this Act, or of any Order in Council made in pursuance of such Acts or either of them, and which are printed, reprinted, or made in any foreign country except that in which such work shall be first published, and all unauthorized translations of any book or dramatic piece the publication or public representation in the British dominions of translations whereof not authorized as in this Act mentioned shall for the time being be prevented under any Order in Council made in pursuance of this Act, are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright of such work or of such book or piece, or his agent authorized in writing ; and the provision of the Act of the sixth year of Her Majesty "to amend the law of Copyright," for the forfeiture, seizure, and destruction of any printed book first published in the United Kingdom wherein there shall be copyright, and reprinted in any country out of the British dominions, and imported into any part of the British dominions by any persons not being the proprietor of the copyright, or a person authorized by such proprietor, shall extend and be applicable to all copies of any works of literature and art, and to all translations the importation whereof into any parts of the British dominions prohibited under this Act.

10. The provisions hereinbefore contained shall be incorporated with the International Copyright Act, and shall be read and construed therewith as one Act.

11. And whereas Her Majesty has already, by Order in Council under the said International Copyright Act, given effect to certain stipulations contained in the said convention with the French republic ; and it is expedient that the remainder of the stipulations on the part of Her Majesty in the said convention contained should take effect from the passing of this Act without any further Order in Council : during the continuance of the said convention, and so long as the Order in Council already made under the said International Copyright Act remains in force, the provisions hereinbefore contained shall apply to the said convention, and to translations of books and dramatic pieces which are, after the passing of this Act, published or represented in France, in the same manner as if Her Majesty had issued her Order in Council in pursuance of this Act for giving effect to such convention, and had therein directed that such translations should be protected as hereinbefore mentioned for a period of five years from the date of the first publication or public representation thereof respectively, and as if a period of three months from the publication of such translation were the time mentioned in such order as the time within which the same must be registered and a copy thereof deposited in the United Kingdom.

12. Repealed by Statute Law Revision Act, 1875.

13. Repealed by Statute Law Revision Act, 1875.

14. And whereas by the four several Acts of Parliament following: (that is to say) an Act of the eighth year of the reign of King George the Second, chapter thirteen; an Act of the seventh year of the reign of King George the Third, chapter thirty-eight; an Act of the seventeenth year of the reign of King George the Third, chapter fifty-seven; and an act of the seventh year of King William the Fourth, chapter fifty-nine, provision is made for securing to every person who invents, or designs, engraves, etches, or works in mezzotinto or chiaro-oscuro, or, from his own work, design, or invention, causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro-oscuro, any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and to every person who engraves, etches, or works in mezzotinto or chiaro-oscuro, or causes to be engraved, etched, or worked any print, taken from any picture, drawing, model, or sculpture, notwithstanding such print has not been graven or drawn from his own original design, certain copyrights therein defined: And whereas doubts are entertained whether the provisions of the said Acts extend to lithographs and certain other impressions, and it is expedient to remove such doubts:

15 VICT. C. 12.

Lithographs, &c.

Recital of
8 Geo. 2, c. 13.
7 Geo. 3, c. 38.
17 Geo. 3, c. 57.

6 & 7 Will. 4,
c. 59.

It is hereby declared that the provisions of the said Acts are intended to include prints taken by lithography, or any other mechanical process by which prints or impressions of drawings or designs are capable of being multiplied indefinitely, and the said Acts shall be construed accordingly.

For removal of doubts as to the provisions of the said Acts including lithographs, prints, &c.

18 & 19 VICT. CAP. 41.

An Act for abolishing the Jurisdiction of the Ecclesiastical Courts of England and Wales in Suits for Defamation.—[26th June, 1855.]

18 & 19 VICT.
C. 41.

WHEREAS the jurisdiction of the Ecclesiastical Courts in suits for defamation has ceased to be the means of enforcing the spiritual discipline of the Church, and has become grievous and oppressive to the subjects of this realm: 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:

1. From and after the passing of this Act it shall not be lawful for any ecclesiastical court in England or Wales to entertain or adjudicate upon any suit for or cause of defamation, any statute, law, canon, custom, or usage to the contrary notwithstanding.

Jurisdiction of ecclesiastical courts in England, &c., in suits for defamation abolished.

2. Repealed by Statute Law Revision Act, 1875.

20 & 21 VICT. CAP. 83.

An Act for more effectually preventing the Sale of Obscene Books, Pictures, Prints, and other Articles.—[25th August, 1857.]

20 & 21 VICT.
C. 83.

WHEREAS it is expedient to give additional powers for the suppression of the trade in obscene books, prints, drawings, and other obscene articles: 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:

20 & 21 Vict.
c. 83.
Justices, &c.,
may authorize
search of sus-
pected premises.

1. It shall be lawful for any metropolitan police magistrate or other stipendiary magistrate, or for any two justices of the peace, upon complaint made before him or them upon oath that the complainant has reason to believe, and does believe, that any obscene books, papers, writings, prints, pictures, drawings, or other representations are kept in any house, shop, room, or other place within the limits of the jurisdiction of any such magistrate or justices, for the purpose of sale or distribution, exhibition for purposes of gain, lending upon hire, or being otherwise published for purposes of gain, which complainant shall also state upon oath that one or more articles of the like character have been sold, distributed, exhibited, lent, or otherwise published as aforesaid, at or in connection with such place, so as to satisfy such magistrate or justices that the belief of the said complainant is well founded, and upon such magistrate or justices being also satisfied that any of such articles so kept for any of the purposes aforesaid are of such a character and description that the publication of them would be a misdemeanour, and proper to be prosecuted as such, to give authority by special warrant to any constable or police officer into such house, shop, room, or other place, with such assistance as may be necessary, to enter in the daytime, and, if necessary, to use force, by breaking open doors or otherwise, and to search for and seize all such books, papers, writings, prints, pictures, drawings, or other representations as aforesaid found in such house, shop, room, or other place, and to carry all the articles so seized before the magistrate or justices issuing the said warrant, or some other magistrate or justices exercising the same jurisdiction; and such magistrate or justices shall thereupon issue a summons calling upon the occupier of the house or other place which may have been so entered by virtue of the said warrant to appear within seven days before such police stipendiary magistrate or any two justices in petty sessions for the district, to show cause why the articles so seized should not be destroyed; and if such occupier or some other person claiming to be the owner of the said articles shall not appear within the time aforesaid, or shall appear, and such magistrate or justices shall be satisfied that such articles or any of them are of the character stated in the warrant, and that such or any of them have been kept for any of the purposes aforesaid, it shall be lawful for the said magistrate or justices, and he or they are hereby required, to order the articles so seized, except such of them as he or they may consider necessary to be preserved as evidence in some further proceeding, to be destroyed at the expiration of the time hereinafter allowed for lodging an appeal, unless notice of appeal as hereinafter mentioned be given, and such articles shall be in the meantime impounded; and if such magistrate or justices shall be satisfied that the articles seized are not of the character stated in the warrant, or have not been kept for any of the purposes aforesaid, he or they shall forthwith direct them to be restored to the occupier of the house or other place in which they were seized.

Tender of
amends, &c

2. No plaintiff shall recover in any action for any irregularity, trespass, or other wrongful proceeding made or committed in the execution of this Act, or in, under, or by virtue of any authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass, or other wrongful proceeding before such action brought; and in case no tender shall have been made it shall be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of

money as he shall think fit, whereupon such proceeding, order, and adjudication shall be had and made in and by such court as in other actions where defendants are allowed to pay money into court. 20 & 21 VICT.
C. 83.

3. No action, suit, or information, or any other proceeding, of what nature soever, shall be brought against any person for anything done or omitted to be done in pursuance of this Act, or in the execution of the authorities under this Act, unless notice in writing shall be given by the party intending to prosecute such action, suit, information, or other proceeding, to the intended defendant one calendar month at least before prosecuting the same, nor unless such action, suit, information or other proceeding shall be brought or commenced within three calendar months next after the act or omission complained of, or in case there shall be a continuation of damage, then within three calendar months next after the doing such damage shall have ceased. Limitation of
actions.

4. Any person aggrieved by any act or determination of such magistrate or justices in or concerning the execution of this Act, may appeal to the next general or quarter sessions for the county, riding, division, city, borough, or place in and for which such magistrate or justices shall have so acted, giving to the magistrate or justices of the peace whose act or determination shall be appealed against notice in writing of such appeal, and of the grounds thereof, within seven days after such act or determination and before the next general or quarter sessions, and entering within such seven days into a recognizance, with sufficient surety, before a justice of the peace for the county, city, borough, or place in which such act or determination shall have taken place, personally to appear and prosecute such appeal, and to abide the order of and pay such costs as shall be awarded by such court of quarter sessions or any adjournment thereof, and the court at such general or quarter sessions shall hear and determine the matter of such appeal, and shall make such order therein as shall to the said court seem meet; and such court, upon hearing and finally determining such appeal, shall and may, according to their discretion, award such costs to the party appealing or appealed against as they shall think proper; and if such appeal be dismissed or decided against the appellant or be not prosecuted, such court may order the articles seized forthwith to be destroyed: Provided always, that it shall not be lawful for the appellant on the hearing of any such appeal to go into or give evidence of any other grounds of appeal against any such order, act, or determination than those set forth in such notice of appeal. Appeal

5. This Act shall not extend to Scotland.

Act not to extend to Scotland.

21 & 22 VICT. CAP. 70.

An Act to amend the Act of the fifth and sixth Years of Her present Majesty, to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.--[2nd August, 1858.] 21 & 22 VICT.
C. 70.

Repealed by Patents, Designs, and Trade Marks Act 1873.

24 & 25 VICT. CAP. 73.

An Act to amend the Law relating to the Copyright of Designs. 24 & 25 VICT.
C. 73.
[6th August, 1861.]

Repealed by Patents, Designs, and Trade Marks Act, 1883.

25 & 26 VICT. CAP. 68.

25 & 26 VICT.
c. 68.

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:

Copyright in works hereafter made or sold to vest in the author for his life and for seven years after his death.

1. The author, being a British subject or resident within the dominions of the Crown, of every original painting, drawing, and photograph which shall be or shall have been made either in the British dominions or elsewhere, and which shall not have been sold or disposed of before the commencement of this Act, and his assigns, shall have the sole and exclusive right of copying, engraving, reproducing, and multiplying such painting or drawing, and the design thereof, or such photograph, and the negative thereof, by any means and of any size, for the term of the natural life of such author, and seven years after his death; provided that when any painting or drawing, or the negative of any photograph, shall for the first time after the passing of this Act be sold or disposed of, or shall be made or executed for or on behalf of any other person for a good or a valuable consideration, the person so selling or disposing of or making or executing the same shall not retain the copyright thereof, unless it be expressly reserved to him by agreement in writing, signed, at or before the time of such sale or disposition, by the vendee or assignee of such painting or drawing, or of such negative of a photograph, or by the person for or on whose behalf the same shall be so made or executed, but the copyright shall belong to the vendee or assignee of such painting or drawing, or of such negative of a photograph, or to the person for or on whose behalf the same shall have been made or executed; nor shall the vendee or assignee thereof be entitled to any such copyright, unless, at or before the time of such sale or disposition, an agreement in writing, signed by the person so selling or disposing of the same, or by his agent duly authorized, shall have been made to that effect.

Copyright not to prevent the representation of the same subjects in other works.

Assignments, licences, &c. to be in writing.

2. Nothing herein contained shall prejudice the right of any person to copy or use any work in which there shall be no copyright, or to represent any scene or object, notwithstanding that there may be copyright in some representation of such scene or object.

3. All copyright under this Act shall be deemed personal or movable estate, and shall be assignable at law, and every assignment thereof, and every licence to use or copy by any means or process the design or work which shall be the subject of such copyright, shall be made by some note or memorandum in writing, to be signed by the proprietor of the copyright, or by his agent appointed for that purpose in writing.

Register of proprietors of copyright in paintings, drawings, and photographs to be kept at Stationers' Hall as in 5 & 6 Vict. c. 45.

4. There shall be kept at the Hall of the Stationers' Company, by the officer appointed by the said company for the purposes of the Act passed in the sixth year of Her present Majesty, intituled "An Act to amend the Law of Copyright," a book or books, entitled "The Register of Proprietors of Copyright in Paintings, Drawings, and Photographs," wherein shall be entered a memorandum of every copyright to which any person shall be entitled under this Act, and

also of every subsequent assignment of any such copyright; and such memorandum shall contain a statement of the date of such agreement or assignment, and of the names of the parties thereto, and of the name and place of abode of the person in whom such copyright shall be vested by virtue thereof, and of the name and place of abode of the author of the work in which there shall be such copyright, together with a short description of the nature and subject of such work, and in addition thereto, if the person registering shall so desire, a sketch, outline, or photograph of the said work, and no proprietor of any such copyright shall be entitled to the benefit of this Act until such registration, and no action shall be sustainable nor any penalty be recoverable in respect of anything done before registration.

25 & 26 Vict.
c. 68.

5. The several enactments in the said Act of the sixth year of Her present Majesty contained, with relation to keeping the register book thereby required, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the application to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the book or books to be kept by virtue of this Act, and to the entries and assignments of copyright and proprietorship therein under this Act, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said Act of the sixth year of Her present Majesty may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only.

Certain enactments of 5 & 6 Vict. c. 45, to apply to the books to be kept under this Act.

6. If the author of any painting, drawing, or photograph in which there shall be subsisting copyright, after having sold or disposed of such copyright, or if any other person, not being the proprietor for the time being of copyright in any painting, drawing, or photograph, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply for sale, hire, exhibition, or distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for sale, hire, exhibition, or distribution, any such work or the design thereof, or, knowing that any such repetition, copy, or other imitation has been unlawfully made, shall import into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition, or distribution, or cause or procure to be imported, sold, published, let to hire, distributed, or offered for sale, hire, exhibition, or distribution, any repetition, copy, or imitation of the said work, or of the design thereof, made without such consent as aforesaid, such person for every such offence shall forfeit to the proprietor of the copyright for the time being a sum not exceeding ten pounds; and all such repetitions, copies, and imitations made without such consent as aforesaid, and all negatives of photographs made for the purpose of obtaining such copies, shall be forfeited to the proprietor of the copyright.

Penalties on infringement of copyright.

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:

Penalties on fraudulent productions and sales.

25 & 26 Vict.
c. 68.

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

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

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

Penalties.

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

Recovery of
pecuniary
penalties.

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

In England and
Ireland.

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

In Scotland.

In Scotland by action before the Court of Session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending, or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable to the penalty or penalties aforesaid, as also in expenses, and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs to insert in such judgment a

warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: Provided always, that it shall be lawful to the sheriff, in the event of his dismissing the action and assoilzuing the defender, to find the complainer liable in expenses, and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocacy, suspension, reduction, or otherwise.

25 & 26 Vict.
c. 68.

9. In any action in any of Her Majesty's superior courts of record at Westminster and in Dublin, for the infringement of any such copyright as aforesaid, it shall be lawful for the court in which such action is pending, if the court be then sitting, or if the court be not sitting, then for a judge of such court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, and account, and to give such directions respecting such action, injunction, inspection, and account and the proceedings therein respectively, as to such court or judge may seem fit.

Superior courts of record in which any action is pending may make an order for an injunction, inspection, or account.

10. All repetitions, copies, or imitations of paintings, drawings, or photographs, wherein or in the design whereof there shall be subsisting copyright under this Act, and all repetitions, copies, and imitations of the design of any such painting or drawing, or of the negative of any such photograph, which, contrary to the provisions of this Act, shall have been made in any foreign State, or in any part of the British dominions, are hereby absolutely prohibited to be imported into any part of the United Kingdom, except by or with the consent of the proprietor of the copyright thereof, or his agent authorized in writing; and if the proprietor of any such copyright, or his agent, shall declare that any goods imported are repetitions, copies, or imitations of any such painting, drawing, or photograph, or of the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by the officers of Her Majesty's customs.

Importation of pirated works prohibited.

Application in such cases of Customs Acts.

11. If the author of any painting, drawing, or photograph in which there shall be subsisting copyright, after having sold or otherwise disposed of such copyright, or if any other person, not being the proprietor for the time being of such copyright, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for sale, hire, exhibition, or distribution, any such work or the design thereof, or the negative of any such photograph, or shall import or cause to be imported into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition, or distribution, or cause or procure to be sold, published, let to hire, exhibited, or distributed, or offered for sale, hire, exhibition, or distribution, any repetition, copy, or imitation of such work, or the design thereof, or the negative of any such photograph, made without such consent as aforesaid, then every such proprietor, in addition to the remedies hereby given for the recovery of any such penalties, and forfeiture of any such things as aforesaid, may recover damages by and in a special action on the case, to be brought against the person so offending, and may in such action recover and enforce the delivery to him of all unlawful repetitions, copies, and imitations, and negatives of photographs, or may recover damages for the retention or conversion thereof: Provided that nothing herein contained, nor any proceeding, conviction, or judgment, for any act hereby forbidden, shall affect any remedy which any

Saving of right to bring action for damages.

25 & 26 VICT.
c. 68.

Provisions of
7 & 8 Vict. c. 12,
to be considered
as included in
this Act.

person aggrieved by such act may be entitled to either at law or in equity.

12. This Act shall be considered as including the provisions of the Act passed in the session of Parliament held in the seventh and eighth years of Her present Majesty, intituled "An Act to amend the Law relating to International Copyright," in the same manner as if such provisions were part of this Act.

32 & 33 VICT. CAP. 24.

2 & 33 VICT.
c. 24.

An Act to repeal certain Enactments relating to Newspapers, Pamphlets, and other Publications, and to Printers, Typesetters, and Reading Rooms.—[12th July, 1869.]

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 :

Acts and parts
of Acts in first
schedule re-
pealed except
as in second
schedule.

1. The Acts and parts of Acts described in the first schedule to this Act are hereby repealed, but the provisions of the said Acts which are set out in the second schedule to this Act shall continue in force in the same manner as if they were enacted in the body of this Act; and this Act shall not affect the validity or invalidity of anything already done or suffered, or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof, and all such remedies and proceedings may be had and continued in the same manner as if this Act had not passed.

Short title.

2. This Act may be cited as the Newspapers, Printers, and Reading Rooms Repeal Act, 1869.

FIRST SCHEDULE.

Date of Act.	Title of Act, and part repealed.
36 Geo. 3, c. 8.	An Act for the more effectually preventing seditious meetings and assemblies.
39 Geo. 3, c. 79, in part.	An Act for the more effectual suppression of societies established for seditious and treasonable purposes, and for better preventing treasonable and seditious practices Sections fifteen to thirty-three, both inclusive, and so much of sections thirty-four to thirty-nine as relates to the above-mentioned sections.
51 Geo. 3, c. 65.	An Act to explain and amend an Act passed in the thirty-ninth year of his Majesty's reign, intituled "An Act for the more effectual suppression of societies established for seditious and treasonable purposes, and for better preventing treasonable and seditious practices," so far as respects certain penalties on printers and publishers.
55 Geo. 3, c. 101, in part.	An Act to regulate the collection of Stamp duties and matters in respect of which licenses may be granted by the commissioner of stamps in Ireland } In part ; Section thirteen. } namely,—
60 Geo. 3 & 1 Geo. 4, c. 9.	An Act to subject certain publications to the duties of stamps upon newspapers, and to make other regulations for restraining the abuses arising from the publication of blasphemous and seditious libels.

32 & 33 Vict.
c. 24.

Date of Act,	Title of Act, and part repealed.
1 Geo. 4 & 1 Will. 4, c. 73.	An Act to repeal so much of an Act of the sixtieth year of his late Majesty King George the Third, for the more effectual prevention and punishment of blasphemous and seditious libels, as relates to the sentence of banishment for the second offence, and to provide some further remedy against the abuse of publishing libels.
6 & 7 Will. 4, c. 76, in part.	An Act to reduce the duties on newspapers, and to amend the laws relating to the duties on newspapers and advertisements } In part; namely,— Except sections one to four (both inclusive), sections thirty-four and thirty-five, and the schedule.
2 & 3 Vict. c. 12.	An Act to amend an Act of the thirty-ninth year of King George the Third, for the more effectual suppression of societies established for seditious and treasonable purposes, and for preventing treasonable and seditious practices, and to put an end to certain proceedings now pending under the said Act.
5 & 6 Vict. c. 82, in part.	An Act to assimilate the stamp duties in Great Britain and Ireland, and to make regulations for collecting and managing the same until the tenth day of October one thousand eight hundred and forty-five } In part; namely— The following words in section twenty “and also licence to any person to keep any printing presses and types for printing in Ireland.”
9 & 10 Vict. c. 33, in part.	An Act to amend the laws relating to corresponding societies and the licensing of lecture rooms } In part; namely,— So far as it relates to any proceedings under the enactments repealed by this schedule.
16 & 17 Vict. c. 59, in part.	An Act to repeal certain stamp duties and to grant others in lieu thereof, to amend the laws relating to stamp duties, and to make perpetual certain stamp duties in Ireland } In part; namely,— So much of section twenty as makes perpetual the provisions of 5 & 6 Vict. c. 82, repealed by this Act.

SECOND SCHEDULE.

The enactments in this schedule, with the exception of sect. 19 of 6 & 7 Will. 4, c. 76, do not apply to Ireland.

39 Geo. 3, c. 79.

Section twenty-eight.

Nothing in this Act contained shall extend or be construed to extend to any papers printed by the authority and for the use of either House of Parliament.

Not to extend to papers printed by authority of Parliament.

Section twenty-nine.

Every person who shall print any paper for hire, reward, gain, or profit, shall carefully preserve and keep one copy (at least) of every paper so printed by him or her, on which he or she shall write, or cause to be written or printed, in fair and legible characters, the name and place of abode of the person or persons by whom he or she shall be employed to print the same; and every person printing any paper for hire, reward, gain, or profit who shall omit or neglect to write or cause to be written or printed as aforesaid, the name and place of his or her employer on one of such printed papers, or to keep or preserve the same for the space of six calendar months next after the printing thereof, or to produce and show the same to any justice of the peace who within the said space of six calendar months shall require to see the same, shall for every such omission, neglect, or refusal, forfeit and lose the sum of twenty pounds.

Printers to keep a copy of every paper they print, and write thereon the name and abode of their employer.

Penalty of 20*l.* for neglect or refusing to produce the copy within six months.

32 & 33 VICT.
c. 24.

Not to extend to impressions of engravings or the printing names and addresses.

Prosecutions to be commenced within three months after penalty is incurred.

Recovery of penalties.

Application of penalties.

Name and residence of printers not required to be put to bank notes, bills, &c., or to any paper printed by authority of any public board or public office.

Discovery of proprietors, printers, or publishers of newspapers may be enforced by bill, &c.

Penalty upon printers for not printing their name and residence on every

Section thirty-one.

Nothing herein contained shall extend to the impression of any engraving, or to the printing by letterpress of the name, or the name and address, or business or profession, of any person, and the articles in which he deals, or to any papers for the sale of estates or goods by auction or otherwise.

Section thirty-four.

No person shall be prosecuted or sued for any penalty imposed by this Act, unless such prosecution shall be commenced, or such action shall be brought, within three calendar months next after such penalty shall have been incurred.

Part of section thirty-five.

And any pecuniary penalty imposed by this Act, and not exceeding the sum of twenty pounds, shall and may be recovered before any justice or justices of the peace for the county, stowarty, riding, division, city, town or place, in which the same shall be incurred, or the person having incurred the same shall happen to be, in a summary way.

Section thirty-six.

All pecuniary penalties hereinbefore imposed by this Act shall, when recovered in a summary way before any justice, be applied and disposed of in manner herein-after mentioned: that is to say, one moiety thereof to the informer before any justice, and the other moiety thereof to his Majesty, his heirs and successors.

51 Geo. 3, c. 65.

Section three.

Nothing in the said Act of the thirty-ninth year of King George the Third, chapter seventy-nine, or in this Act contained, shall extend or be construed to extend to require the name and residence of the printer to be printed upon any bank note, or bank post bill of the governor and company of the Bank of England, upon any bill of exchange, or promissory note, or upon any bond or other security for payment of money, or upon any bill of lading, policy of insurance, letter of attorney, deed, or agreement, or upon any transfer or assignment of any public stocks, funds, or other securities, or upon any transfer or assignment of the stocks of any public corporation or company authorized or sanctioned by Act of Parliament, or upon any dividend warrant of or for any such public or other stocks, funds, or securities, or upon any receipt for money or goods, or upon any proceeding in any court of law or equity, or in any interior court, warrant, order, or other papers printed by the authority of any public board or public officer in the execution of the duties of their respective offices, notwithstanding the whole or any part of the said several securities, instruments, proceedings, matters, and things aforesaid shall have been or shall be printed.

6 & 7 Will. 4, c. 76.

Section nineteen.

If any person shall file any bill in any court for the discovery of the name of any person concerned as printer, publisher, or proprietor of any newspaper, or of any matters relative to the printing or publishing of any newspaper, in order the more effectually to bring or carry on any suit or action for damages alleged to have been sustained by reason of any slanderous or libellous matter contained in any such newspaper respecting such person, it shall not be lawful for the defendant to plead or demur to such bill, but such defendant shall be compellable to make the discovery required: provided always, that such discovery shall not be made use of as evidence or otherwise in any proceeding against the defendant, save only in that proceeding for which the discovery is made.

2 & 3 Vict. c. 12.

Section two.

Every person who shall print any paper or book whatsoever which shall be meant to be published or dispersed, and who shall not print upon the front of every such paper, if the same shall be printed on one side only, or upon the first or last leaf of every paper or book which shall consist of more than one leaf, in legible characters, his or her name and usual place of abode or business, and

every person who shall publish or disperse, or assist in publishing or dispersing, any printed paper or book on which the name and place of abode of the person printing the same shall not be printed as aforesaid, shall for every copy of such paper so printed by him or her forfeit a sum not more than five pounds: Provided always, that nothing herein contained shall be construed to impose any penalty upon any person for printing any paper excepted out of the operation of the said Act of the thirty-ninth year of King George the Third, chapter seventy-nine, either in the said Act or by any Act made for the amendment thereof.

32 & 33 VICT.
C. 24.

paper or book,
and on persons
publishing the
same.

Section three.

In the case of books or papers printed at the University Press of Oxford or the Pitt Press of Cambridge, the printer, instead of printing his name thereon, shall print the following words, "Printed at the University Press, Oxford," or "The Pitt Press, Cambridge," as the case may be.

As to books or
papers printed
at the University
presses.

Section four.

Provided always, that it shall not be lawful for any person or persons whatsoever to commence, prosecute, enter, or file, or cause or procure to be commenced, prosecuted, entered, or filed, any action, bill, plaint, or information in any of Her Majesty's Courts, or before any justice or justices of the peace, against any person or persons for the recovery of any fine, penalty, or forfeiture made or incurred or which may hereafter be incurred under the provisions of this Act, unless the same be commenced, prosecuted, entered, or filed in the name of Her Majesty's Attorney-General or Solicitor-General in that part of Great Britain called England, or Her Majesty's Advocate for Scotland (as the case may be respectively); and if any action, bill, plaint, or information shall be commenced, prosecuted, or filed in the name or names of any other person or persons than is or are in that behalf before mentioned, the same and every proceeding thereupon had are hereby declared and the same shall be null and void to all intents and purposes.

No actions for
penalties to be
commenced
except in the
name of the
Attorney or
Solicitor
General in
England, or the
Queen's Advoca-
te in Scotland.

9 & 10 Vict. c. 33.

Section one.

It shall not be lawful for any person or persons to commence, prosecute, enter, or file, or cause or procure to be commenced, prosecuted, entered or filed, any action, bill, plaint, or information in any of Her Majesty's courts, or before any justice or justices of the peace, against any person or persons for the recovery of any fine which may hereafter be incurred under the provisions of the Act of the thirty-ninth year of King George the Third, chapter seventy-nine, set out in this Act unless the same be commenced, prosecuted, entered, or filed in the name of Her Majesty's Attorney-General or Solicitor-General in England or Her Majesty's Advocate in Scotland, and every action, bill, plaint, or information which shall be commenced, prosecuted, entered or filed in the name or names of any other person or persons than is in that behalf before-mentioned, and every proceeding thereupon had, shall be null and void to all intents and purposes.

Proceedings
shall not be
commenced
unless in the
name of the law
officers of the
Crown.

33 & 34 VICT. CAP. 79. (a)

An Act for further Regulation of Duties of Postage, and for other Purposes relating to the Post Office.—[9th August, 1870.]

33 & 34 VICT.
C. 79.

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:

1. This Act may be cited as "The Post Office Act, 1870."
2. In this Act—

Short title.

"The 'Treasury'" means the Commissioners of Her Majesty's Treasury or two of them:

"Treasury warrant" means a warrant under the hands of the Treasury:

Interpretation
of terms.

(a) So much of this Act or of any warrant or regulations made thereunder as is inconsistent with 38 Vict. c. 22, or with any warrant under it, is repealed by the latter Act.

33 & 34 Vict.
c. 79.

“The Postmaster-General” means Her Majesty’s Postmaster-General :

“Post Office regulations” means regulations made by the Postmaster-General.

Channel Islands
and Isle of Man.

3. For the purposes of this Act, the Channel Islands and the Isle of Man shall be deemed parts of the United Kingdom.

Repeal and
limitation of
enactments.

4. The enactments described in the first schedule to this Act shall, from and immediately after the thirtieth day of September, one thousand eight hundred and seventy, be repealed; but that repeal shall not affect the past operation of any of those enactments, or the force or operation of any Treasury warrant or Post Office regulations made, or the validity or invalidity of anything done or suffered, or any right, title, obligation, or liability accrued, before that repeal takes effect: nor shall this Act interfere with the prosecution or institution of any proceeding in respect of any right, title, obligation, or liability accrued under, or any offence committed against, or any penalty or forfeiture incurred under, any of those enactments before that repeal takes effect; and section four of and schedule (A.) to the Act first described in the first schedule to this Act, or either of them, shall not be deemed to contain or affect the definition of a newspaper, for the purposes of this Act or of any other enactment regulating the sending of newspapers by post.

Allowance for
newspaper
stamps on hand.

5. Where any person is possessed of any newspaper stamps made useless by this Act, the Commissioners of Inland Revenue, on application within six months after the thirtieth day of September, one thousand eight hundred and seventy, may cancel and make allowance for the same as in case of spoiled stamps.

Certain publica-
tions to be
deemed news-
papers.

6. Any publication coming within the following description shall for the purposes of this Act be deemed a newspaper (that is to say), any publication consisting wholly or in great part of political or other news, or of articles relating thereto, or to other current topics, with or without advertisements; subject to these conditions—

‘That it be printed and published in the United Kingdom;

‘That it be published in numbers at intervals of not more than seven days;

‘That it be printed on a sheet or sheets unstitched;

‘That it have the full title and date of publication printed at the top of the first page, and the whole or part of the title and the date of publication printed at the top of every subsequent page.

Supplement.

And the following shall, for the purposes of this Act, be deemed a supplement to a newspaper (that is to say), a publication consisting wholly or in great part of matter like that of a newspaper, or of advertisements, printed on a sheet or sheets or a piece or pieces of paper, unstitched, or consisting wholly or in part of engravings, prints, or lithographs illustrative of articles in the newspaper; such publication in every case being published with the newspaper, and having the title and date of publication of the newspaper printed at the top of every page, or at the top of every sheet or side on which any such engraving, print, or lithograph appears.

Registration of
newspapers at
Post Office.

7. The proprietor or printer of any newspaper within the description aforesaid, and the proprietor or printer of any publication which, regard being had to the proportion of advertisements to other matter therein, is not within the description aforesaid, but which was stamped as a newspaper before the passing of the Act lastly mentioned in the

first schedule to this Act, may register it at the General Post Office in London, at such time in each year and in such form and with such particulars as the Postmaster-General from time to time directs, paying on each registration such fee not exceeding five shillings as the Postmaster-General, with the approval of the Treasury, from time to time directs.

33 & 34 Vict.
c. 79.

The Postmaster-General may from time to time revise the register and remove therefrom any publication not being a newspaper.

The decision of the Postmaster-General on the admission to or removal from the register of a publication shall be final, save that the Treasury may, if they think fit, on the application of any person interested, reverse or modify the decision, and order accordingly.

Any publication for the time being on the register shall for the purposes of this Act be deemed a registered newspaper.

8. From and after the thirtieth day of September one thousand eight hundred and seventy, registered newspapers, book packets, pattern [or sample] packets, and post cards, may be sent by post between places in the United Kingdom, at the following rates of postage:—

Postage on newspapers, book and pattern [or sample] packets and cards.

On a registered newspaper, with or without a supplement or supplements	One halfpenny.
On each registered newspaper in a packet of two or more, with or without a supplement or supplements... ..	One halfpenny.
On a book packet or pattern or sample packet:—	
If not exceeding two ounces in weight	One halfpenny.
If exceeding two ounces in weight, for the first two ounces and for every additional two ounces or fractional part of two ounces	One halfpenny.
On a post card... ..	One halfpenny.

Provided that a packet of two or more registered newspapers with or without a supplement or supplements shall not be liable under this section to a higher rate of postage than the rate chargeable on a book packet of the same weight.

So much as relates to sample packets is repealed by 34 & 35 Vict. c. 30.

9. The Postmaster-General may from time to time, with the approval of the Treasury, make, in relation respectively to registered newspapers, book packets, pattern [or sample] packets, and post cards, sent by post, such regulations as he thinks fit, for all or any of the following purposes:—

Post Office regulations.

For prescribing and regulating the times and modes of posting and delivery:

For prescribing prepayment and regulating the mode thereof:

For regulating the affixing of postage stamps:

For prescribing and regulating the payment again of postage in case of re-direction:

For regulating dimensions and maximum weight of packets:

For regulating the nature and form of covers:

For prohibiting or restricting the printing or writing of marks or communications or words:

For prohibiting inclosures;

and such other regulations as from time to time seem expedient for the better execution of this Act.

- 33 & 34 Vict.
c. 79.
- Saving for
Parliamentary
proceedings.
- Newspapers
under arrange-
ment or
convention.
- Colonial and
foreign postage
of newspapers.
- Colonial and
foreign book,
&c., post.
- Decision as to
newspapers,
packets, &c.
- Newspapers, &c.
sent not in con-
formity with
Act, &c.
- Application to
book packets,
&c., of enact-
ments as to post
letters.
- Despatch and
delivery of book
packets, &c.
- So much as relates to sample packets is repealed by 34 & 35 Vict. c. 30.
10. Nothing in this Act or in any Treasury warrant or Post Office regulations shall repeal or alter any provision of section 13, 16, or 17 of the Act secondly described in the first schedule to this Act as far as those sections relate to printed votes or proceedings of Parliament addressed to places in the United Kingdom.
11. A registered newspaper shall be deemed a newspaper for the purposes of any arrangement or convention between Her Majesty's Government and any colonial or foreign government for securing advantages for newspapers sent by post.
12. The Treasury may from time to time, by Treasury warrant, allow any newspapers, British, colonial, or foreign, to be sent by post between the United Kingdom and places out of the United Kingdom, or between places out of the United Kingdom, whether through the United Kingdom or not, at such rates of postage, not exceeding threepence for each newspaper irrespectively of any colonial or foreign postage, and on such conditions, as they think fit, and according to Post Office regulations to be from time to time made in that behalf.
- Any Treasury warrant and Post Office regulations made in that behalf before the passing of this Act are hereby confirmed; and the same shall continue in force unless and until altered by Treasury warrant or Post Office regulations (as the case may be).
13. The Treasury from time to time, by Treasury warrant, may regulate the sending of book packets and pattern or sample packets by post, between the United Kingdom and places out of the United Kingdom, or between places out of the United Kingdom, whether through the United Kingdom or not, and in relation thereto may prescribe rates of postage, weights, and other matters.
- Any Treasury warrant and Post Office regulations made in that behalf before the passing of this Act are hereby confirmed; and the same shall continue in force unless and until altered by Treasury warrant or Post Office regulations (as the case may be).
14. If a question arises whether any publication, not being a registered newspaper, is a newspaper or a supplement, or whether any packet is a book packet or pattern or sample packet, within this Act or any Treasury warrant or Post Office regulations, the decision thereon of the Postmaster-General shall be final, save that the Treasury may, if they think fit, on the application of any person interested, reverse and modify the decision, and order accordingly.
15. If any registered or other newspaper, supplement, publication, book packet, pattern, or sample packet, or post card, is sent by post otherwise than in conformity with this Act or any Treasury warrant or Post Office regulations, it shall be either returned to the sender thereof or forwarded to its destination, in either case charged with such rate of postage not exceeding the letter rate of postage, or without any additional charge, as the Postmaster-General, with the approval of the Treasury, from time to time directs, having been, if necessary, detained and opened in the Post Office.
16. A book packet, pattern or sample packet, or post card sent by post shall be deemed a post letter, within the Act described in the second schedule to this Act.
17. Where the despatch or delivery from a post-office of letters would be delayed by the despatch or delivery therefrom at the same time of book packets, pattern or sample packets, and post cards, or any of them, the same or any of them may, subject and according to

Post Office regulations, be detained in the Post Office until the despatch or delivery next following that by which they would ordinarily be despatched or delivered. 33 & 34 Vic
c. 79.

18. The Commissioners of Inland Revenue shall from time to time provide proper dies and other implements for denoting by adhesive or embossed or impressed stamps or otherwise the duties of postage payable in the United Kingdom under this Act or any Treasury warrant thereunder. Provision for
stamps, &c.

Those duties shall be deemed stamp duties, and shall be under the management of the Commissioners of Inland Revenue.

So much of the Act secondly described in the first schedule to this Act as relates to stamp duties under that Act shall apply to the stamp duties under this Act.

A newspaper or packet sent by post and the cover thereof (if any) shall be deemed a letter or cover (as the case may be) within section twenty-three of the Act secondly described in the first schedule to this Act; and a post card shall be deemed a letter within that section, and the duties under this Act shall be deemed to be comprised in the duties in that section referred to.

19. It shall not be lawful for any person to affix to a letter, newspaper, supplement, publication, packet, or card sent by post, or to the cover thereof (if any), by way of prepayment of postage thereon, an embossed or impressed stamp cut out or otherwise separated from the cover or other paper, card, or thing on which such stamp was embossed or impressed, although such stamp has not been before sent by post or used. Prohibition of
user of embossed
or impressed
stamps removed
from paper, &c.

If any letter, newspaper, supplement, publication, packet, or card is sent by post with a stamp affixed thereto or to the cover thereof (if any) that has been so cut out or separated, the postage thereof as far as it purports to be prepaid by that stamp shall be deemed to be not prepaid.

20. The Postmaster-General may from time to time with the approval of the Treasury make such regulations as he thinks fit for preventing the sending or delivery by post of indecent or obscene prints, paintings, photographs, lithographs, engravings, books, or cards, or of other indecent or obscene articles, or of letters, newspapers, supplements, publications, packets, or post cards, having thereon, or on the covers thereof, any words, marks, or designs of an indecent, obscene, libellous, or grossly offensive character. Prohibition of
sending indecent
articles, &c., by
post.

21. The Documentary Evidence Act, 1868, shall have effect as if the Postmaster-General were mentioned in the first column, and any secretary or assistant-secretary of the Post Office were mentioned in the second column, of the schedule to that Act; and any approval of the Treasury under this Act shall be deemed an order within that Act. Proof of Post
Office
regulations, &c.

SCHEDULES.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

6 & 7 Will. 4, c. 76, in part.	An Act to reduce the duties on newspapers, and to amend the laws relating to the duties on newspapers and advertisements Sections one to three (both inclusive), and sections thirty-four and thirty-five.	}	In part; namely,—
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33 & 34 Vict. c. 79.	3 & 4 Vict. c. 96, in part.	An Act for the regulation of the duties of postage	} In part; namely,— Section eleven; sections thirteen, sixteen, and seventeen, as far as those three sections relate to printed votes or proceedings of Parliament, addressed to places out of the United Kingdom, or to newspapers; section forty-two; sections forty-four, forty-five, and forty-six, as far as those three sections relate to newspapers; and sections forty-seven to fifty-one (both inclusive).
	11 & 12 Vict. c. 117.	An Act for rendering certain newspapers published in the Channel Islands and the Isle of Man liable to postage.	
	16 & 17 Vict. c. 63, in part.	An Act to repeal certain stamp duties, and to grant others in lieu thereof, to give relief with respect to the stamp duties on newspapers and supplements thereto, to repeal the duty on advertisements, and otherwise to amend the laws relating to stamp duties	} In part; namely,— Sections three and four.
	18 & 19 Vict. c. 27.	An Act to amend the laws relating to the stamp duties on newspapers, and to provide for the transmission by post of printed periodical publications.	

THE SECOND SCHEDULE.

ACT REFERRED TO.

7 Will. 4, & 1 Vict. c. 36.—An Act for consolidating the laws relative to offences against the Post Office of the United Kingdom, and for regulating the judicial administration of the Post Office laws, and for explaining certain terms and expressions employed in those laws.

38 VICT. CAP. 12.

38 Vict. c. 12.

An Act to amend the Law relating to International Copyright.
[13th May, 1875.]

5 Vict. c. 12.

WHEREAS by an Act passed in the fifteenth year of the reign of Her present Majesty, chapter twelve, intituled "An Act to enable Her Majesty to carry into effect a convention with France on the subject of Copyright; to extend and explain the International Copyright Acts; and to explain the Acts relating to copyright in engravings," it is enacted, that "Her Majesty may, by Order in Council, direct that authors of dramatic pieces which are, after a future time, to be specified in such order, first publicly represented in any foreign country to be named in such order, their executors, administrators, and assigns, shall, subject to the provisions hereinafter mentioned or referred to, be empowered to prevent the representation in the British dominions of any translation of such dramatic pieces not authorized by them, for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such dramatic pieces are first published and publicly represented:"

And whereas by the same Act it is further enacted, "that, subject to any provisions or qualifications contained in such order, and to the provisions of the said Act contained or referred to, the laws and enactments for the time being in force for ensuring to the author of any dramatic piece first publicly represented in the British dominions the sole liberty of representing the same shall be applied for the purpose of preventing the representation of any translations

of the dramatic pieces to which such order extends, which are not sanctioned by the authors thereof:" 38 Vict. c. 12

And whereas by the sixth section of the said Act it is provided, that "nothing in the said Act contained shall be so construed as to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country:"

And whereas it is expedient to alter or amend the last-mentioned provision under certain circumstances:

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—viz.,

1. In any case in which, by virtue of the enactments hereinbefore recited, any Order in Council has been or may hereafter be made for the purpose of extending protection to the translations of dramatic pieces first publicly represented in any foreign country, it shall be lawful for Her Majesty by Order in Council to direct that the sixth section of the said Act shall not apply to the dramatic pieces to which protection is so extended; and thereupon the said recited Act shall take effect with respect to such dramatic pieces and to the translations thereof as if the said sixth section of the said Act were hereby repealed. Section 6 of recited Act not to apply to dramatic pieces in certain cases.

38 & 39 VICT. CAP. 53.

An Act to give effect to an Act of the Parliament of the Dominion of Canada respecting Copyright.—[2nd August, 1875.]

38 & 39 Vict.
c. 53.

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:

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

38 & 39 Vic.
c. 53.

Definition of
terms.

Her Majesty
may assent to
the Bill in
schedule.

Colonial reprints
not to be
imported into
United
Kingdom.

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

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.

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.

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.

An Act respecting Copyrights.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Registers of
copyrights.

1. The Minister of Agriculture shall cause to be kept in his office books to be called the "Registers of Copyrights," in which proprietors of literary, scientific, and artistic works or compositions may have the same registered in accordance with the provisions of this Act.

Regulations by
Minister of
Agriculture.

2. The Minister of Agriculture may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations and prescribe such forms as may appear to him necessary and expedient for the purposes of this Act; such regulations and forms, being circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act, and all documents executed and accepted by the said Minister of Agriculture shall be held valid so far as relates to all official proceedings under this Act.

Unauthorized
publication of
manuscript.

3. If any person prints or publishes, or causes to be printed or published, any manuscript whatever, the said manuscript having not yet been printed in Canada or elsewhere, without the consent of the author or legal proprietor first obtained, such person shall be liable to the author or proprietor for all damages occasioned by such publication, to be recovered in any court of competent jurisdiction.

Copyright of
author.

4. Any person domiciled in Canada, or in any part of the British Possessions, or being a citizen of any country having an international copyright treaty with the United Kingdom, who is the author of any book, map, chart, or musical composition, or of any original painting, drawing, statue, sculpture, or photograph, or who invents, designs, etches, engraves, or causes to be engraved, etched, or made from his own design, any print or engraving, and the legal representatives of such person, shall have the sole right and liberty of printing, reprinting, publishing, reproducing, and vending such literary, scientific, or artistic works or compositions, in whole or in part, and of allowing translations to be printed or reprinted and sold, of such literary works from one language into other languages, for the

term of twenty-eight years from the time of recording the copyright thereof in the manner hereinafter directed: 38 & 39 VICT.
c. 53.

- (2.) The condition for obtaining such copyright shall be that the said literary, scientific, or artistic works be printed and published, or reprinted or republished in Canada, or in the case of works of art that it be produced or reproduced in Canada, whether they be so published or produced for the first time or contemporaneously with or subsequently to publication or production elsewhere: provided that in no case the exclusive privilege in Canada shall continue to exist after it has expired anywhere else. Conditions for
obtaining
copyright.
- (3.) No immoral, or licentious, or irreligious, or treasonable, or seditious literary, scientific, or artistic work shall be the legitimate subject of such registration or copyright.

5. If at the expiration of the aforesaid term of twenty-eight years, such author, or any of the authors when the work has been originally composed and made by more than one person, be still living, or being dead has left a widow or a child or children living, the same exclusive right shall be continued to such author, or, if dead, then to such widow and child or children (as the case may be) for the further term of fourteen years; but in such case within one year after the expiration of the first term the title of the work secured shall be a second time recorded, and all other regulations herein required to be observed in regard to original copyrights shall be complied with in respect to such renewed copyright. Extension of
original term of
copyright.

6. In all cases of renewal of copyright under this Act the author or proprietor shall, within two months from the date of such renewal, cause a copy of the record thereof to be published once in the "Canada Gazette." Publication in
Gazette.

7. No person shall be entitled to the benefit of this Act unless he has deposited in the office of the Minister of Agriculture two copies of such book, map, chart, musical composition, photograph, print, cut, or engraving, and in case of paintings, drawings, statuary, and sculpture, unless he has furnished a written description of such works of art, and the Minister of Agriculture shall cause the copyright of the same to be recorded forthwith in a book to be kept for that purpose, in the manner adopted by the Minister of Agriculture, or prescribed by the rules and forms which may be made from time to time as hereinbefore provided. Deposit of
copies.

8. The Minister of Agriculture shall cause one of the two copies of such book, map, chart, musical composition, photograph, print, cut, or engraving aforesaid, to be deposited in the Library of the Parliament of Canada. Deposit in
Parliament
library.

9. No person shall be entitled to the benefit of this Act unless he gives information of the copyright being secured, by causing to be inserted in the several copies of every edition published during the term secured, on the title page, or the page immediately following, if it be a book, or if a map, chart, musical composition, print, cut, engraving, or photograph, by causing to be impressed on the face thereof, or if a volume of maps, charts, music, engravings, or photographs, upon the title page or frontispiece thereof, the following words, that is to say: "Entered according to Act of Parliament of Canada, in the year _____ by A.B., in the office of the Minister of Agriculture." But as regards paintings, drawings, statuary, and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship. Insertion of
notice in all
copies published.

10. Pending the publication or republication in Canada of a literary, scientific, or artistic work, the author, or his legal representatives or assigns, may obtain an interim copyright by depositing in the office of the Minister of Agriculture a copy of the title, or a designation of such work intended for publication or republication in Canada, the said title or designation to be registered in an interim copyright register in the said office, to secure to the author aforesaid, or his legal representatives or assigns, the exclusive rights recognized by this Act, previous to publication or republication in Canada; the said interim registration, however, not to endure for more than one month from the date of the original publication elsewhere, within which period the work shall be printed or reprinted and published in Canada. Interim
copyright.

- (2.) In all cases of interim registration under this Act, the author or proprietor shall cause notice of such registration to be inserted once in the "Canada Gazette."
- (3.) A literary work intended to be published in pamphlet or book form, but which is first published in separate articles in a newspaper or periodical, may be the subject of registration within the meaning of this Act while it is so preliminarily published, provided that the title of the manuscript and a short analysis of the work are deposited in the office of the Minister of Agriculture, and that every separate article so published is preceded

38 & 39 Vict.
c. 53.

by the words "Registered in accordance with the Copyright Act of 1875;" but the work when published in book or pamphlet form shall be subject, besides, to the other requirements of this Act.

- (4.) The importation of newspapers and magazines published in foreign countries, and containing, together with foreign original matter, portions of British copyright works republished with the consent of the author or his assigns or under the law of the country where such copyright exists, shall not be prohibited.

Penalty for
infringement of
copyright in
books.

11. If any other person after the interim registration of the title of any book according to this Act within the term herein limited, or after the copyright is secured, and for the term or terms of its duration, prints, publishes, or reprints, or republishes, or imports, or causes to be so printed, published, or imported, any copy or any translation of such book without the consent of the person legally entitled to the copyright thereof first had and obtained by assignment, or knowing the same to be so printed or imported publishes, sells, or exposes for sale, or causes to be published, sold, or exposed for sale any copy of such book without such consent, such offender shall forfeit every copy of such book to the person then legally entitled to the copyright thereof; and shall forfeit and pay for every such copy which may be found in his possession, either printed or printing, published, imported, or exposed for sale, contrary to the intent of this Act, such sum not being less than ten cents nor more than one dollar as the court shall determine; of which penalty one moiety shall be to the use of Her Majesty, and the other to the legal owner of such copyright, and such penalty may be recovered in any court of competent jurisdiction.

Penalty in case
of paintings,
drawings,
statues, or other
works of art.

12. If any person after the recording of any painting, drawing, statue, or other work of art within the term or terms limited by this Act, reproduces in any manner, or causes to be reproduced, made, or sold, in whole or in part, copies of the said works of art without the consent of the proprietor or proprietors, such offender or offenders shall forfeit the plate or plates on which such reproduction has been made, and also every sheet thereof so copied, printed, or photographed, to the proprietor or proprietors of the copyright thereof, and shall further forfeit for every sheet of the same reproduction so published or exposed for sale, contrary to the true intent and meaning of this Act, such sum, not being less than ten cents nor more than one dollar, as the court shall determine; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered in any court of competent jurisdiction.

Penalty in case
of prints, cuts,
engravings, maps,
charts, musical
compositions or
photographs.

13. If any person, after the recording of any print, cut, or engraving, map, chart, musical composition, or photograph, according to the provisions of this Act, within the term or terms limited by this Act, engraves, etches, or works, sells or copies, or causes to be engraved, etched, or copied, made or sold, either in the whole or by varying, adding to, or diminishing the main design with intent to evade the law, or prints, or reprints, or imports for sale, or causes to be so printed or imported, for sale, any such map, chart, musical composition, print, cut, or engraving, or any part thereof, without the consent of the proprietor or proprietors of the copyright thereof first obtained as aforesaid, or knowing the same to be so printed or imported without such consent, publishes, sells, or exposes for sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, photograph, or print without such consent as aforesaid, such offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, photograph, or print has been copied, and also every sheet thereof so copied or printed as aforesaid, to the proprietor or proprietors of the copyright thereof, and shall further forfeit for every sheet of such map, musical composition, print, cut, or engraving which may be found in his or their possession, printed or published or exposed for sale contrary to the true intent and meaning of this Act, such sum not being less than ten cents nor more than one dollar as the court shall determine; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered in any court of competent jurisdiction.

Right of
separate
representation.

14. Nothing herein contained shall prejudice the right of any person to represent any scene or object, notwithstanding that there may be copyright in some other representation of such scene or object.

Printing and
publishing, or
reprinting and
republishing, in
Canada.

15. Works of which the copyright has been granted and is subsisting in the United Kingdom, and copyright of which is not secured or subsisting in Canada under any Canadian or Provincial Act, shall, upon being printed and published or reprinted and republished in Canada, be entitled to copyright under this Act; but nothing in this Act shall be held to prohibit the importation from the United Kingdom of copies of such works legally printed there.

(2.) In the case of the reprinting of any such copyright work subsequent to its publication in the United Kingdom, any person who may have previously to the date of entry of such work upon the registers of copyright imported any foreign reprints, shall have the privilege of disposing of such reprints by sale or otherwise; the burden of proof, however, in such a case will lie with such person to establish the extent and regularity of the transaction.

38 & 39 Vict.
c. 53.

16. Whenever the author of a literary, scientific, or artistic work or composition which may be the subject of copyright has executed the same for another person or has sold the same to another person for due consideration, such author shall not be entitled to obtain or to retain the proprietorship of such copyright, which is by the said transaction virtually transferred to the purchaser who may avail himself of such privilege, unless a reserve of the said privilege is specially made by the author or artist in a deed duly executed.

Work done for or sold to another person.

17. If any person, not having legally acquired the copyright of a literary, scientific, or artistic work, inserts in any copy thereof printed, produced, reproduced, or imported, or impresses on any such copy that the same hath been entered according to this Act, or words purporting to assert the existence of a Canadian copyright in relation thereto, every person so offending shall incur a penalty not exceeding three hundred dollars (one moiety whereof shall be paid to the person who sues for the same, and the other moiety to the use of Her Majesty), to be recovered in any court of competent jurisdiction.

False assertion of copyright.

(2.) If any person causes any work to be inserted in the Register of Interim Copyright and fails to print and publish or reprint and republish the same within the time prescribed, he shall incur a penalty not exceeding one hundred dollars (one moiety whereof shall be paid to the person who sueth for the same, and the other moiety to the use of Her Majesty), to be recovered in any court of competent jurisdiction.

Failure to print and publish.

18. The right of an author of a literary, scientific, or artistic work to obtain a copyright, and the copyright when obtained, shall be assignable in law, either as to the whole interest or any part thereof, by an instrument in writing made in duplicate, and to be recorded in the office of the Minister of Agriculture, on production of both duplicates and payment of the fee hereinafter provided. One of the duplicates shall be retained in the office of the Minister of Agriculture, and the other returned, with the certificate of registration, to the party depositing it.

Assignment of copyright.

19. In case of any person making application to register as his own the copyright of a literary, scientific, or artistic work already registered in another person's name, or in case of simultaneous conflicting applications, or of an application made by any person other than the person entered as the proprietor of a registered copyright, to cancel the said copyright, the party so applying shall be notified that the question is to be settled before a court of competent jurisdiction, and no further proceedings shall be had concerning the subject before a judgment is produced, maintaining, cancelling, or otherwise settling the matter; and this registration, or cancellation, or adjustment of the said right shall then be made by the Minister of Agriculture in accordance with such decision.

Conflicting applications for registration.

20. Clerical errors happening in the framing or copying of any instrument drawn in the office of the Minister of Agriculture shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the Minister of Agriculture.

Clerical errors.

21. All copies or extracts certified from the officer of the Minister of Agriculture shall be received in evidence without further proof, and without production of the originals.

Certified extracts.

22. Should a work copyrighted in Canada become out of print, a complaint may be lodged by any person with the Minister of Agriculture, who, on the fact being ascertained to his satisfaction, shall notify the copyright owner of the complaint and of the fact; and if, within a reasonable time, no remedy is applied by such owner, the Minister of Agriculture may grant a license to any person to publish a new edition or to import the work, specifying the number of copies, and the royalty to be paid on each to the copyright owner.

Power to authorize republication.

23. The application for the registration of an interim copyright, of a temporary copyright, and of a copyright may be made in the name of the author or of his legal representative by any person purporting to be the agent of the said author, and any fraudulent assumption of such authority shall be a misdemeanour, and shall be punished by fine and imprisonment accordingly; and any damage caused by a fraudulent or an erroneous assumption of such authority shall be recoverable before any court of competent jurisdiction.

Fraudulent applications for registration.

38 & 39 VICT. c. 53.	24. If any person shall wilfully make or cause to be made any false entry in the registry books of the Minister of Agriculture, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of an entry in the said books, he shall be guilty of a misdemeanour, and shall be punished accordingly.
False entries.	
Books published anonymously.	25. If a book be published anonymously it shall be sufficient to enter it in the name of the first publisher thereof, either on behalf of the unnamed author or on behalf of such first publisher, as the case may be.
Subsequent editions.	26. It shall not be requisite to deliver any printed copy of the second or of any subsequent edition of any book or books unless the same shall contain very important alterations or additions.
Limitation of actions.	27. No act or prosecution for the recovery of any penalty under this Act shall be commenced more than two years after the cause of action arose.
Fees.	The following fees shall be payable to the Minister of Agriculture before an application for any of the purposes hereinafter mentioned shall be entertained— that is to say,
	Dol. c.
	On registering a copyright - - - - - 1 00
	On registering an interim copyright - - - - - 0 50
	On registering a temporary copyright - - - - - 0 50
	On recording an assignment - - - - - 1 00
	On certified copy of registration - - - - - 0 50
	On registering any decision of a court of justice, for every folio - - - - - 0 50
	On office copies of documents not above mentioned, the following charges shall be made :
	For every single or first folio certified copy - - - - - 0 50
	For every subsequent one hundred words (fractions from and under fifty being not counted, and over fifty being counted for one hundred) - - - - - 0 25
	(2.) The said fees shall be in full of all services performed under this Act by the Minister of Agriculture, or by any person employed by him in pursuance of this Act.
	(3.) All fees received under this Act shall be paid over to the Receiver General and form part of the Consolidated Revenue Fund of Canada. No fees shall be made the subject of exemption in favour of any person, and no fee exacted by this Act, once paid, shall be returned to the person who paid it.
Repeal of Acts.	28. "The Copyright Act of 1868," being the Act thirty-first Victoria, chapter fifty-four, and all other Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed, subject to the provisions of the next following section.
Unexpired copyrights.	29. All copyrights heretofore acquired under the Acts or parts of Acts repealed shall, in respect of the unexpired terms thereof, continue unimpaired, and shall have the same force and effect as regards the province or provinces to which they now extend, and shall be assignable and renewable, and all penalties and forfeitures incurred and to be incurred under the same may be sued for and enforced, and all prosecutions commenced before the passing of this Act for any such penalties or forfeitures already incurred may be continued and completed as if such Acts were not repealed.
Title.	30. In citing this Act it shall be sufficient to call it "The Copyright Act of 1875."

44 & 45 VICT. CAP. 60.

44 & 45 VICT.
c. 60.

An Act to amend the Law of Newspaper Libel, and to provide for the Registration of Newspaper Proprietors.—[27th August, 1881.]

WHEREAS it is expedient to amend the law affecting civil actions and criminal prosecutions for newspaper libel :

And whereas it is also expedient to provide for the registration of newspaper proprietors :

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:

44 & 45 VICT.
C. 60.

1. In the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several words and phrases hereinafter mentioned shall have and include the meanings following (that is to say),

Interpretation.

The word "registrar" shall mean in England the registrar for the time being of joint stock companies, or such person as the Board of Trade may for the time being authorize in that behalf, and in Ireland the assistant registrar for the time being of joint stock companies for Ireland, or such person as the Board of Trade may for the time being authorize in that behalf.

The phrase "registry office" shall mean the principal office for the time being of the registrar in England or Ireland, as the case may be, or such other office as the Board of Trade may from time to time appoint.

The word "newspaper" shall mean any paper containing public news, intelligence, or occurrences, or any remarks or observations therein printed for sale, and published in England or Ireland periodically, or in parts or numbers at intervals not exceeding twenty-six days between the publication of any two such papers, parts, or numbers.

Also any paper printed in order to be dispersed, and made public weekly or oftener, or at intervals not exceeding twenty-six days, containing only or principally advertisements.

The word "occupation" when applied to any person shall mean his trade or following, and if none, then his rank or usual title, as esquire, gentleman.

The phrase "place of residence" shall include the street, square, or place where the person to whom it refers shall reside, and the number (if any) or other designation of the house in which he shall so reside.

The word "proprietor" shall mean and include as well the sole proprietor of any newspaper, as also in the case of a divided proprietorship the persons who, as partners or otherwise, represent and are responsible for any share or interest in the newspaper as between themselves and the persons in like manner representing or responsible for the other shares or interests therein, and no other person.

2. Any report published in any newspaper of the proceedings of a public meeting shall be privileged, if such meeting was lawfully convened for a lawful purpose and open to the public, and if such report was fair and accurate, and published without malice, and if the publication of the matter complained of was for the public benefit; provided always, that the protection intended to be afforded by this section shall not be available as a defence in any proceeding, if the plaintiff or prosecutor can show that the defendant has refused to insert in the newspaper in which the report containing the matter complained of appeared a reasonable letter or statement of explanation or contradiction by or on behalf of such plaintiff or prosecutor.

Newspaper reports of certain meetings privileged.

3. No criminal prosecution shall be commenced against any proprietor, publisher, editor, or any person responsible for the publication of a newspaper for any libel published therein, without the written fiat or allowance of the Director of Public Prosecutions in England or Her Majesty's Attorney General in Ireland being first had and obtained.

No prosecution for newspaper libel without fiat.

4. A court of summary jurisdiction, upon the hearing of a charge

Inquiry by court

44 & 45 Vict.
c. 60.

of summary
jurisdiction as
to libel
being for public
benefit or being
true.

against a proprietor, publisher, or editor, or any person responsible for the publication of a newspaper, for a libel published therein, may receive evidence as to the publication being for the public benefit, and as to the matters charged in the libel being true, and as to the report being fair and accurate, and published without malice, and as to any matter which under this or any other Act, or otherwise, might be given in evidence by way of defence by the person charged on his trial on indictment, and the court, if of opinion after hearing such evidence that there is a strong or probable presumption that the jury on the trial would acquit the person charged, may dismiss the case.

Provision as
to summary
conviction for
libel.

5. If a court of summary jurisdiction upon the hearing of a charge against a proprietor, publisher, editor, or any person responsible for the publication of a newspaper for a libel published therein is of opinion that though the person charged is shown to have been guilty the libel was of a trivial character, and that the offence may be adequately punished by virtue of the powers of this section, the court shall cause the charge to be reduced into writing and read to the person charged, and then address a question to him to the following effect: "Do you desire to be tried by a jury or do you consent to the case being dealt with summarily?" and, if such person assents to the case being dealt with summarily, the court may summarily convict him, and adjudge him to pay a fine not exceeding fifty pounds.

42 & 43 Vict.
c. 49.

Section twenty-seven of the Summary Jurisdiction Act, 1879, shall, so far as is consistent with the tenor thereof, apply to every such proceeding as if it were herein enacted and extended to Ireland, and as if the Summary Jurisdiction Acts were therein referred to instead of the Summary Jurisdiction Act, 1848.

11 & 12 Vict.
c. 43.
22 & 23 Vict.
c. 17 made
applicable to
this Act.

6. Every libel or alleged libel, and every offence under this Act, shall be deemed to be an offence within and subject to the provisions of the Act of the session of the twenty-second and twenty-third years of the reign of Her present Majesty, chapter seventeen, intituled "An Act to prevent vexatious indictments for certain misdemeanours."

Board of Trade
may authorize
registration of
the names of
only a portion of
the proprietors
of a newspaper.

7. Where, in the opinion of the Board of Trade, inconvenience would arise or be caused in any case from the registry of the names of all the proprietors of the newspaper (either owing to minority, coverture, absence from the United Kingdom, minute subdivision of shares, or other special circumstances), it shall be lawful for the Board of Trade to authorize the registration of such newspaper in the name or names of some one or more responsible "representative proprietors."

Register of
newspaper pro-
prietors to be
established.

8. A register of the proprietors of newspapers as defined by this Act shall be established under the superintendence of the registrar.

Annual returns
to be made.

9. It shall be the duty of the printers and publishers for the time being of every newspaper to make or cause to be made to the Registry Office on or before the thirty-first of July, one thousand eight hundred and eighty-one, and thereafter annually in the month of July in every year, a return of the following particulars according to the Schedule A. hereunto annexed—that is to say,

(a.) The title of a newspaper:

(b.) The names of all the proprietors of such newspaper, together with their respective occupations, places of business (if any), and places of residence.

Penalty for

10. If within the further period of one month after the time herein-

before appointed for the making of any return as to any newspaper such return be not made, then each printer and publisher of such newspaper shall, on conviction thereof, be liable to a penalty not exceeding twenty-five pounds, and also to be directed by a summary order to make a return within a specified time.

41 & 42 Vict.
c. 62.
Omission to
make annual
return.

11. Any party to a transfer or transmission of or dealing with any share of or interest in any newspaper, whereby any person ceases to be a proprietor, or any new proprietor is introduced, may at any time make or cause to be made to the Registry Office a return according to the Schedule B. hereunto annexed, and containing the particulars therein set forth.

Power to party
to make return.

12. If any person shall knowingly and wilfully make or cause to be made any return by this Act required or permitted to be made in which shall be inserted or set forth the name of any person as a proprietor of a newspaper who shall not be a proprietor thereof, or in which there shall be any misrepresentation, or from which there shall be any omission in respect of any of the particulars by this Act required to be contained therein, whereby such return shall be misleading, or if any proprietor of a newspaper shall knowingly and wilfully permit any such return to be made which shall be misleading as to any of the particulars with reference to his own name, occupation, place of business (if any), or place of residence, then and in every such case every such offender being convicted thereof shall be liable to a penalty not exceeding one hundred pounds.

Penalty for
wilful misrep-
resentation in or
omission from
return.

13. It shall be the duty of the registrar, and he is hereby required, forthwith to register every return made in conformity with the provisions of this Act in a book to be kept for that purpose at the Registry Office, and called "The Register of Newspaper Proprietors," and all persons shall be at liberty to search and inspect the said book from time to time during the hours of business at the Registry Office, and any person may require a copy of any entry in or an extract from the book, to be certified by the registrar or his deputy for the time being, or under the official seal of the registrar.

Registrar to
enter returns in
register.

14. There shall be paid in respect of the receipt and entry of returns made in conformity with the provisions of this Act, and for the inspection of the register of newspaper proprietors, and for certified copies of any entry therein, and in respect of any other services to be performed by the registrar, such fees (if any) as the Board of Trade, with the approval of the Treasury, may direct, and as they shall deem requisite to defray as well the additional expenses of the Registry Office caused by the provisions of this Act as also the further remunerations and salaries (if any) of the registrar, and of any other persons employed under him in the execution of this Act, and such fees shall be dealt with as the Treasury may direct.

Fees payable
for registrar's
services.

15. Every copy of an entry in or extract from the register of newspaper proprietors, purporting to be certified by the registrar or his deputy for the time being, or under the official seal of the registrar, shall be received as conclusive evidence of the contents of the said register of newspaper proprietors, so far as the same appear in such copy or extract without proof of the signature thereto or of the seal of office affixed thereto, and every such certified copy or extract shall in all proceedings, civil or criminal, be accepted as sufficient *prima facie* evidence of all the matters and things thereby appearing, unless and until the contrary thereof be shown.

Copies of
entries in and
extracts from
register to be
evidence.

16. All penalties under this Act may be recovered before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

Recovery of
penalties and
enforcement
of orders.

44 & 45 Vict
c. 60.

Summary orders under this Act may be made by a court of summary jurisdiction, and enforced in manner provided by section 34 of the Summary Jurisdiction Act, 1879; and, for the purposes of this Act, that section shall be deemed to apply to Ireland in the same manner as if it were re-enacted in this Act.

Resolutions.

17. The expression "a court of summary jurisdiction" has in England the meanings assigned to it by the Summary Jurisdiction Act, 1879; and in Ireland means any justice or justices of the peace, stipendiary or other magistrate or magistrates, having jurisdiction under the Summary Jurisdiction Acts.

The expression "Summary Jurisdiction Acts" has as regards England the meanings assigned to it by the Summary Jurisdiction Act, 1879; and as regards Ireland means within the police district of Dublin metropolis the Acts regulating the powers and duties of justices of the peace for such district, or of the police of that district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending the same.

14 & 15 Vict.
c. 93.

Newspaper
belonging to a
joint stock
company.

18. The provisions as to the registration of newspaper proprietors contained in this Act shall not apply to the case of any newspaper which belongs to a joint stock company duly incorporated under and subject to the provisions of the Companies Acts, 1862 to 1879.

Act not to
extend to
Scotland.
Short title.

19. This Act shall not extend to Scotland.

20. This Act may for all purposes be cited as the Newspaper Libel and Registration Act, 1881.

THE SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE A.

Return made pursuant to the Newspaper Libel and Registration Act, 1881.

Title of the Newspaper.	Names of the Proprietors.	Occupations of the Proprietors.	Places of business (if any) of the Proprietors.	Places of Residence of the Proprietors.

SCHEDULE B.

Return made pursuant to the Newspaper Libel and Registration Act, 1881.

Title of Newspaper.	Names of Persons who cease to be Proprietors.	Names of Persons who become Proprietors.	Occupation of new Proprietors.	Places of business (if any) of new Proprietors.	Places of Residence of new Proprietors.

45 & 46 VICT. CAP. 40.

45 & 46 VICT.
C. 40.
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An Act to amend the Law of Copyright relating to Musical Compositions. — [10th August, 1882].

WHEREAS it is expedient to amend the law relating to copyright in musical compositions, and to protect the public from vexatious proceedings for the recovery of penalties for the unauthorized performance of the same :

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 :

1. On and after the passing of this Act the proprietor of the copy-right in any musical composition first published after the passing of this Act, or his assignee, who shall be entitled to and be desirous of retaining in his own hands exclusively the right of public representation or performance of the same, shall print or cause to be printed upon the title-page of every published copy of such musical composition a notice to the effect that the right of public representation or performance is reserved.

Printed notice restraining public performance.

2. In case, after the passing of this Act, the right of public representation or performance of, and the copyright in, any musical composition shall be or become vested before publication of any copy thereof in different owners, then, if the owner of the right of public representation or performance shall desire to retain the same, he shall, before any such publication of any copy of such musical composition, give to the owner of the copyright therein notice in writing requiring him to print upon every copy of such musical composition, a notice to the effect that the right of public representation or performance is reserved ; but in case the right of public representation or performance of, and the copyright in any musical composition shall, after publication of any copy thereof subsequently to the passing of this Act, first become vested in different owners, and such notice as aforesaid shall have been duly printed on all copies published after the passing of this Act previously to such vesting, then, if the owner of the right of performance and representation shall desire to retain the same, he shall, before the publication of any further copies of such musical composition, give notice in writing to the person in whom the copyright shall be then vested, requiring him to print such notice as aforesaid on every copy of such musical composition to be thereafter published.

Provision when right of performance and copyright are vested in different owners.

3. If the owner for the time being of the copyright in any musical composition shall, after due notice being given to him or his predecessor in title at the time, and generally in accordance with the last preceding section, neglect or fail to print legibly and conspicuously upon every copy of such composition published by him or by his authority, or by any person lawfully entitled to publish the same, and claiming through or under him, a note or memorandum stating that the right of public representation or performance is reserved, then and in such case the owner of the copyright at the time of the happening of such neglect or default, shall forfeit and pay to the owner of the right of public representation or performance of such composition the sum of twenty pounds, to be recovered in any court of competent jurisdiction.

Penalty on owner of copyright for non-compliance with notice from owner of right of performance.

4. Notwithstanding the provisions of the Act passed in the third and fourth years of His Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or any other Act in

Costs. 3 & 4 Will. 4, c. 15.

45 & 46 VICT.
C. 40.

which those provisions are incorporated, the costs of any action or proceedings for penalties or damages in respect of the unauthorized representation or performance of any musical composition published before the passing of this Act shall, in cases in which the plaintiff shall not recover more than forty shillings as penalty or damages, be in the discretion of the court or judge before whom such action or proceedings shall be tried.

Short title.

5. This Act may be cited as the Copyright (Musical Compositions) Act, 1882.

46 & 47 VICT. CAP. 57.

46 & 47 VICT.
C. 57.

An Act to amend and consolidate the Law relating to Patents for Inventions, Registration of Designs, and of Trade Marks.—[25th August 1883.]

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:

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1883.

Division of Act
into parts.

2. This Act is divided into parts, as follows:—

Part I.—PRELIMINARY.

Part II.—PATENTS.

Part III.—DESIGNS.

Part IV.—TRADE MARKS.

Part V.—GENERAL.

Commencement
of Act.

3. This Act, except where it is otherwise expressed, shall commence from and immediately after the thirty-first day of December one thousand eight hundred and eighty-three.

PART III.

DESIGNS.

Registration of Designs.

Application for
registration of
designs.

47. (1) The comptroller may, on application by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in the United Kingdom, register the design under this part of this Act.

(2) The application must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to, the patent office in the prescribed manner.

(3.) The application must contain a statement of the nature of the design, and the class or classes of goods in which the applicant desires that the design be registered.

(4.) The same design may be registered in more than one class.

(5.) In case of doubt as to the class in which a design ought to be registered, the comptroller may decide the question.

(6.) The comptroller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to the Board of Trade.

46 & 47 Vict.
c. 57.

(7.) The Board of Trade shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

48. (1.) On application for registration of a design, the applicant shall furnish to the comptroller the prescribed number of copies of drawings, photographs, or tracings of the design sufficient, in the opinion of the comptroller, for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

Drawings, &c.
to be furnished
on application.

(2.) The comptroller may, if he thinks fit, refuse any drawing, photograph, tracing, representation, or specimen which is not, in his opinion, suitable for the official records.

49. (1.) The comptroller shall grant a certificate of registration to the proprietor of the design when registered.

Certificate of
registration.

(2.) The comptroller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

Copyright in Registered Designs.

50. (1.) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

Copyright on
registration.

(2.) Before delivery on sale of any articles to which a registered design has been applied, the proprietor must (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the prescribed number of exact representations or specimens of the design; and if he fails to do so, the comptroller may erase his name from the register, and thereupon his copyright in the design shall cease.

51. Before delivery on sale of any articles to which a registered design has been applied, the proprietor of the design shall cause each such article to be marked with the prescribed mark, or with the prescribed word or words, or figures, denoting that the design is registered; and if he fails to do so, the copyright in the design shall cease, unless the proprietor shows that he took all proper steps to ensure the marking of the article.

Marking regis-
tered designs.

52. (1.) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorized in writing by the proprietor, or a person authorized by the comptroller or by the court, and furnishing such information as may enable the comptroller to identify the design, nor except in the presence of the comptroller, or of an officer acting under him, nor except on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof.

Inspection of
registered
designs.

(2.) When the copyright in a design has ceased, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

53. On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, it shall be the duty of the comptroller to inform such person

Information as
to existence of
copyright.

46 & 47 Vict.
c. 57.
—

whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor.

Cesser of copy-
right in certain
events.

54. If a registered design is used in manufacture in any foreign country and is not used in this country within six months of its registration in this country, the copyright in the design shall cease.

Register of Designs.

Register of
designs.

55. (1.) There shall be kept at the Patent Office a book called the "Register of Designs," wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

(2.) The register of designs shall be *prima facie* evidence of any matters by this Act directed or authorized to be entered therein.

Fees.

Fees on
registration, &c.

56. There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury shall from time to time direct.

Industrial and International Exhibitions.

Exhibition at
industrial or
international
exhibition not to
prevent or
invalidate
registration.

57. The exhibition at an industrial or international exhibition, certified as such by the Board of Trade, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof, provided that both the following conditions are complied with, namely :

- (a.) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the comptroller the prescribed notice of his intention to do so; and
- (b.) The application for registration must be made before or within six months from the date of the opening of the exhibition.

Legal Proceedings.

Penalty on
piracy of
registered
design.

58. During the existence of copyright in any design—

- (a.) It shall not be lawful for any person without the license or written consent of the registered proprietor to apply such design or any fraudulent or obvious imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance artificial or natural or partly artificial and partly natural: and
- (b.) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by action in any court of competent jurisdiction.

46 & 47 Vic.
C. 47.

59. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design, or of any fraudulent or obvious imitation thereof for the purpose of sale, to any article of manufacture or substance, or from the publication, sale, or exposure for sale by any person of any article or substance, to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor had not given his consent to such application.

Action for damages.

Definitions.

60. In and for the purposes of this Act—

“Design” means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of the year 1814 (fifty-fourth George the Third, chapter fifty-six).

Definition of “design,” “copyright.”

“Copyright” means the exclusive right to apply a design to any article of manufacture or to any such substance as aforesaid in the class or classes in which the design is registered.

61. The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

Definition of proprietor.

PART V.

GENERAL.

Patent Office and Proceedings thereat.

82. (1.) The Treasury may provide for the purposes of this Act an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as, the Patent Office.

Patent Office.

(2.) Until a new patent office is provided, the offices of the Commissioners of Patents for inventions and for the registration of designs and trade marks existing at the commencement of this Act shall be the patent office within the meaning of this Act.

(3.) The patent office shall be under the immediate control of an

46 & 47 VICT.
c. 57.

officer called the comptroller-general of patents, designs, and trade marks, who shall act under the superintendence and direction of the Board of Trade.

(4.) Any act or thing directed to be done by or to the comptroller may, in his absence, be done by or to any officer for the time being in that behalf authorized by the Board of Trade.

Officers and clerks.

83. (1.) The Board of Trade may at any time after the passing of this Act, and from time to time, subject to the approval of the Treasury, appoint the comptroller-general of patents, designs, and trade marks, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

(2.) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by Parliament.

Seal of patent office.

84. There shall be a seal for the patent office, and impressions thereof shall be judicially noticed and admitted in evidence.

Trust not to be entered in registers.

85. There shall not be entered in any register kept under this Act, or be receivable by the comptroller, any notice of any trust expressed, implied or constructive.

Refusal to grant patent, &c., in certain cases.

86. The comptroller may refuse to grant a patent for an invention, or to register a design or trade mark, of which the use would, in his opinion, be contrary to law or morality.

Entry of assignments and transmissions in registers.

87. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, or to a registered trade mark, the comptroller shall, on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade mark, in the register of patents, designs, or trade marks, as the case may be. The person for the time being entered in the register of patents, designs, or trade marks, as proprietor of a patent, copyright in a design or trade mark, as the case may be, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the same, and to give effectual receipts for any consideration for such assignment, license, or dealing. Provided that any equities in respect of such patent, design, or trade mark may be enforced in like manner as in respect of any other personal property.

Inspection of and extracts from registers.

88. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed; and certified copies, sealed with the seal of the patent office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Sealed copies to be received in evidence.

89. Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the patent office, of or from patents, specifications, disclaimers, and other documents in the patent office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in Her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

Rectification of registers by court.

90. (1.) The Court may, on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging, or varying the entry, as the Court thinks fit; or the

Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

46 & 47 Vict.
c. 57.

(2.) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3.) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the comptroller.

91. The comptroller may, on request in writing, accompanied by the prescribed fee, -

Power for
comptroller to
correct clerical
errors.

(a.) Correct any clerical error in or in connexion with an application for a patent, or for registration of a design or trade mark; or

(b.) Correct any clerical error in the name, style, or address of the registered proprietor of a patent, design, or trade mark.

(c.) Cancel the entry, or part of the entry, of a trade mark on the register: Provided that the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark.

92. (1.) The registered proprietor of any registered trade mark may apply to the Court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Act, and the Court may refuse or grant leave on such terms as it may think fit.

Alteration of
registered mark

(2.) Notice of any intended application to the Court under this section shall be given to the comptroller by the applicant; and the comptroller shall be entitled to be heard on the application.

(3.) If the Court grants leave, the comptroller shall, on proof thereof and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

93. If any person makes, or causes to be made, a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour.

Falsification of
entries in
registers.

94. Where any discretionary power is by this Act given to the comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Exercise of
discretionary
power by
comptroller.

95. The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to either of the law officers for directions in the matter.

Power of
comptroller to
take directions
of law officers.

96. A certificate purporting to be under the hand of the comptroller as to any entry, matter, or thing which he is authorized by this Act, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Certificate of
comptroller to
be evidence.

97. (1.) Any application, notice, or other document authorized or required to be left made or given at the patent office or to the comptroller, or to any other person under this Act, may be sent by a pre-

Applications
and notices by
post.

40 & 47 Vict.
c. 57.

paid letter through the post; and if so sent shall be deemed to have been left made or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2.) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Provision as to days for leaving documents at office.

98. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the Patent Office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days if two or more of them occur consecutively.

Declaration by infant, lunatic, &c.

99. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

Transmission of certified printed copies of specifications, &c.

100. Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after the same shall respectively have been accepted or allowed at the Patent Office; and certified copies of or extracts from any such documents shall be given to any person requiring the same on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals.

Power for Board of Trade to make general rules for classifying goods and regulating business of patent office.

101. (1.) The Board of Trade may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act—

- (a.) For regulating the practice of registration under this Act:
- (b.) For classifying goods for the purposes of designs and trade marks:
- (c.) For making or requiring duplicates of specifications, amendments, drawings, and other documents:
- (d.) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments, and other documents:
- (e.) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents:
- (f.) For regulating (with the approval of the Treasury) the presentation of copies of Patent Office publications to patentees and

to public authorities, bodies, and institutions at home and abroad:

46 & 47 Vict,
c. 57.

(9.) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the comptroller, or of the Board of Trade.

(2.) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Board as aforesaid.

(3.) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4.) Any rules made in pursuance of this section shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament, and they shall also be advertised twice in the official journal to be issued by the comptroller.

(5.) If either House of Parliament, within the next forty days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

102. The comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

Annual reports
of comptroller.

International and Colonial Arrangements.

103. (1.) If Her Majesty is pleased to make any arrangement with the government or governments of any foreign state or states for mutual protection of inventions, designs, and trade marks, or any of them, then any person who has applied for protection for any invention, design, or trade mark in any such state, shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the protection obtained in such foreign state.

International
arrangements
for protection
of inventions,
designs, and
trade marks.

Provided that his application is made, in the case of a patent within seven months, and in the case of a design or trade mark within four months, from his applying for protection in the foreign state with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade mark in this country, as the case may be.

(2.) The publication in the United Kingdom, or the Isle of Man during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or

46 & 47 Vict.
c. 57.

representation of the design, or the use therein during such periods of the trade mark, shall not invalidate the patent which may be granted for the invention, or the registration of the design or trade mark :

(3.) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application under this Act: Provided that, in the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under this Act:

(4.) The provisions of this section shall apply only in the case of those foreign states with respect to which Her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each state as the Order in Council shall continue in force with respect to that state.

Provision for
colonies and
India.

104. (1.) Where it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

(2.) An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act; but it shall be lawful for Her Majesty in Council to revoke any Order in Council made under this Act.

Offences.

Penalty on
falsely repre-
senting articles
to be patented.

105. (1.) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade mark applied to any article sold by him as registered which is not so, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

(2.) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented or a design or a trade mark is registered, if he sells the article with the word "patent," "patented," "registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to, the article.

Penalty on
unauthorized
assumption of
Royal arms.

106. Any person who, without the authority of Her Majesty, or any of the Royal Family, or of any Government Department, assumes or uses in connexion with any trade, business, calling, or profession, the Royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.

Scotland, Ireland, &c.

Saving for
Courts in
Scotland.

107. In any action for infringement of a patent in Scotland the provisions of this Act, with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the court shall otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts.

For the purposes of this section "court of appeal" shall mean any court to which such action is appealed. 46 & 47 Vict.
c. 57.

108. In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the sheriff court. Summary proceedings in Scotland.

109. (1.) Proceedings in Scotland for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause shown only. Proceedings for revocation of patent in Scotland.

(2.) Service of all writs and summonses in that section shall be made according to the forms and practice existing at the commencement of this Act.

110. All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only. Reservation of remedies in Ireland.

111. (1.) The provisions of this Act conferring a special jurisdiction on the court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland or Ireland in any proceedings relating to patents or to designs or to trade marks; and with reference to any such proceedings in Scotland, the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either Division of the said Court; and with reference to any such proceedings in Ireland, the terms "the Court" and "the Court of Appeal" respectively mean the High Court of Justice in Ireland and Her Majesty's Court of Appeal in Ireland. General saving for jurisdiction of courts.

(2.) If any rectification of a register under this Act is required in pursuance of any proceeding in a court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the comptroller, and he shall rectify the register accordingly.

112. This Act shall extend to the Isle of Man, and—

Isle of Man.

(1.) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent, design, or trade mark competent to those courts;

(2.) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the court;

(3.) Any offence under this Act committed in the Isle of Man, which would in England be punishable on summary conviction, may be prosecuted, and any fine in respect thereof recovered, at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

Repeal; Transitional Provisions; Savings.

113. The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not— Repeal and saving for past operation of repealed enactments, &c.

(a.) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or

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c. 57.

compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or

(b.) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or

(c.) Take away or abridge any protection or benefit in relation to any such action or proceeding.

Former registers
to be deemed
continued.

114. (1.) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

(2.) The registers of designs and of trade marks kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of designs and the register of trade marks kept under this Act.

Saving for
existing rules.

115. All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed, altered, or amended by the Board of Trade, as if they had been made by the Board under this Act, but so that no such repeal, alteration, or amendment shall take effect before the commencement of this Act; and, subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act.

Saving for
prerogative.

116. Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

General Definitions.

General
definitions

117. (1.) In and for the purposes of this Act, unless the context otherwise requires,—

“Person” includes a body corporate;

“The Court” means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty’s High Court of Justice in England;

“Law officer” means Her Majesty’s Attorney-General or Solicitor-General for England;

“The Treasury” means the Commissioners of Her Majesty’s Treasury;

“Comptroller” means the Comptroller General of Patents, Designs, and Trade Marks;

“Prescribed” means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act;

“British possession” means any territory or place situate within Her Majesty’s dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man, and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act;

“Legislature” includes any person or persons who exercise legislative authority in the British possession; and where there are

local legislatures as well as a central legislature, means the central legislature only.

46 & 47 Vict.
c. 57.

In the application of this Act to Ireland, "summary conviction" means a conviction under the Summary Jurisdiction Acts, that is to say, with reference to the Dublin Metropolitan Police District the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending it.

FORM E.

FORM OF APPLICATION FOR REGISTRATION OF DESIGN.

_____ day of _____ 18 .
 You are hereby requested to register the accompanying
 Design in Class _____ in the name of (a)
 of _____
 who claims to be the Proprietor thereof, and to return the same to

(a) Here insert legibly the name and address of the individual or firm.

Statement of nature of Design _____

Registration Fees enclosed £ _____ s.

To the Comptroller,
 Patent Office, 25, Southampton Buildings, Chancery Lane, W.C.

(Signed) _____

THE THIRD SCHEDULE.

Enactments Repealed.

21 James 1. c. 3. (1623.)	The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve.
5 & 6 Will. 4. c. 62. (1835.) In part.	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. 4. c. 33. (1835.)	An Act to amend the law touching letters patent for inventions.
2 & 3 Vict. c. 67. (1839.)	An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled "An Act to amend the law touching letters patent for inventions."
5 & 6 Vict. c. 100. (1842.)	An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
6 & 7 Vict. c. 65. (1843.)	An Act to amend the laws relating to the copyright of designs.
7 & 8 Vict. c. 69(a) (1844.) In part.	An Act for amending an Act passed in the fourth year of the reign of His late Majesty, intituled "An Act for the better administration of justice in His Majesty's Privy Council, and to extend its jurisdiction and powers." In part; namely,— Sections two to five, both included.
13 & 14 Vict. c. 104. (1850.)	An Act to extend and amend the Acts relating to the copyright of designs.
15 & 16 Vict. c. 83. (1852.)	The Patent Law Amendment Act, 1852.
16 & 17 Vict. c. 5. (1853.)	An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.

(a) Sections six and seven of this Act are repealed by the Statute Law Revision No. 2) Act, 1874.

46 & 47 VICT C. 57.	16 & 17 Vict. c. 115. (1853.)	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.
	21 & 22 Vict. c. 70. (1858.)	An Act to amend the Act of the fifth and sixth years of Her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
	22 Vict. c. 13. (1859.)	An Act to amend the Law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
	24 & 25 Vict. c. 73. (1861.)	An Act to amend the law relating to the copyright of designs.
	25 & 29 Vict. c. 3. (1865.)	The Industrial Exhibitions Act, 1865.
	31 & 31 Vict. c. 27. (1870.)	The Protection of Inventions Act, 1870.
	31 & 31 Vict. c. 97. (1870.)	The Stamp Act, 1870. In part; namely,— Section sixty-five, and in the Schedule the words and figures, “Certificate of the registration of a design... £5 0 0. And see section 65.”
	38 & 39 Vict. c. 91. (1875.)	The Trade Marks Registration Act, 1875.
	38 & 39 Vict. c. 93. (1875.)	The Copyright of Designs Act, 1875.
	39 & 40 Vict. c. 33. (1876.)	The Trade Marks Registration Amendment Act, 1876.
	40 & 41 Vict. c. 37. (1877.)	The Trade Marks Registration Extension Act, 1877.
	43 & 44 Vict. c. 10. (1880.)	The Great Seal Act, 1880. In part; namely,— Section five.
	45 & 46 Vict. c. 72. (1882.)	The Revenue, Friendly Societies, and National Debt Act, 1882. In part; namely,— Section sixteen.

RULES FOR THE REGISTRATION OF DESIGNS.

The following Rules relating to the Registration of Designs have been made and issued by the Board of Trade :

Commencement.

1. These Rules may be cited as the Designs Rules, 1883, and shall come into operation from and immediately after the 31st day of December, 1883.

Interpretation.

2. In the construction of these Rules any words herein used defined by the said Act shall have the meanings thereby assigned to them respectively. Interpretation.

Fees.

3. The Fees to be paid under the said Act, so far as it relates to applications for and registration of designs, shall be the fees specified in the First Schedule hereto. Fees.

Forms.

4. An application for the registration of a design shall be made in the Form E. in the Second Schedule hereto. The remaining forms in such Schedule may be used in all cases to which they are applicable. Forms.

Classification of Goods.

5. For the purposes of the registration of designs and of these Rules, goods are classified in the manner appearing in the Third Schedule hereto. Classification of goods.

Application for Registration.

6. All communications between an applicant for the registration of a design and the Comptroller or the Board of Trade, as the case may be, may be made by or through an agent duly authorized to the satisfaction of the Comptroller. Agents.

7. An application for the registration of a design shall, with the prescribed fee, be left at the Patent Office, Designs Branch, or be sent prepaid by post, addressed to the Comptroller at the Patent Office (Designs Branch), 25, Southampton Buildings, Chancery Lane, London. Address of Comptroller.

8. An application for the registration of a design, and all drawings, sketches, photographs, or tracings of a design, and all other documents sent to or left at the Patent Office, Designs Branch, or otherwise furnished to the Comptroller or to the Board of Trade, shall be written, printed, copied, or drawn upon strong wide-ruled foolscap paper (on one side only), of the size of thirteen inches by eight inches, Size of papers.

leaving a margin of not less than one inch and a-half on the left-hand part thereof, and the signature of the applicants or agents thereto must be written in a large and legible hand.

The Comptroller may in any particular case vary the requirements of this Rule as he may think fit.

Sketches and drawings.

Nature of design.

9. An application for the registration of a design shall be accompanied by a sketch or drawing, or by three exactly similar drawings, photographs, or tracings of the design, or by three specimens of the design, and shall, in describing the nature of the design, state whether it is applicable for the pattern or for the shape or configuration of the design, and the means by which it is applicable.

When sketches, drawings, or tracings are furnished, they must be fixed.

When the articles to which designs are applied are not of a kind which can be pasted into books, drawings, photographs, or tracings of such designs shall be furnished.

Acknowledgment to applicant.

10. On receipt of an application for registration, the Comptroller shall send to the applicant an acknowledgment thereof.

Notice of registration.

11. If the Comptroller determines to register a design, he shall, as soon as may be, send to the applicant a certificate of such registration in the prescribed form, sealed with the seal of the Patent Office.

Applications may be sent by post.

12. Any application, notice, or other document, authorized or required to be left, made, or given at the Patent Office, or to the Comptroller, or to any other person, under these Rules, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Hearing by Comptroller.

13. Before exercising any discretionary power given to the Comptroller by the said Act adversely to an applicant for registration of a design, the Comptroller shall give him ten days' notice of the time when he may be heard personally or by his agent before the Comptroller.

Hearing by Comptroller.

14. Within five days from the date when such notice would be delivered in the ordinary course of post, the applicant shall notify to the Comptroller whether or not he intends to be heard upon the matter.

Notification of Comptroller's decision.

15. The decision or determination of the Comptroller in the exercise of any such discretionary power as aforesaid shall be notified to the applicant.

Appeal to the Board of Trade.

Notice of appeal to Board of Trade.

16. When the Comptroller refuses to register a design, and the applicant intends to appeal to the Board of Trade from such refusal, he shall, within one month from the date of the decision appealed against, leave at the Patent Office, Designs Branch, a notice of such his intention.

Statement on appeal.

17. Such notice shall be accompanied by a statement of the grounds of appeal, and of the applicant's case in support thereof.

Notice to Secretary of Board of Trade.

18. The applicant shall forthwith on leaving such notice send a copy thereof to the Secretary of the Board of Trade, No. 7, Whitehall Gardens, London.

Directions by Board of Trade.

19. The Board of Trade may thereupon give such directions (if any) as they may think fit for the purpose of the hearing of the appeal for the Board of Trade.

20. Seven days' notice, or such shorter notice as the Board of Trade may in any particular case direct, of the time and place appointed for the hearing of the appeal shall be given to the Comptroller and the applicant. Notice of time of hearing.

Register of Designs.

21. Upon the sealing of a certificate of registration the Comptroller shall cause to be entered in the register of designs the name, address, and description of the registered proprietor, and the date upon which the application for registration was received by the Comptroller, which day shall be deemed to be the date of the registration. Registering design.

22. Where a person becomes entitled to the copyright in a registered design, or to any share or interest therein, by assignment, transmission, or other operation of law, or where a person acquires any right to apply the design either exclusively or otherwise, a request for the entry of his name in the register as such proprietor of the design, or as having acquired such right, as the case may be (hereinafter called the claimant), shall be addressed to the Comptroller, and left at the Patent Office, Designs Branch. Subsequent proprietors

23. Every such request shall, in the case of an individual, be made and signed by the person requiring to be registered as proprietor; and in the case of a firm or partnership, by some one or more members of such firm or partnership, or, in either case, by his or their agent respectively duly authorized to the satisfaction of the Comptroller; and in the case of a body corporate, by their agent authorized in like manner. Signature to request.

24. Every such request shall state the name, address, and description of the claimant, and the particulars of the assignment, transmission, or other operation of law by virtue of which the request is made, so as to show the manner in which and the person or persons to whom the design has been assigned or transmitted, or the person or persons who has or have acquired such right as aforesaid, as the case may be. Particulars in request.

25. Every such request shall be accompanied by a statutory declaration to be thereunder written verifying the several statements therein, and declaring that the particulars above described comprise every material fact and document affecting the proprietorship of the design or the right to apply the same, as the case may be, as claimed by such request. Statutory declaration with request.

26. The claimant shall furnish to the Comptroller such other proof of title as he may require for his satisfaction. Proof of title if required.

27. A body corporate may be registered as proprietor by its corporate name. Corporate name.

28. Where an order has been made by the Court, under section 90 of the said Act, the person in whose favour such order has been made shall forthwith leave at the Patent Office an office copy of such order. The register shall thereupon be rectified, or the purport of such order shall otherwise be duly entered in the register, as the case may be. Notice of order of Court.

Power to Dispense with Evidence.

29. Where under these Rules any person is required to do any act or thing, or to sign any document, or make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Comptroller or at the Patent Office, and it is shown to the satisfaction of the Comptroller that from any reasonable cause such person is unable to do such act Comptroller's discretion as to evidence.

or thing, or to sign such document, or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Comptroller, with the sanction of the Board of Trade, and upon the production of such other evidence and subject to such terms as they may think fit, to dispense with any such act or thing, document, declaration, or evidence.

Amendments.

Amendments.

30. Any document, drawings, sketches, or tracings for the amending of which no special provision is made by the said Act may be amended, and any irregularity in procedure which, in the opinion of the Comptroller, may be obviated without detriment to the interests of any person may be corrected, if the Comptroller think fit, and upon such terms as he may direct.

Enlargement of Time.

Enlargement of time.

31. The time prescribed by these Rules for doing any act or taking any proceeding thereunder may be enlarged by the Comptroller, if he think fit, and upon such terms as he may direct.

Marking Goods.

Registration mark.

32. Before the delivery on sale of any article to which a registered design has been applied, the proprietor of such design shall, if such article is included in any of the classes one to twelve in the Third Schedule hereto, cause each such article to be marked with the abbreviation "Rd" and the number appearing on the certificate of registration, and shall, if such article is included in the classes thirteen or fourteen in the Third Schedule hereto, cause each such article to be marked with the abbreviation "REGD".

Inspection.

Office hours

33. On such days and during such hours as the Comptroller shall from time to time determine and notify by a placard posted at the Patent Office any person paying the prescribed fee may, on production of the number of any design of which the copyright has ceased, inspect such design, and any person paying the prescribed fee may take a copy or copies of such design.

Certificate by Comptroller.

Certificate in legal proceeding.

34. Where a certificate is required for the purpose of any legal proceeding or other special purpose as to any entry, matter, or thing which the Comptroller is authorized by the said Act or these Rules to make or do, the Comptroller may, on a request in writing, and on payment of the prescribed fee, give such certificate, which shall also specify on the face of it the purpose for which it has been requested as aforesaid.

Searches on Production of Sketch or Design.

Search.

35. The Comptroller may, on receipt of the prescribed fee, make searches among the designs registered at the Patent Office after the commencement of the Act, and inform any person requesting him so to do whether a particular design produced by such person, and to be applied to goods in any particular class, is or is not identical with or an obvious imitation of any design applied to such goods and registered since the commencement of the Act.

Industrial and International Exhibitions.

36. Any person desirous of exhibiting a design, or any article to which a design has been applied, at an industrial or international exhibition, or of publishing a description of a design during the period of the holding of the exhibition, shall, after having obtained from the Board of Trade a certificate that the exhibition is an industrial or international one, give to the Comptroller seven days notice in writing of his intention to exhibit the design or article, or to publish a description of the design, as the case may be. Notice of exhibition.

For the purpose of identifying the design in the event of an application to register the same being subsequently made, the applicant shall furnish to the Comptroller a brief description of the nature of the design, accompanied by a sketch or drawing thereof, and such other information as the Comptroller may in each case require.

Repeal.

37. All general rules and regulations made by any authority under the Acts relating to the Copyright of Designs, and in force on the 31st December, 1883, shall be, and they are hereby repealed as from that date without prejudice nevertheless to any application then pending. Repeal of previous Rules.

J. CHAMBERLAIN,
President of the Board of Trade.

21st December, 1883.

SCHEDULES.

FIRST SCHEDULE.

FEEs.

	£	s.	d.
1. On application to register one design to be applied to single articles in each class, except Classes 13 and 14	0	10	0
2. On application to register one design to be applied to single articles in Classes 13 and 14	0	1	0
3. On application to register one design to be applied to a set of articles for each class of registration	1	0	0
4. On notice of appeal to Board of Trade against refusal of Comptroller to register	1	0	0
5. Copy of certificate of registration, each copy	0	1	0
6. On request for Certificate of Comptroller for legal proceedings or other special purpose	0	5	0
7. On request to enter name of subsequent proprietor	} same as registration fee.		
8. On notice to Comptroller of intended exhibition of an unregistered design	0	5	0
9. Inspection of design of which the copyright has expired, for each quarter of an hour	0	1	0
10. Copy of one such design	} cost according to agreement.		
11. On request to correct clerical error	0	5	0
12. On request for search under Section 53	0	5	0
13. On request to enter new address	0	5	0
14. For office copy, every 100 words	0	0	4
	(but never less than 1s.)		

15. For certifying office copies, MSS. or printed *£ s. d.*
 NOTE.—The term "set" to include any number of articles ordinarily on sale together, irrespective of the varieties of size and arrangement in which the particular design may be shown on each separate article.

J. CHAMBERLAIN,
 President of the Board of Trade.

Approved,
 CHARLES C. COPES,
 HERBERT J. GLADSTONE,
 Lords Commissioners of Her Majesty's Treasury.
 4th December, 1883.

SECOND SCHEDULE.

FORMS.

- Form of Application to Register.
- „ Appeal to Board of Trade.
- „ Certificate of Registration.
- „ Application for Copy of Certificate of Registration.
- „ Request for Certificate for use in Legal Proceedings.
- „ Certificate for use in Legal Proceedings.
- „ Request to enter Name of Subsequent Proprietor.
- „ Notice of intending Exhibition of Unregistered Design.
- „ Request for Correction of Clerical Error or for entry of New Address.



E. *Patents, Designs, and Trade Marks Act, 1883.*

APPLICATION FOR REGISTRATION OF DESIGN IN CLASSES

You are hereby requested to register the accompanying design in Class

....., in the name of (a)

of

who claims to be the proprietor thereof, and to return the same to

Statement of nature of design (b)

(a) Here insert legibly the name, address, and description of the individual or firm.

(b) Such as whether it is applicable for the pattern or for the shape.

(c) To be signed by the applicant.

(Signed)

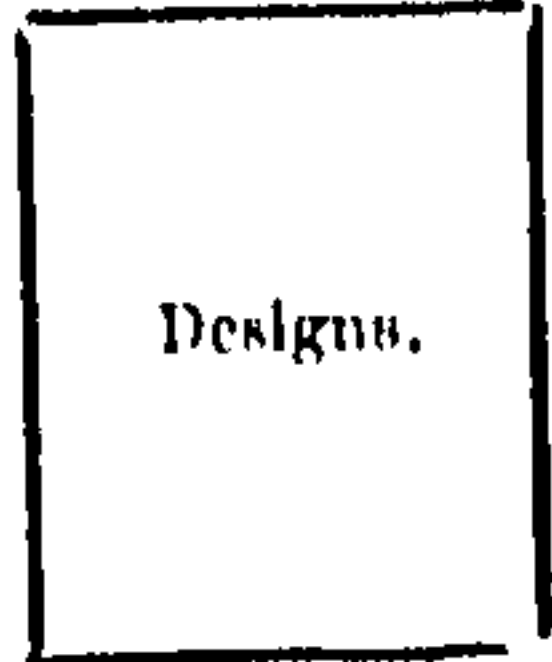
Dated the _____ day of _____ 188 .

To the Comptroller,
 Patent Office, Designs Branch,
 25, Southampton Buildings,
 Chancery Lane, London, W.C.

F. *Patents, Designs, and Trade Marks Act, 1883.*

APPEAL TO BOARD OF TRADE ON REFUSAL OF COMPTROLLER TO REGISTER A DESIGN.

[To be accompanied by an unstamped copy.]



SIR,

I hereby appeal against your decision upon my application to register

and beg to submit my case (a) for the decision of the Board of Trade.

I am, Sir,

Your obedient servant,

The Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

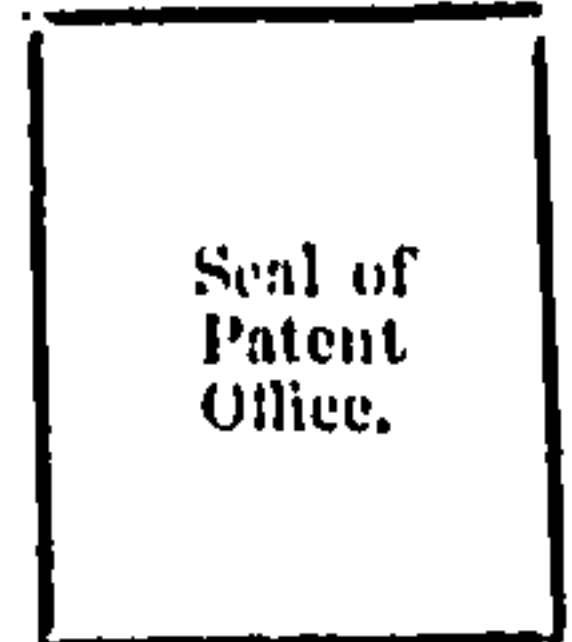
(a) The statement of the case to be written upon foolscap paper (on one side only), with a margin of two inches on the left-hand side thereof.

G. *Patents, Designs, and Trade Marks Act, 1883.*

CERTIFICATE OF REGISTRATION OF DESIGN.

(No. -- -- .)

Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.



This is to certify that the Design of which this is a copy was registered this _____ day of _____ 188____, in pursuance of the Patents, Designs, and Trade Marks Act, 1883, in respect of the application of such Design to articles in Class _____, for which a copyright of five years is granted.

H. *Patents, Designs, and Trade Marks Act, 1883.*

APPLICATION FOR COPY OF CERTIFICATE OF REGISTRATION OF DESIGN.

SIR,

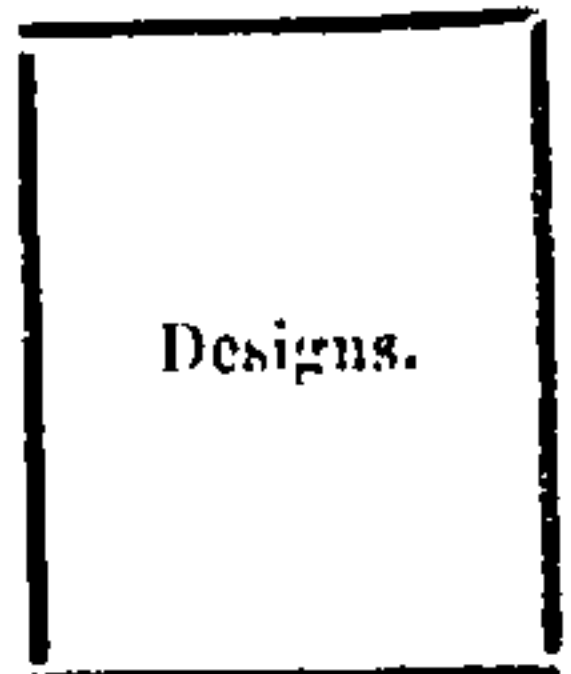
I hereby request you to furnish me with a Copy Certificate of Registration of

Design No. _____ in Class _____

(Signed) _____

Dated the _____ day of _____ 188____.

To the Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.





I.

Patents, Designs, and Trade Marks Act, 1883.

REQUEST FOR CERTIFICATE FOR USE IN LEGAL PROCEEDINGS.

SIR,

I hereby request you to send me for the purposes of use in the suit of (a)

(a) Here state the title of the legal proceeding or the other purpose for which the Certificate is required.

.....
.....
.....

a certificate that the design of which a copy is herein enclosed was (b)

(b) Here state the entry, matter, or thing which the writer wishes certified.

.....
.....

(Signed)

day of 188 ..

To the Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

J.

Patents, Designs, and Trade Marks Act, 1883.

CERTIFICATE FOR USE IN LEGAL PROCEEDINGS.

In the matter of

No.

I, Comptroller-General of Patents,

Designs, and Trade Marks, hereby certify that

Witness my hand and seal this day of

188 ..



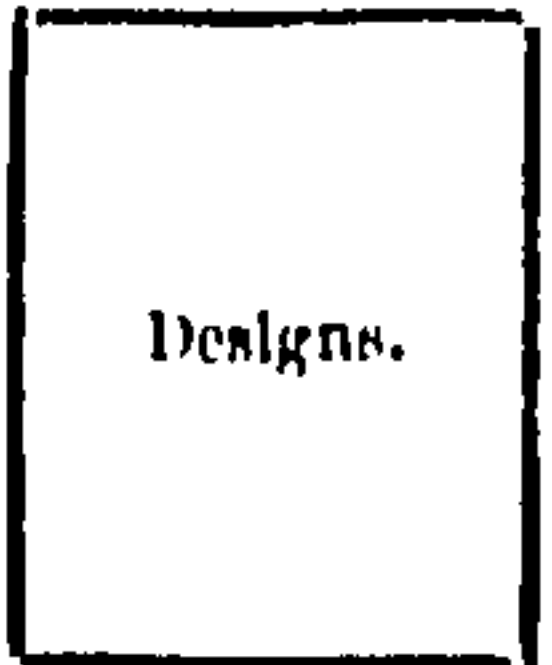
Seal.

Patent Office, Designs Branch,
25, Southampton Buildings,
London.

Comptroller.

K. Patents, Designs, and Trade Marks Act, 1883.

**REQUEST TO ENTER NAME OF SUBSEQUENT PROPRIETOR OF DESIGN,
WITH DECLARATION IN SUPPORT THEREOF.**



I, (a) _____

hereby request that you will enter (b) _____ name (c) _____ in the Register of Designs as Proprietor _____ of the Design No. _____ in Class _____.

(d) _____ entitled as to the said design _____

(e) _____

(a) or We, Here insert name, full address, and description.

(b) My or our, (c) or Names, (d) I am, or We are.

(e) Here state whether design transmitted by death, marriage, bankruptcy, or other operation of law, and if entitled by assignment state the particulars thereof as, e.g., "by deed dated the _____ day of _____ 188- made between So-and-so of the one part."

(f) And I do solemnly and sincerely declare that the above several statements are true, and the particulars above set out comprise every material fact and document affecting the proprietorship of the said Design as above claimed.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

(g)

Declared at _____

this _____ day of _____ 188 _____

Before me,

(h)

To the Comptroller,

Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

(f) This paragraph is not required when the declaration is made out of the United Kingdom.

(g) To be signed here by the person making the declaration.

(h) Signature and title of the authority before whom the declaration is made.

L. Patents, Designs, and Trade Marks Act, 1883.

NOTICE OF INTENDED EXHIBITION OF AN UNREGISTERED DESIGN.

(a) _____

hereby give notice of my intention to exhibit a _____

of _____ at the _____

Exhibition, which (b) _____

of _____ 188 _____, under the provisions of the Pa-

tents, Designs, and Trade Marks Act of 1883 (c) _____

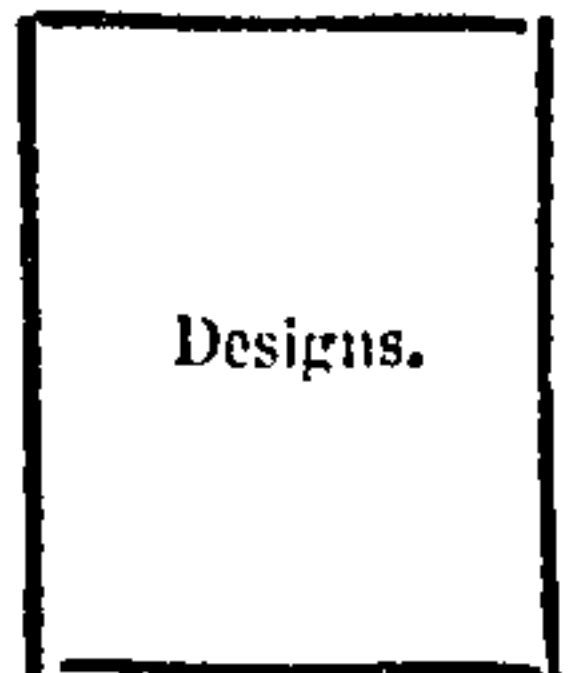
herewith enclose a _____

(Signed) _____

Dated the _____ day of _____ 188 _____

To the Comptroller,

Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.



(a) Here state name and address of applicant.

(b) State "opened," or "is to open."

(c) Insert brief description of Design, with drawing.



M. *Patents, Designs, and Trade Marks Act, 1883.*

REQUEST FOR CORRECTION OF CLERICAL ERROR OR FOR ENTRY OF NEW ADDRESS.

SIR,

I hereby request that

(Signed)

Dated the day of 1883 .

To the Comptroller,
 Patent Office, Designs Branch,
 25, Southampton Buildings,
 Chancery Lane, London, W.C.

THIRD SCHEDULE.

CLASSIFICATION OF ARTICLES OF MANUFACTURE AND SUBSTANCES.

Classes.

1. Articles composed wholly or partly of metal, not included in Class 2.
2. Jewellery.
3. Articles composed wholly or partly of wood, bone, ivory, papier maché, or other solid substances not included in other classes.
4. glass, earthenware or porcelain, bricks, tiles, or cement.
5. paper (except hangings).
6. leather, including bookbinding, of all materials.
7. Paper hangings.
8. Carpets and rugs in all materials, floorecloths, and oilcloths.
9. Lace, hosiery.
10. Millinery and wearing apparel, including boots and shoes.
11. Ornamental needlework on muslin or other textile fabrics.
12. Goods not included in other classes.
13. Printed or woven designs on textile piece goods.
14. handkerchiefs and shawls.

21st December, 1883.

J. CHAMBERLAIN,
 President of the Board of Trade.

FORMS OF AGREEMENT BETWEEN AUTHORS,
PUBLISHERS, &c.

*Agreement for publishing on Terms of Division of Profits,
publisher undertaking all Expenses of Publication.*

MEMORANDUM OF AGREEMENT between *A. B.*, of _____, and *C. D.* and *E. F.*, booksellers and publishers, of _____, dated _____.

The said *A. B.* agrees to prepare for publication and superintend through the press _____. It is hereby agreed between the said parties that the said *C. D.* and *E. F.* shall procure such work to be printed, and shall publish the _____ edition of the said work, to consist of not exceeding _____ copies, and shall defray the expenses of paper, printing, and advertising, and account to the said *A. B.* for all copies sold or delivered out of the same, giving credit only for the trade sale price they the said *C. D.* and *E. F.* shall charge to the booksellers, and being allowed a commission of _____ per cent. on the amount of all copies sold or delivered out of the said work, and a warehouse room charge of _____ per annum. The copies of the work sold or delivered out by the said *C. D.* and *E. F.* shall be accounted for to the said *A. B.*, at the rate of [twenty-five copies as twenty-four]. In consideration of which the said *C. D.* and *E. F.* agree to take the risk arising from bad debts and otherwise attending the sales, upon themselves, and after the said charges are refunded by the sales of the said work, the profits shall be divided in equal moieties between the said *A. B.* and the said *C. D.* and *E. F.* The accounts shall be made up at the end of every year, and the moiety of profits, if any, that may be due to the said *A. B.* shall be paid to him by the said *C. D.* and *E. F.* in the month of _____ following. It is hereby also agreed between the said parties, that, should a further edition or editions of the said work be required, the said *C. D.* and *E. F.* shall have the option of agreeing with the said *A. B.* for the printing and publishing the same upon such terms as may be hereafter agreed upon. It is also further agreed between the said parties, that, in case all the copies of the above-named edition of the said work shall not be sold off at the end of _____ years after publication, the said *C. D.* and *E. F.* shall be at liberty, but shall not be compellable, to dispose of the remaining copies unsold by public or private sale, or in such manner as they the said *C. D.* and *E. F.* shall deem most advisable, and shall account for the said unsold copies at such price or prices only as they shall actually be sold for, so that the account with reference to the said work may be finally settled and closed. The said *A. B.* shall be entitled to _____ copies of the said work free of any charge. In witness whereof the said parties have subscribed their names the day and year above written.

Another Form.

MEMORANDUM OF AGREEMENT made this _____ day of _____, one thousand eight hundred and seventy _____, between *A. B.*, of _____, _____, of the one part, and *C. D.* and *E. F.*, of _____, publishers, of the other part.

The said *A. B.* being the author of a certain book intituled . . . doth hereby agree with the said *C. D.* and *E. F.*, that they shall print, reprint, and publish the same on the following conditions, to which they also agree.

I. That the said *A. B.* shall fully prepare the whole of the said book for the press on or before the . . . day of . . . 18 . . . , and that he will correct the proof sheets, and superintend the printing thereof.

II. That the said *C. D.* and *E. F.* shall direct the mode of printing the said book, and shall bear and pay all the charges thereof, and of publishing the same, and shall take all the risk of the publication on themselves.

III. That the said *C. D.* and *E. F.* shall, out of the produce of the sale of the said book in the first instance be refunded all the charges and expenses which they shall have incurred respecting the said book, after which the profits shall be divided in equal moieties between the said *A. B.* and the said *C. D.* and *E. F.*

IV. That the accounts shall be made up at the end of every year, and the profits, if any, be then divided.

V. That the said *C. D.* and *E. F.* shall account for all the copies which they shall sell of the said book at the wholesale bookseller's price, deducting therefrom a commission of . . . per cent., they taking the risk of all credits which they shall give on the same.

VI. That in case all the copies of the said book shall have been sold off, and a second or any subsequent edition of the said book be required by the public, the said *A. B.* shall make all necessary alterations and additions thereto, and the said *C. D.* and *E. F.* shall print and publish the said second and every subsequent edition of the said book on the above conditions.

VII. That in case all the copies of any edition of the said work shall not be sold off within five years after the time of publication, the said *C. D.* and *E. F.* shall be at full liberty to dispose of the remaining copies so unsold, either by public auction or private sale, or in such manner as they may deem most advisable, so that the account may be finally settled and closed.

Witness our hands,

License to Print one Edition of a Work.

MEMORANDUM OF AGREEMENT made the . . . day of . . . A.D. . . . between *A. B.*, of . . . , of the one part, and *C. D.*, of . . . , of the other part.

The said *A. B.*, being the author of a certain book, entitled . . . doth hereby agree with the said *C. D.* that the said *C. D.*, for the consideration hereinafter expressed, shall print, publish, and sell one edition of . . . copies of the said work, the said *A. B.* reserving to himself the general copyright in the said work.

The said *A. B.*, in consideration of the payments hereinafter agreed to be made by the said *C. D.*, doth hereby agree with the said *C. D.* that he will furnish to the printer to be employed by him, fair copy of the said work, and will superintend the printing and correct the proofs thereof in the usual manner, and that he will duly register his title as proprietor of the copyright of the said work, and will not print, publish, or sell, and will not authorize any other person to print, publish, or sell, any and other copies until the whole of the said . . . copies have been disposed of by the said *C. D.*, provided the said . . . copies are sold within . . . years from the date hereof.

The said *C. D.*, in consideration of the aforesaid agreement on the part of the said *A. B.*, doth hereby agree with the said *A. B.* that he will pay him, the said *A. B.*, the sum of _____ for each and every copy of the said _____ copies, payable [quarterly, half-yearly, &c.], as fast as the said copies shall be sold or otherwise disposed of; he, the said *C. D.*, rendering to the said *A. B.* an account of sales of the said work, at the expiration of _____ months from the day of the first publication until the whole shall be sold. The said *C. D.* also agrees to give to the said *A. B.* _____ copies of the said work, well bound and free of charge, as soon as conveniently may be done, after the manuscript copy has been furnished by the said *A. B.*

And the said *C. D.*, in consideration of the aforesaid agreement on the part of the said *A. B.*, doth hereby further agree with the said *A. B.* that he, the said *C. D.*, will not print, publish, or sell, any more than the said _____ copies, until authorized by the said *A. B.* or his legal representatives in writing; it being understood that the licence herein contained extends only to one edition of the number of copies above specified. In witness whereof, &c.

Agreement to enlarge a second Edition of a Book, and correct Proof of the same.

MEMORANDUM OF AGREEMENT made the _____ day of _____ A.D.,
between *A. B.* of _____ of the one part, and *C. D.* of _____ of the other part.

The said *A. B.*, for and in consideration of _____ and other consideration herein named, hereby agrees with the said *C. D.* to examine, correct, and enlarge the work known as _____, to furnish additional manuscript matter for the _____ edition of the work, and to enlarge the index and make it full and complete.

It is understood and agreed that the new edition of the work shall be of the same sized page as the present work, and contain an equal amount of matter on each page, and that the additional matter furnished shall enlarge the work not less than _____ pages, and shall be furnished to the said *C. D.*, commencing on the _____.

The said *A. B.* is to examine and to correct the proof sheets as fast as they shall be furnished, and to complete the index as soon as may be after the whole signatures of the text shall be ready for him for that purpose.

The said *C. D.*, on his part, agrees to print the said work as the matter shall be furnished, to furnish the said *A. B.* with a copy of the work by signatures, as each signature shall be worked off, for the purpose of arranging the index; to furnish the said *A. B.* with _____ copies of the work, as soon as they can be conveniently finished, and to pay the said *A. B.* the sum of _____ on the day the last proof sheet is corrected for the press. In witness whereof, &c.

Reservation by Artist of Copyright in a Painting, Drawing, or Photograph, to be taken from Vendee, or Assignee, or Person for whom the Work is executed (under 25 & 26 Vict. c. 68, s. 1).

It is hereby agreed between *A. B.*, residing at _____ in the United Kingdom, and *C. D.*, of _____, that the copyright (Registered No. _____) of the [painting, &c.], entitled _____ representing _____

made by the said *A. B.*, and now [sold, assigned, and disposed of] for the first time to me [or now executed on my behalf] is reserved to the said *A. B.*

Date

(Signed)

C. D.

Agreement to Assign Copyright to Vendee or Assignee of Painting, Drawing, or Photograph (under 25 & 26 Vict. c. 68, s. 1).

It is hereby agreed between *A. B.*, residing at _____ in the United Kingdom [artist, photographer, &c.], and *C. D.*, of _____, in consideration of the sum of _____ over and above the price of the work hereinafter described, paid by the said *C. D.* to the said *A. B.*, that the said *C. D.* is entitled to the copyright in the [painting, drawing, or photograph] made by the said *A. B.*, entitled _____ and representing _____, now first sold and disposed of to the said *C. D.*

Date

(Signed)

A. B.

[or]

E. F., agent of the said *A. B.*

FORMS OF PLEADINGS, &c.

COPYRIGHT.

1. *Form of Indorsement on Writ of Summons.*

The plaintiff's claim is for damages for the infringement of the plaintiff's copyright [and for an injunction, and for an account, and for the delivery up to the plaintiff of all piratical copies of, &c.].

2. *Form of Statement of Claim.*

18 [Here put letter and number.]

In the High Court of Justice,
Division.

Writ issued the day of 18
Between *A.B.*, Plaintiff,
and
C.D., Defendant.

STATEMENT OF CLAIM.

The defendant has infringed the plaintiff's copyright in a book entitled registered on the day of 18

The plaintiff claims
Place of Trial,

Delivered the of (Signed) 18

3. *Form of Statement of Defence.*

18 , No.

In the High Court of Justice,
Division.

Between *A.B.*, Plaintiff,
and
C.D., Defendant.

DEFENCE.

The defendant says that:—

- (1.) The plaintiff is not the author [*assignee, &c., as the case may be*].
- (2.) The plaintiff is not the proprietor of the copyright.
- (3.) The book was not registered.
- (4.) The book was not first published in the United Kingdom.
- (5.) The defendant did not infringe.

Delivered, &c. (Signed)

FORMS OF PLEADINGS (LIBEL).

LIBEL.

1. *Form of Indorsement on Writ of Summons.*

The plaintiff's claim is for damages for libel.

2. *Form of Statement of Claim.*

[*Heading as in Form 2, Copyright.*]

The plaintiff has suffered damage from the defendant's having falsely and maliciously published of the plaintiff [in a newspaper called the _____] the words following, &c.

[*Add an allegation of special damage, if any has been sustained.*]

The plaintiff claims £

(Signed)

Delivered, &c.

4. *Form of Statement of Defence.*

[*Heading as in Form 3, Copyright.*]

The defendant did not publish the alleged libel;

or,

The alleged libel was published by the defendant *bonâ fide* and without malice, and under circumstances which made the occasion privileged;

or,

The alleged libel is true in substance and fact ;
[*as to the circumstances under which such a general plea is allowed, vide ante, pp. 648 et. seq.*]

or,

The words set forth are not libellous;

or,

The defendant brings into Court the sum of £ _____ and says that it is enough to satisfy the plaintiff's claim(a);

or,

The alleged libel was contained in a weekly newspaper [*or periodical publication*] ordinarily published at intervals not exceeding [*or exceeding*] one week, called the " _____," and was inserted in such newspaper [*or periodical publication*] without actual malice and without gross negligence; and before [*or at the earliest opportunity after*] the commencement of this action the defendant inserted in such newspaper [*or periodical publication*] a full apology for it [*or offered to publish a full apology for it in any newspaper or periodical publication to be selected by the plaintiff*] and the defendant brings into

(a) Payment into Court is not permitted with a defence denying liability in actions or counterclaims for libel or slander. (Rules of Supreme Court, 1833, Order xxii. R. 1.)

FORMS OF PLEADINGS IN PROCEEDINGS FOR LIBEL (CRIMINAL).

Ex officio Information by Attorney-General for a Seditious Libel.

Michaelmas Sittings in the year of Queen Victoria.

MIDDLESEX.—Be it remembered that Sir , Knt., Attorney-General of our present Sovereign Lady the Queen, who for our said Lady the Queen in this behalf prosecuteth in his proper person, cometh here into the Queen's Bench Division of the High Court of Justice, before the Queen herself, at Westminster, in the county of Middlesex, on Monday next after the morrow of All Souls', in this same term, and for our said Lady the Queen giveth the court to understand and be informed that *J. L.*, late of , in the county of Middlesex, being a seditious, malicious, and ill-disposed person, and being greatly disaffected to our said present Sovereign Lady Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and to her administration of the government of this kingdom, and most unlawfully, wickedly, and maliciously, devising, designing, and intending as much as in him lay to bring our said Lady the Queen, and her administration of the government of this kingdom, and the persons employed by her in the administration of the government of this kingdom, into great and public hatred and contempt among all her liege subjects, and to alienate and withdraw from our said Lady the Queen the cordial love and affection, true and due obedience, fidelity, and allegiance of the subjects of our said Lady the Queen, on the day of , in the year of our said present Sovereign Lady the Queen, at the parish of , in the county of Middlesex, did unlawfully, seditiously and maliciously print and publish, and cause and procure to be printed and published, a certain scandalous, malicious, and seditious libel of and concerning our said Lady the Queen, and her administration of the government of this kingdom, to the tenor and effect following, that is to say: [*here state the libel*] in contempt of our said Lady the Queen and her Laws, to the evil example of all others, and against the peace of our said Lady the Queen, her crown and dignity.

Second Count.—And the said Attorney-General of our said Lady the Queen, who prosecutes as aforesaid, further gives the court here to understand and be informed that the said *J. L.*, of his further malice against our said Lady the now Queen, and again unlawfully, wickedly, and maliciously devising, designing and intending as aforesaid, afterwards, on the day of , in the year of our said present Lady the Queen at , aforesaid, did unlawfully, seditiously, and maliciously, print and publish, and cause and procure to be printed and published, a certain other scandalous, malicious, and seditious libel of and concerning our said Lady the Queen, and her administration of the government of this kingdom, to the tenor and effect following: [*Here state libel varying the innuendoes*

in the first count.] Whereupon the said Attorney-General of our said Lady the Queen, who for our said Lady the Queen in this behalf prosecutes, for our said Lady the Queen, prays the consideration of the court here in the premises, and that due process of law may be awarded against the said *J. J.* in this behalf, to make him answer to our said Lady the Queen touching and concerning the premises aforesaid.

See *Reg. v. Lambert and Perry* (31 St. Tr. 336, and 2 Chitty Crim. L. 6 & 50). In the case of *Lambert and Perry* the libel did not require any prefatory averment.

Information by Master of Crown Office.

Of _____, } Sittings, in the _____ year of the reign of Queen Victoria,
 to wit } Be it remembered that Frederick Cockburn, Esq.,
 the Queen's Bench Division of the High Court of Justice, before the Queen herself, who prosecutes for our said Lady the Queen in this behalf in his proper person, comes here into the said Queen's Bench before Division, the Queen herself, at Westminster(a), on the _____, in these same sittings, and for our said Lady the Queen gives the court here to understand and be informed that, &c. [*State the facts and circumstances constituting the offence. See example in next form*], to the great damage, scandal, and disgrace of him the said _____, to the evil example of all others in the like case offending, and against the peace of our said Lady the Queen, her crown and dignity.

Commence the second and other counts thus :

And the said coroner and attorney of our said Lady the Queen, who prosecutes as aforesaid, further gives the court here to understand and be informed that, &c.

Conclude thus :

And therefore the said coroner and attorney of our said Lady the Queen, prays the consideration of the court here in the premises, and that due process of law may be awarded against him the said _____ in this behalf, to make him answer to our said Lady the Queen, touching and concerning the premises aforesaid.

Criminal Information by Master of Crown Office for a Libel charging the Scuttling of a Vessel.

(*Reg. v. Shimmin*, not reported).

Of Michaelmas Term, in the thirty-third year of the reign of Queen Victoria.

In the County of Lancaster, }
 West Derby Division, } Be it remembered that Thomas Norton,
 to wit. } Esq., coroner and attorney of our
 present Sovereign Lady the Queen,
 in the court(b) of our said Lady the Queen before the Queen herself, who for our said Lady the Queen in this behalf prosecuteth in his own

(a) Or, "at the Royal Courts of Justice." Both forms are used in the Crown Office.

(b) The changes of language necessitated by the Judicature Acts will be seen by a comparison of this with the form immediately preceding.

person, cometh here in the said court of our Lady the Queen, before the Queen herself at Westminster, to wit, on the twenty-fourth day of November, A.D. one thousand eight hundred and sixty-nine, and in the said thirty-third year of the reign of our said Lady the Queen, and for our said Lady the Queen giveth the court here to understand and be informed that, at and before the publishing of the libel hereinafter mentioned, a certain company called and duly registered as "The Merchants' Trading Company, Limited," carried on its business, to wit, at Liverpool, in the West Derby division of the county of Lancaster, and the said company owned and employed, in trading to divers places, divers ships and vessels, and amongst others, to wit, a certain steam ship or vessel called the "Golden Fleece," and at the time aforesaid one William James Fernie, of Liverpool aforesaid was, and still is, and for some time previous to the publishing of the said libel had been, the managing director of the said company, and was and is otherwise largely interested therein; and at and before the time aforesaid it became and was and still is the duty of the said William James Fernie, as such managing director, to superintend generally the employment of the said ships or vessels of the said company, including the said steam ship or vessel the "Golden Fleece," and the effecting of insurances upon and in respect of such ships or vessels, and goods of the said company laden therein, and freight to become payable for the carriage by the said company of goods thereby; and before the printing and publishing of the said libel the said steam ship or vessel "Golden Fleece," then being a ship or vessel the property of the said company, had been altered and prepared for the carriage of a cargo of coal, and had been laden with such cargo of coals principally at Cardiff, in the United Kingdom, for a voyage to Alexandria, and the said vessel and her freight and cargo for the said voyage had been, by and under the direction of the said William James Fernie, as such managing director, insured in an amount not exceeding the fair value thereof respectively. And after the said "Golden Fleece" had been so laden with coals as aforesaid, and while the same was at anchor in the roads of the harbour at Cardiff aforesaid, the said "Golden Fleece" met with a disaster, to wit, by becoming filled with water through one of the coaling ports of the said "Golden Fleece;" and in order to prevent her sinking, the said "Golden Fleece" was necessarily driven towards the shore and stranded. And thereupon a certain inquiry was held by direction of the Board of Trade into the circumstances of the said disaster, which inquiry resulted in the exoneration of the master of the said vessel "Golden Fleece" from all blame in respect of the said disaster, and in the return to such master of his master's certificate. And thereupon the said Hugh Shimmin, of Liverpool aforesaid, being the printer and publisher of a certain newspaper called *The Porcupine*, unlawfully, wickedly, and maliciously wrote, printed, and published, and so caused and procured to be written, printed, and published, of and concerning the said William James Fernie a certain false, scandalous, malicious, and defamatory libel in the form of an article entitled "Marine Coal Scuttling," in the said newspaper, *The Porcupine*, published by the said Hugh Shimmin, to wit, on the twenty-third day of October, A.D. one thousand eight hundred and sixty-nine, and in the said thirty-third year of our said Lady the Queen, to wit, at number fifty-eight Cable Street in Liverpool aforesaid, the words following: [*Here follows in full the newspaper article.*] And the said Hugh Shimmin so unlawfully, wickedly, and maliciously wrote, printed, and published, and caused and procured to be written, printed, and published,

the said libel, he, the said Hugh Shimmin, then well knowing the same to be false, thereby intending and contriving to injure, vilify, and prejudice the said William James Fernie and to lower him in the estimation of his fellows, to the great injury, scandal, and disgrace of the said William James Fernie, to the evil example of all others in like case offending, and against the peace of our Lady the Queen, her crown and dignity.

And the said coroner and attorney of our said Lady the Queen, for our said Lady the Queen further giveth the court here to understand and be informed that, at and before the time of the publishing of the libel hereinafter mentioned, a certain company called and duly registered as "The Merchants' Trading Company, Limited," carried on its business, to wit, at Liverpool, in the West Derby division of the county of Lancaster, and the said company owned and employed, in trading to divers places, divers ships and vessels, and amongst others, to wit, a certain ship or vessel called the "Golden Fleece," and at the time aforesaid, one William James Fernie, of Liverpool aforesaid, was, and still is, and for some time previous to the publishing of the said libel, had been the managing director of the said company, and was and is otherwise largely interested therein, and at and before the time aforesaid it became and was and still is the duty of the said William James Fernie, as such managing director, to superintend generally the employment of the said ships or vessels of the said company, including the said steamship or vessel the "Golden Fleece," and the effecting of insurances upon and in respect of such ships or vessels, and goods of the said company laden therein and freight to become payable for the carriage by the said company of goods thereby. And before the printing and publishing of the said libel the said steamship "Golden Fleece," then being a ship or vessel, the property of the said company, had been laden with a cargo of coals, principally at Cardiff, in the United Kingdom, for a voyage to Alexandria, and the said vessel and her freight and cargo, for the said voyage had been by and under the direction of the said William James Fernie, as such managing director, insured in an amount not exceeding the fair value thereof, respectively; and after the said "Golden Fleece" had been so laden with coals as aforesaid, and while the same was at anchor in the roads of the harbour at Cardiff aforesaid, the said "Golden Fleece" met with a disaster, to wit, by becoming filled with water through one of the coaling ports of the said "Golden Fleece," and in order to prevent her sinking, the said "Golden Fleece" was necessarily driven towards the shore and stranded. And thereupon a certain inquiry was held by direction of the Board of Trade into the circumstances of the said disaster, which inquiry resulted in the exoneration of the master of the said vessel "Golden Fleece" from all blame in respect of the said disaster, and in the return to such master of his master's certificate. And thereupon the said Hugh Shimmin, of Liverpool aforesaid, being the printer and publisher of a certain newspaper called *The Porcupine*, unlawfully, wickedly, and maliciously wrote, printed, and published, and so caused and procured to be written, printed, and published of and concerning the said William James Fernie, a certain false, scandalous, malicious, and defamatory libel in the form of an article entitled "Marine Coal Scuttling," to wit, in the said newspaper, *The Porcupine*, published by the said Hugh Shimmin, to wit, in the twenty-third day of October, A.D. one thousand eight hundred and sixty-nine, and in the thirty-third year of our said Lady the Queen, to wit, at number fifty-eight Cable-street, in Liverpool aforesaid, the words following: "You need

not wait till she (meaning the ship or vessel in the said sentence referred to) gets out to sea. If you wish to close your accounts promptly, you can load her with coals until her ports are below the water line, and by leaving one of the side coaling ports insecurely fastened, you can at any time command a supply of water which will sink the vessel in a few minutes. All these are acts which are not individually deemed criminal, but the true colour of which is at once revealed when it is known that the vessel and her freight are insured for double their value;" the said Hugh Shimmin, thereby meaning, referring, and intending to be understood as meaning and referring to the said ship or vessel "Golden Fleece," and thereby meaning to impute that the said loss of and damage to the said "Golden Fleece" had been caused and occasioned by the wicked and corrupt contrivance, and for the profit of the said William James Fernie, and others. And the said Hugh Shimmin, so unlawfully, wickedly, and maliciously wrote, printed, and published, and caused and procured to be written, printed, and published, the said libel, he, the said Hugh Shimmin, then well knowing the same to be false, thereby intending and contriving to injure, vilify, and prejudice the said William James Fernie, and to lower him in the estimation of his fellows, to the great injury, scandal, and disgrace of the said William James Fernie, to the evil example of all others in like case offending, and against the peace of our Lady the Queen, her crown and dignity.

Whereupon the said coroner and attorney for our said Lady the Queen prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him, the said Hugh Shimmin, in this behalf, to make him answer to our said Lady the Queen, and touching and concerning the premises aforesaid.

— — —

Indictment for Publishing a Libel, knowing the same to be false.

— } The jurors for our said Lady the Queen upon their oath
to wit. } present, that *C. D.*, contriving and unlawfully, wickedly,
and maliciously intending to injure, vilify, and prejudice one *A. B.*, and
to deprive him of his good name, fame, credit, and reputation, and to
bring him into public contempt, scandal, infamy, and disgrace, on
the day of in the year of our Lord , unlaw-
fully, wickedly, and maliciously did write and publish, and cause and
procure to be written and published, a false, scandalous, malicious,
and defamatory libel, containing divers false, scandalous, malicious,
and defamatory matters and things of and concerning the said *A. B.*,
according to the tenor and effect following, that is to say [*Here set
out the libel, together with such inuendoes as may be necessary to render
it intelligible. See example in next form.*], he, the said *C. D.*, then well
knowing the said defamatory libel to be false, to the great damage,
scandal, and disgrace of the said *A. B.*, to the evil example of all
others in the like case offending, and against the peace of our Lady
the Queen, her crown and dignity.

— — —

Indictment of a Newspaper Proprietor for a Libel on the late Bishop of Exeter.

(*Reg. v. Latimer*, 3 Cox. Crim. Cas. Appx. xxxviii.)

City and County of the)
City of Exeter,) The jurors for our Lady the Queen upon
to wit.) their oath present, that before and at the
) time of publishing the false, scandalous,

malicious, and defamatory libel hereinafter mentioned, Henry Phillpotts had become, and was, and still is, by Divine permission, Lord Bishop of Exeter, to wit, bishop of the diocese of Exeter, in that part of the United Kingdom of Great Britain and Ireland called England, and that before the time of the publishing of the said false, scandalous, malicious, and defamatory libel, hereinafter mentioned, to wit, on the 1st day of May, in the year of our Lord, 1846, a certain petition of one James Shore, to the Lords spiritual and temporal of the United Kingdom of Great Britain and Ireland in Parliament assembled, had been and was presented by a certain peer of the realm, to wit, by Henry, Lord Brougham and Vaux, to the said Lords spiritual and temporal in Parliament assembled, and that the said Henry, Lord Brougham and Vaux, did, to wit, on the year and day aforesaid, and on the occasion of the said presenting the said petition to the said Lords spiritual and temporal, address and make to the said Lords spiritual and temporal in Parliament assembled, certain observations with reference to and concerning the said petition and the several matters and things in the said petition contained; and that the said Henry, Bishop of Exeter, then being one of the said Lords spiritual, did, on the day and year aforesaid, and on the occasion aforesaid, address and make to the said Lords spiritual and temporal in Parliament assembled certain observations and statements, in answer and with reference to the said observations of the said Henry, Lord Brougham and Vaux, and with reference to the said matters and things contained in the said petition of the said James Shore. And the jurors aforesaid, on their oath aforesaid, do further present that Thomas Latimer, of the parish of St. John, in the city and county of the city aforesaid, labourer,^(a) well knowing the premises, but contriving, and wickedly, and maliciously, and unlawfully intending to aggrieve and vilify the said Henry, Bishop of Exeter, and to injure him in his good name, fame, and credit, and to bring him into public scandal, infamy, and disgrace, in his diocese and among the clergy of his said diocese, and the other clergy of this realm, and also among his neighbours and other good and worthy subjects of this realm, afterwards, to wit, on the 24th day of July, in the year of our Lord, 1846 [with force and arms], at the parish aforesaid, in the city and county of the city aforesaid, in a certain newspaper, called, to wit, *The Western Times*, falsely, wickedly, and maliciously, did write and publish, and cause and procure to be written and published, a certain false, wicked, and malicious, scandalous, and defamatory libel of and concerning the said Henry, Bishop of Exeter, and of and concerning him as such bishop as aforesaid, and of and concerning the matters and things aforesaid, in the words and figures following, that is to say [then follows the libel, concluding thus], “unfortunately he (meaning thereby the said Henry, Bishop of Exeter) goes quite the other way. and his (meaning thereby the said Henry, Bishop of Exeter) reply is so directly the opposite of the truth that he (meaning thereby the said Henry, Bishop of Exeter) stands branded as a consecrated, careless perverter of facts, and one who does no credit to the mitre which he (meaning thereby the said Henry, Bishop of Exeter) is paid £200 a week or thereabouts, to wear,” &c., knowing the same to be false, &c.

(a) The addition required by 1 Hen. 5 c. 5, of the “estate, degree, or mystery” of defendants in indictments may now be omitted altogether, as sect. 24 of 14 & 15 Vict. c. 100, enacts that no indictment for any offence shall be holden insufficient “for want of or imperfection in the addition of any defendant.”

PLEAS.

Plea to Information or Indictment, that Matters charged are True, and that Publication was for Public Benefit.

In the Central Criminal Court, or At the Assizes of our lady the Queen, holden at _____, in and for the county of _____, or (in case of Information) In the High Court of Justice, Queen's Bench Division.

The _____ day of _____, A.D. _____.

The Queen } And now the said A. B., by C. D., his attorney [or, in
v. } his own proper person], comes into court, and having
A. B. } heard the said indictment (or information) read, says
that the alleged defamatory libel and matters charged against him, the said A. B., in and by the said indictment (or information) as written and published by him the said A. B., of and concerning the said E. F., are true in this, that, &c. [stating concisely the facts relied on as justifying the libel on the ground of its truth]. And the said A. B. further saith that it was for the public benefit that the said alleged defamatory libel, and matters charged in and by the said indictment (or information), as written and published of and concerning the said E. F., should be written and published, because, &c. [stating the fact or facts relied on as excusing the publication on the ground of the benefit to the public], whereby and by reason whereof it was, and is, for the public benefit that all and every the said alleged defamatory libel and matters charged in and by the said indictment (or information), should be published.

Plea justifying Libel charged in form next but one preceding (ante. pp. 795, 796).

And for a further plea in this behalf to so much of the first and fourth counts of the said indictment, as charged upon the said Thomas Latimer the writing and publishing, and causing and procuring to be written and published, so much of the said alleged libels in the said first and fourth counts respectively mentioned, as imputes to, or charges against Henry, Lord Bishop of Exeter, therein respectively also mentioned, that the reply of him the said Henry, Lord Bishop of Exeter, to the observations of Henry, Lord Brougham and Vaux, in the said first and fourth counts respectively mentioned, in reference to the petition of James Shore therein also respectively mentioned, was so directly opposite to the truth that the said Henry, Lord Bishop of Exeter, stands branded as a careless perverter of facts, the said Thomas Latimer, by virtue of the statute in such case made and provided, says that before the writing and publishing of, and causing and procuring to be written and published, so much of the said alleged libels respectively, as is in the introductory part of this plea mentioned, to wit, on the 12th day of September, in the year of our Lord 1832, the most noble Edward Adolphus, Duke of Somerset, then and thenceforth, and until and at the time of the writing and publishing of, and causing and procuring to be written and published, so much of the said alleged libels as last aforesaid, and still being a peer of the realm of the United Kingdom of Great Britain and Ireland, to wit, Duke of Somerset and Baron Seymour, of Hacke, in the county of Somerset, had erected and built, at his own expense, a certain chapel, for the public worship of God, on certain lands of him, the said Edward Adolphus, Duke of Somerset, situate in the hamlet of Bridgetown, in the parish of Berry Pomeroy, in the county of

Devon, and in the said diocese of Exeter, in the said first and fourth counts respectively mentioned, to wit, at the said parish in the said first and fourth counts respectively mentioned. And the said Thomas Latimer further saith that afterwards, and before the writing and publishing of, and causing and procuring to be written and published, so much of the said alleged libels as aforesaid, to wit, on the day and year last aforesaid, the said Edward Adolphus, Duke of Somerset, with the consent of the Rev. John Edwards, clerk, then being vicar of the said vicarage and parish church, applied to, and requested the said Henry, Lord Bishop of Exeter, then being Lord Bishop of the said diocese of Exeter, and the ordinary of the said vicarage and parish church, to grant his licence that the said chapel might be opened and used for the celebration of Divine service according to the rites and ceremonies of the United Church of England and Ireland by public authority established, to wit, at the said parish in the said first and fourth counts respectively in that behalf mentioned. And the said Henry, Lord Bishop of Exeter, then on such request of the said Edward Adolphus, Duke of Somerset, being so made to him as aforesaid, stated to the said Edward Adolphus, Duke of Somerset, that he the said Henry, Lord Bishop of Exeter, was willing to grant such licence as aforesaid, provided the said Edward Adolphus, Duke of Somerset, would, previously to the granting thereof, engage and undertake with and to him, the said Henry, Lord Bishop of Exeter, that he the said Edward Adolphus, Duke of Somerset, would, to the satisfaction of him the said Henry, Lord Bishop of Exeter, endow the said chapel with a permanent provision for the maintenance of a minister in Holy Orders to celebrate such Divine service as aforesaid, and would convey and assure the said land whereon the said chapel was built as aforesaid, and also the said chapel so and in such manner that the said chapel may be for ever devoted and set apart to and for such Divine service as last aforesaid; and that the said chapel should, in the meantime and until such endowment and conveyance and assurance as aforesaid, only be used for purposes connected with the ministry of the said United Church of England and Ireland, to wit, at the parish aforesaid. And the said Thomas Latimer further saith that afterwards and before the granting of the licence to the said Edward Adolphus, Duke of Somerset, by the said Henry, Lord Bishop of Exeter, as hereinafter mentioned, to wit, on the 22nd day of September, in the year of our Lord One thousand eight hundred and thirty-two, and thenceforth always until the granting of such licence, the said Edward Adolphus, Duke of Somerset, declined to enter into or give any such engagement or undertaking with and to the said Henry, Lord Bishop of Exeter as aforesaid. And the said Henry, Lord Bishop of Exeter, thereupon, then, to wit, on the day and year last aforesaid, consented to grant such licence as aforesaid to the said Edward Adolphus, Duke of Somerset, without requiring him to enter into or give any such engagement or undertaking as aforesaid, to wit, at the parish last aforesaid. And the said Henry, Lord Bishop of Exeter, afterwards, and before the writing and publishing of, and causing and procuring to be written and published, so much of the said alleged libels as aforesaid, to wit, on the 9th day of November, in the year of our Lord one thousand eight hundred and thirty-two, in accordance with the consent so given by him as aforesaid, the said Edward Adolphus, Duke of Somerset, having declined, and then declining to enter into and give, and not theretofore or then, or at any time since, having entered into or given any such

engagement or undertaking as aforesaid, did, by a certain licence there subscribed by him, the said Henry, Lord Bishop of Exeter, and sealed with his episcopal seal, bearing date a certain day and year in that behalf therein named, to wit, the day and year last aforesaid, give and grant his licence unto the said Edward Adolphus, Duke of Somerset, that the said chapel might be forthwith opened and used for the celebration of Divine service, according to the rites and ceremonies of the said United Church of England and Ireland by a priest or minister in Holy Orders, to be for that purpose licensed by the said Henry, Lord Bishop of Exeter, to wit, at the parish last aforesaid. And the said Thomas Latimer further saith, that afterwards and before the writing and publishing of, and causing and procuring to be written and published, so much of the said alleged libels as aforesaid, to wit, on the said 1st day of May, in the year of our Lord one thousand eight hundred and forty-six, in the said first and fourth counts respectively mentioned, the said Henry, Lord Bishop of Exeter, did, in reply to the said observations of the said Henry, Lord Brougham and Vaux, in the said first and fourth counts respectively mentioned, in reference to the said petition of the said James Shore, and in the said observations and statements addressed and made by him the said Henry, Lord Bishop of Exeter, in answer to the said observations of the said Henry, Lord Brougham and Vaux, and therein respectively also mentioned, did speak and say to the said Lords spiritual and temporal in Parliament assembled, of and concerning the said observations and statements of the said Henry, Lord Brougham and Vaux, and of and concerning the said Edward Adolphus, to the said Henry, Lord Bishop of Exeter, for such licence to open and use the same as aforesaid, and of and concerning such licence as last aforesaid, and of and concerning such engagement and undertaking so required by him the said Henry, Lord Bishop of Exeter, and declined to be entered into and given by the said Edward Adolphus, Duke of Somerset, as aforesaid, and of and concerning the said petition of the said James Shore, and the matters therein contained, and of and concerning the premises, the words following, that is to say,—“I” (meaning the said Henry, Lord Bishop of Exeter) “should wish to have been excused from entering into the circumstances of the present case” (meaning the said matters and things contained in the petition of the said James Shore, as aforesaid), “but my noble and learned friend” (meaning the said Henry, Lord Brougham and Vaux) “has stated several matters” (meaning the said matters stated by the said Henry, Lord Brougham and Vaux, in his said observations in reference to the said petition of the said James Shore) “which cannot be left unanswered. It is certainly true the noble duke alluded to” (meaning the said Edward Adolphus, Duke of Somerset) “built the chapel in question” (meaning the said chapel hereinbefore mentioned) “at Bridgetown” (meaning the said hamlet of Bridgetown, in the parish of Berry Pomeroy, aforesaid), “and some years ago the noble duke” (meaning the said Edward Adolphus, Duke of Somerset) “applied to me” (meaning himself, the said Henry, Lord Bishop of Exeter) “to consecrate it” (meaning the said chapel). “Several communications” (meaning the said request of the said Edward Adolphus, Duke of Somerset, for the said licence to open and use the said chapel, and the said requisitions of him, the said Henry, Lord Bishop of Exeter, that the said Edward Adolphus, Duke of Somerset, should enter into and give such undertaking and engagement as aforesaid) “had passed between myself” (meaning himself the said Henry, Lord Bishop of Exeter) “and the noble

duke" (meaning the said Edward Adolphus, Duke of Somerset), "and finally I" (meaning himself, the said Henry, Lord Bishop of Exeter) "consented to license the chapel" (meaning the chapel aforesaid), "the duke" (meaning the said Edward Adolphus, Duke of Somerset) "undertaking to endow it" (meaning the said chapel), "in order to its being consecrated" (meaning in order to the said chapel being consecrated), "and that meanwhile it should only be used for purposes connected with the ministry of the Protestant Established Church" (meaning the said United Church of England and Ireland, by public authority established), "both of which engagements I" (meaning himself the said Henry, Lord Bishop of Exeter) "regret to state have been violated by the noble duke" (meaning the said Edward Adolphus, Duke of Somerset) "for reasons which, doubtless, are satisfactory to his own mind" (meaning the mind of the said Edward Adolphus, Duke of Somerset), "though I" (meaning himself the said Henry, Lord Bishop of Exeter) "cannot even guess what they are," to wit, at the parish last aforesaid.

And the said Thomas Latimer further saith, that it was for the public benefit that so much of the said alleged libels in the said first and fourth counts respectively mentioned, as in the introductory part of this plea mentioned, should be published, by reason that it is for the public benefit that when statements opposite of the truth and perverse of facts are made by a person filling a high public office, to wit, a bishop of the said United Church of England and Ireland, of and concerning the character and conduct, and to the prejudice and discredit of another person standing in a high and important public position, to wit, a peer of the realm of the said United Kingdom of Great Britain and Ireland, that the truth in respect of the matters stated should be published and made to appear, so that the liege subjects of our Lady the Queen may not thereby be misled, or be induced to form an erroneous or ill-founded opinion respecting the character and conduct of such person as last aforesaid, to wit, at the parish last aforesaid.

Wherefore he, the said Thomas Latimer, at the several times, &c., in the said first and fourth counts in that behalf respectively mentioned, at the said parish therein also in that behalf respectively mentioned, wrote and published, and caused and procured to be written and published so much of the said alleged libels in the said first and fourth counts respectively mentioned, as imputes to, or charges against the said Henry, Lord Bishop of Exeter, that the said reply of him the said Henry, Lord Bishop of Exeter, to the said observations of the said Henry, Lord Brougham and Vaux, in reference to the said petition of the said James Shore, was so directly opposite of the truth, that the said Henry, Lord Bishop of Exeter, stands branded as a careless perverter of facts, as he the said Thomas Latimer lawfully might, for the cause aforesaid, which are the same writing and publishing as are in the said first and fourth counts respectively, and in the introductory part of this plea mentioned. And this the said Thomas Latimer is ready to verify, &c. Wherefore he prays judgment if our said Lady the Queen will or ought further to impeach him of and concerning the premises in the introductory part of this plea mentioned, and that he the said Thomas Latimer may be dismissed and discharged of the court hereof and concerning the premises last aforesaid.

Replication to preceding Plea.

And as to the plea of the said Thomas Latimer, by him secondly above pleaded, the said coroner and attorney of our said Lady the Queen, in the court of our said Lady the Queen, before the Queen herself, who prosecuteth for our said Lady the Queen, in this behalf, being present here in court, having here the said plea of the said Thomas Latimer, by him secondly above pleaded in bar, for our said Lady the Queen, saith that for anything by the said Thomas Latimer, in his said second plea alleged, our said Lady the Queen ought not to be barred from prosecuting the said indictment against the said Thomas Latimer of and concerning the premises in the introductory part of the said second plea mentioned, because he says that the said Thomas Latimer, of his own wrong, and without the cause and matter of defence in his said second plea alleged, falsely, wickedly, and maliciously, wrote and published, and caused to be written and published, so much of the said alleged libels in the said first and fourth counts respectively mentioned, as is in the introductory part of the second plea mentioned, in manner and form as in the said first and fourth counts of the said indictment is alleged. And this the said coroner and attorney prays may be inquired of by the country, &c. And the said Thomas Latimer doth the like.

FORMS OF INJUNCTION (COPYRIGHT).

For forms of perpetual injunctions see, in case of a Directory, *Kelly v. Morris* (L. R., 1 Eq. 697; 1 Seton on Decrees 243); and *Kelly v. Hodge* (1 Set. 244);

In case of a Gazetteer, *Lewis v. Fullarton* (2 Beav. 6; 1 Set. 263);

In case of piracy of original notes to a foreign work, *Holton v. The Newsagents, &c. Co.* (1 Set. 245);

In case of unauthorized use of title of a Magazine, *Hogg v. Kirby* (8 Ves. 215);

In case of unauthorized use of title of a Newspaper, *Clement v. Maddick* (1 Giff. 101) and *Ingram v. Stiff* (2 Jur. N. S. 947);

In case of unauthorized Dramatic representation, *Boucicault v. Ward* (1 Set. 246.)

FORMS OF INJUNCTION (LIBEL).

Libel injurious to trade. Perpetual injunction "to restrain the defendants, their servants, &c., from issuing or permitting the issue of the circular dated the 6th of February, 1879, and from in any manner representing or suggesting that the goods now made or sold by the plaintiff are imitations of the goods made or sold by, &c." *Thomas v. Williams* (L. R. 14 C. D. 875).

In *Hill v. Hart-Davies* (L. R. 21 C. D. 802), the injunction to restrain the issue of a circular injurious to the credit of a Friendly Society, extended also to "any other circular or letter containing false or inaccurate representations as to the credit or financial condition of the said Society."

OMITTED STATUTE.

7 GEO. 3, CAP. 38.

7 GEO 3, C. 38. *An Act to amend and render more effectual an Act made in the Eighth Year of the Reign of King George the Second for Encouragement of the Arts of Designing, Engraving, and Etching Historical and other Prints &c.*

Preamble, rec-
iting Act 3 G. 2.

The original
Inventors,
Designers, or
Engravers, &c.
of Historical
and other
prints, and such
who shall cause
prints to be done
from works, &c.
of their own
invention,

and also such
as shall engrave,
&c. any print
taken from any
picture, drawing,
model, or
sculpture, are
entitled to the
benefit and
protection of
the recited
and present Act;
and those who
shall engrave or
import for sale
copies of such
prints are liable
to penalties.
Penalties may
be sued for as by
the recited Act is
directed;
and be recovered
with full costs;
provided the
prosecution be
commenced
within six
months after the
fact.
The right
intended to be
secured by this
and the former
Act, vested in the
proprietors for
the term of 28
years from the
first publication.
Limitation of
actions.
General issue.
Full costs.

WHEREAS an Act of Parliament passed in the Eighth Year of the Reign of His late Majesty King George the Second, intituled "An Act for the Encouragement of the Arts of Designing, Engraving, and Etching Historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers, during the time therein mentioned," has been found ineffectual for the Purposes thereby intended: Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of January, one thousand seven hundred and sixty-seven, all and every person and persons who shall invent or design, engrave, etch or work in mezzotinto or chiaro oscuro, or, from his own work, design, or invention, shall cause or procure to be designed, engraved, etched, or worked in mezzotinto or chiaro oscuro, any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, shall have, and are hereby declared to have, the benefit and protection of the said Act, and this Act, under the restrictions and limitations hereinafter mentioned.

2. And be it further enacted by the authority aforesaid, that from and after the said first day of January, one thousand seven hundred and sixty-seven, all and every person and persons who shall engrave, etch, or work in mezzotinto or chiaro oscuro, or cause to be engraved, etched, or worked, any print taken from any picture, drawing, model, or sculpture, either ancient or modern, shall have, and are hereby declared to have, the benefit and protection of the said Act, and this Act, for the term hereinafter mentioned, in like manner as if such print had been engraved or drawn from the original design of such graver, etcher, or draughtsman; and if any person shall engrave, print and publish, or import for sale, any copy of any such print, contrary to the true intent and meaning of this and the said former Act, every such person shall be liable to the penalties contained in the said Act, to be recovered as therein and hereinafter is mentioned.

Secs. 3 and 4 are repealed by the Statute Law Revision Act of 1867.

5. And be it further enacted by the authority aforesaid, That all and every the penalties and penalty inflicted by the said Act, and extended, and meant to be extended, to the several cases comprised in this Act, shall and may be sued for and recovered in like manner, and under the like restrictions and limitations, as in and by the said Act is declared and appointed; and the plaintiff or common informer in every such action (in case such plaintiff or common informer shall recover any of the penalties incurred by this or the said former Act) shall recover the same, together with his full costs of suit.

6. Provided also, That the party prosecuting shall commence his prosecution within the space of six calendar months after the offence committed.

7. And be it further enacted by the authority aforesaid, That the sole right and liberty of printing and reprinting intended to be secured and protected by the said former Act and this Act, shall be extended, continued, and be vested in the respective proprietors, for the space of twenty-eight years, to commence from the day of the first publishing of any of the Works respectively hereinbefore and in the said former Act mentioned.

8. And be it further enacted by the authority aforesaid, That if any action or suit shall be commenced or brought against any person or persons whatsoever for doing, or causing to be done, anything in pursuance of this Act, the same shall be brought within the space of six calendar months after the fact committed; and the defendant or defendants in any such action or suit shall or may plead the general issue, and give the special matter in evidence; and if, upon such action or suit, a verdict shall be given for the defendant or defendants, or if the plaintiff or plaintiffs become nonsuited, or discontinue his, her, or their action or actions, then the defendant or defendants shall have and recover full costs; for the recovery whereof he shall have the same remedy as any other defendant or defendants, in any other case, hath or have by law.

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THE END.

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are mentioned in Mr. Jacob's note to the case last cited. In *Murray v. Benbow* (February, 1822), the Lord Chancellor (Eldon) refused an injunction to restrain the defendant from publishing a pirated edition of Lord Byron's poem "Cain," on the ground of a doubt whether the poem was not intended to bring into discredit that portion of Scripture history to which it relates. And in 1823 Vice-Chancellor Sir John Leach, on similar principles, dissolved an injunction which had been obtained to restrain the publication of a pirated edition of a portion of the poem of "Don Juan." In this case, however, the Vice-Chancellor ordered that the defendant should keep an account.(a)

A doubt has been expressed(b) whether the doctrines laid down in these cases would be strictly adhered to in the present day; but, notwithstanding the more enlarged and tolerant views which are now generally entertained on subjects of a theological as well as of a political nature, there seems to be no disposition on the part of our courts of common law to relax the strict rules of former times as to contracts of an irreligious nature.(c) And it would seem that the author's title to relief against the infringement of his copyright, is still dependent on his work being *innocent* in the sense already described.

In *Stockdale v. Onwhyn*,(d) the Court of King's Bench, in 1826, held that no action could be brought for the infringe-

(a) See also *Hime v. Dale* referred to 2 Camp. 27.

(b) Phillips on Copyright, p. 25.

(c) In the modern case of *Cowan v. Milbourn* (L. Rep. 2 Ex. 230; 16 L. T. N. S. 290; 36 L. J. 124, Ex.), where an action had been brought for breach of a contract to let rooms to the plaintiff, the defendant set up as a defence, that after contracting to let the rooms he discovered that the plaintiff intended to use them for the purpose of delivering lectures of an irreligious, blasphemous, and illegal character—lectures maintaining, amongst other things, that the character of Christ is defective and His teaching misleading, and that the Bible is no more inspired than any other book. The Court of Exchequer held the defence to be a sufficient one, that the publication of such doctrines was blasphemy, and that therefore the purpose for which the plaintiff intended to use the room was illegal, and the contract one which could not be enforced at law. The remarks of Bramwell, B., in giving his judgment, are deserving of attention. "It is strange," he says, "that there should be so much difficulty in making it understood that a thing may be unlawful, in the sense that the law will not aid it, and yet that the law will not immediately punish it. If that only were unlawful to which a penalty is attached, the consequence would be that, inasmuch as no penalty is provided by the law for prostitution, a contract having prostitution for its object would be valid in a court of law."

(d) 5 B. & C. 173; 7 D. & R. 625; 2 C. & P. 163.

ment of an asserted copyright in a book entitled "Memoirs of Harriett Wilson," the book on examination appearing to be the history of the life and amours of a courtesan, and containing anecdotes either libelling or ridiculing the various persons with whom she professed to have had communication. Holroyd, J., succinctly states the principle on which the courts proceed in dealing with works of this character: (a) "The ground of this action, if any, must be that the defendant has worked an injury to the plaintiff's exclusive right of publishing the book in question; now it is criminal in him to publish such a book: then he has no right to publish it, and having no right, he has sustained no injury, and has no ground of action."

The analogy of the cases, where it has been held that no copyright exists in a work subversive of good order, morality, or religion, has been extended to the case of an author publishing a book in the name of another, with a deliberate design to deceive the public, by inducing them to believe that the work is the original work of the author named, and thereby to obtain from the purchaser a greater price than he would otherwise pay. "The publisher," said Tindal, C.J., with reference to such a case, "seeks to obtain money under false pretences; and as not only the original act of publishing the work, but the sale of copies to each individual purchaser falls within the reach of the same objection, we think the plaintiff cannot be considered as having a valid and subsisting copyright in the work, the sale of which produces such consequences, or that he is capable of maintaining an action in respect of its infringement." (b)

Publication in
another's name
with intent to
deceive.

The book in which the plaintiff claimed copyright in that case was entitled "Evening Devotions, or the Worship of God in Spirit and in Truth, for Every Day in the Year; from the German of C. C. Sturm." The defendant set up as a defence that several of the works of Sturm had been translated into English, and were much valued, and that plaintiff knowing that, and intending to defraud and deceive the public, caused the book in question to be written, and had falsely, fraudulently, and deceitfully published the same to the public, as and for a translation of an original work written in German by C. C. Sturm. On demurrer it was held that the facts stated in the defendant's plea were sufficient to negative the existence of a valid copyright in the plaintiff, and consequently to preclude him from maintaining

(a) 7 D. & R. 629; see also *Poplett v. Stockdale* (Ry. & M. 337).

(b) *Wright v. Tallis* (1 C. B. Rep. 893).

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any action for piracy. "The cases," said the Chief Justice, "in which a copyright has been held not to subsist, where the work is subversive of good order, morality, or religion, do not, indeed, bear directly on the case before us; but they have this analogy with the present inquiry, that they prove that the rule which denies the existence of copyright in those cases, is a rule established for the benefit and protection of the public. And we think the best protection that the law can afford to the public against such a fraud as that laid open by this plea, is to make the practice of it unprofitable to its author?"

The case is different, however, where the misrepresentation as to authorship is harmless and innocent, as in the case of many books of instruction and amusement (*e.g.* Walpole's "Castle of Otranto") which have been published as translations, although in reality original works, or which have been published under an assumed instead of a true name, as has been done in the case of many books of voyages, travels, biography, works of fiction or romance, and even of science and instruction.^(a) "There is not found in any one of those cases any serious design on the part of the author to deceive the purchaser, or to make gain and profit from him by the false representation; the purchaser, for anything that appears to the contrary, would have purchased at the same prices if he had known that the name of the author was an assumed and not a genuine name; or had known that the work was original and not translated."

A musical writer and composer, well known under the *nom de plume* of Claribel, sought to restrain the publication of certain songs, with the words "Song written by Claribel" after the title of each, on the ground that the words only of the songs and not the music were written by him, whereas the expression "song written by" conveyed that both were. Lord Romilly refused an injunction, drawing the inference of fact (a very doubtful inference, it is submitted) that ordinary purchasers using ordinary caution could not be deceived into thinking that the music was composed by Claribel. This decision appears to have been accepted, as the only report of the case (*Barnard v. Pillow*) is in the *Weekly Notes* for the 28th of March, 1868.

Immoral pictures, drawings, and photographs.

The same principle of law which applies to writings of a libellous, immoral, or irreligious kind would, of course, apply equally to pictures, drawings, and photographs of a similar character. Pictures and drawings may be libellous as well

(a) 1 C. B. Rep. 906.

as writings, and the same may be said of photographs, which are a species of pictures. And it is to be observed that the term libel includes, besides libels defamatory of individuals, such writings as are of a blasphemous, treasonable, seditious, or immoral kind, the publication of any of which is now a misdemeanor, and subjects the person by whom it was composed, written, printed, or published, to fine and imprisonment.^(a) There cannot, of course, be copyright in pictures, drawings, or photographs which are libellous in any of the senses above mentioned. And the same doctrine is applicable to obscene pictures, prints, drawings, or other representations, the public selling or exposing for public sale or to public view of these being punishable with fine or imprisonment, or both, with hard labour at the discretion of the court.^(b) It was long since determined^(c) that an action would not lie to recover the value of prints of an obscene, immoral, or libellous tendency. And Lord Ellenborough, in *De Bost v. Beresford*,^(d) held that if a picture destroyed by the defendant was a libel upon the individuals introduced into it, the owner of the picture was at most entitled to recover only the value of the canvas and paint which formed its component parts.

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WHO MAY POSSESS COPYRIGHT.

LEAVING out of consideration at present the question of international copyright, there is no doubt that every person (whether he be a foreigner or a British subject) who owes allegiance, either natural and perpetual or temporary, to the sovereign of this country, is capable of possessing the copyright in any innocent work which he publishes in this country during the time that he owes such allegiance. General rule.

A natural born British subject before the Naturalization Act of 1870 (33 Vict. c. 14) was held to carry his allegiance with him throughout the world, and no change of circumstance, time, or place could free him from it.^(e) An English author, therefore, might reside abroad, and yet have his right as an English author upon publication here. Natural born British subjects.

^(a) 4 Steph. Black. 345.

^(b) 14 & 15 Vict. c. 100, s. 29; see also 20 & 21 Vict. c. 83.

^(c) *Fores v. Johns* (4 Esp. 97). ^(d) 2 Camp. 511.

^(e) See *Calvin's Case* (7 Rep. 6 b.).

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Residence abroad could not release him from his natural allegiance, and therefore he carried with him also the natural rights of a subject of England wherever he went. (a)

Besides this natural and perpetual allegiance, our law also recognizes a local or temporary allegiance which is due from every alien or stranger born for so long a time as he continues within the sovereign's dominion and protection, (b) and which he ceases to owe as soon as he transfers himself from this kingdom to another. (c) An alien friend temporarily residing in the British dominions, and consequently owing a temporary allegiance, is entitled to copyright in any work which he publishes here whilst so residing, however short his period of residence may be. But if the alien does not reside in the British dominions at the time of publishing his work here, is he entitled to copyright in it? (d) The answer to be given is not quite free from doubt.

Calvin v. Phillips,
since overruled.

In *Calvin v. Phillips* (e) the Court of Common Pleas, following out the general principle that an alien may acquire personal rights and maintain personal actions in respect of injuries done to him, though he cannot maintain real actions, held that a foreigner resident abroad could acquire the copyright in a work first published by him as author or as author's assignee in this country though residing abroad at the time that the work was first published here. (f) And in support of this opinion the following considerations were urged:—that by the 5 & 6 Vict. c. 45, copyright is to be deemed personal property, and to be transmissible by bequest, or, in case of intestacy, to be subject to the same laws of distribution as other personal property, and in Scotland is to be deemed personal and movable estate, and even before that statute it was always treated as personal property, and aliens can acquire personal property; and the opinion expressed by Shadwell, V.C., in *Bentley v. Foster* (g) was referred to, that "if an alien friend wrote a book, whether abroad or in this country, and gave the British public the advantage of his industry and knowledge,

(a) *Vide* judgment of Lord St. Leonards in *Jeffreys v. Boosey* (4 H. L. Cas. 977). The Naturalization Act of 33 Vict. c. 14, enables natural born British subjects under certain circumstances to free themselves from their allegiance (ss. 4, 6) and to resume it again (s. 8).

(b) *Calvin's Case*, *ubi supra*.

(c) 2 Steph. Black. 418.

(d) See the judgments in *Jeffreys v. Boosey*, *ubi supra*.

(e) 5 C. B. 860.

(f) See also in connection with this opinion *D'Almaine v. Boosey* (1 Y. & C. 288), and *Bentley v. Foster* (10 Sim. 329), and the opinion of Bayly, J., in *Clementi v. Walker* (2 B. & Cr. 861).

(g) 10 Sim. 329.

by first publishing the work here he was entitled to the protection of the laws relating to copyright in this country." And in *Chappell v. Purday*(a) Lord Abinger, C.B., had declared himself of opinion that a foreigner, who is the author of a work unpublished abroad, might communicate his right of property therein to a British subject, at least for the period prescribed by the statute of Anne. Another decision in favour of the doctrine that a foreigner, though resident abroad at the time of publication, may have copyright in this country if the first publication takes place here, was pronounced by the Court of Queen's Bench in *Boosey v. Davidson*,(b) where an action was brought for infringement of copyright in certain operatic airs composed by a foreigner and alleged to have been first printed and published in England. The court stated no other ground for their decision than the judgment of the Court of Common Pleas in *Cocks v. Purday*.

The Court of Exchequer in *Boosey v. Purday*(c) (decided in the same year as *Boosey v. Davidson*), refused to follow the decision in that case and in *Cocks v. Purday*. The plaintiff in *Boosey v. Purday* was the assignee of certain airs of an opera which Signor Ricordi had purchased from the composer Bellini, a foreigner, and the action was brought for an infringement by the defendant of the plaintiff's copyright in the dramatic airs. The court held that a foreign author residing abroad, who composes a work abroad, and sends it to this country, where it is first published under his authority, acquires no copyright therein; neither does a British subject to whom such work is assigned by the foreign author gain any such right. Pollock, C.B., in delivering the judgment of the court, said, "We perfectly concur with the Court of Common Pleas, that a foreigner in amity with this country may sue for the infringement of any of his rights, a point which we never doubted; but we thought it clear that a foreigner had no copyright in England by the common law, and that his right must depend wholly upon the construction of the statutes, and if they did not give it to him he could have no right at all. And, with respect to the construction of the statutes, we thought, if there were no binding authorities to the contrary, that the Legislature did not mean to confer a copyright on any but British subjects. . . . Our opinion is that the Legislature must be considered *primâ facie* to mean to legislate for its

(a) 4 Y. & Col. 495.

(b) 13 Q. B. 257.

(c) 4 Exch. 145.

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own subjects only, in some sense of that term, which would include subjects by birth or residence, being authors, and the context or subject matter of the statutes does not call upon us to put a different construction upon them." And even before the decision in *Cocks v. Purday*, Shadwell, V.C., in *Delondre v. Shaw*,^(a) though not dealing in that case with the question of copyright, remarked that "The court does not protect the copyright of a foreigner."^(b)

Decision of House
of Lords in
Jeffreys v.
Boosey.

The law on the subject of the copyright of foreigners which these conflicting decisions had left in considerable doubt, appeared to be finally determined by the House of Lords in the case of *Boosey v. Jeffreys*, after all the judges had been called on to deliver their opinions. The facts of that case were as follow:^(c) Bellini, the celebrated musical composer, an alien friend, composed, while living at Milan an operatic work, "La Sonnambula," in which by the laws there in force, he had a certain copyright. He there, on the 19th of February, 1831, by an instrument in writing, bearing date on that day, made an assignment of that copyright to Giovanni Ricordi, which assignment was valid by the laws there in force. Ricordi afterwards came to this country, and on the 9th of June, 1831, by deed assigned, for valuable consideration, the copyright in the said work to Boosey, his executors, administrators, and assigns, but for publication in the United Kingdom only. Boosey printed and published the work in this country before any publication abroad. Then Jeffreys, without any license from Boosey, printed and published the same work in this country. Boosey brought an action against Jeffreys for the infringement of his copyright, and the action was tried before Rolfe, B. (subsequently Lord Cranworth), who directed the jury, in accordance with the decision in *Boosey v. Purday*, to find a verdict for the defendant Jeffreys. The matter came, on bill of exceptions, before the Court of Exchequer Chamber. That tribunal pronounced the direction given by the judge at the trial to be wrong. A writ of error was then brought in the House of Lords, where the question was argued at great length, and the judges were asked to deliver their opinions, which ten of them did in an elaborate and exhaustive manner and at considerable length. Several questions were submitted to them by the House of Lords, but we have only to deal at present with one of the topics that engaged their attention, *i.e.*, whether a foreigner who is not resident here at the time

(a) 2 Sim. 240. (b) See *Ollendorf v. Black* (4 De G. & S. 209).

(c) See the statement submitted to the judges (4 H. L. Cas. 843).

of the publication here of a work composed by him has any copyright in such work. On this subject the judges were divided in opinion, as might have been expected from the opposite decisions which their respective courts had already pronounced. Six judges were of one opinion and four of another. Williams, Erle, Wightman, Maule, Coleridge, and Crompton, J. J., pronounced in favour of the proposition that a foreign author might gain an English copyright by publishing in England before any publication abroad, though resident abroad at the time of publication, on the grounds that there were no words in the Act, 8 Anne, c. 19 (the first Copyright Act), which confines its benefits to British subjects, by birth or residence, though the context and other provisions of the Act showed that the publication must be British; that the title of the Act ("An Act for the Encouragement of Learning, &c.") did not require such a construction of its provisions, and Parliament might legislate for foreigners in respect of the legal consequences in Great Britain of an act done there; that the nature of the property was analogous to property in other personalty, and that an alien's copyright was analogous to the right which he possessed while residing abroad to prohibit the publication here of words defamatory of his character; (a) that to limit the Act of Anne to native authors would be to lessen its beneficial operation; that first publication in England of a work by a foreign author was not a matter *ultra vires*, therefore, the municipal law might deal with it; that the gift by Parliament of copyright to a foreign author publishing in this country was within the province of Parliament, it was a dealing with British interests and a legislation for British persons; that it would be absurd to lay down the doctrine that a foreign author should have no copyright if he remained at Calais whilst his work was being published in England, but that he should gain that copyright if he crossed over to Dover, and there gave directions for and awaited the publication of his work: and the following harsh consequence would also result from the doctrine of the necessary presence in the United Kingdom of the foreign author at the time of the publication of his works,—that a bookseller might purchase a literary work in manuscript from a foreign author resident here, yet might lose the copyright if the author should choose to leave this country and be absent from it, even without the knowledge of the bookseller, at the time of publication; nay, if the bookseller should think it best to

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(a) *Pisani v. Lawson* (6 Bing. N. C. 90).

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publish the works in several volumes at several times, he might have copyright in some of the volumes and not in others—because the existence or non-existence of the right would vary with the accident of the author's being or not being in this country at the dates of the respective publications of the volumes.

Notwithstanding the foregoing very weighty reasons, the law lords, Lords Cranworth, C., Brougham, and St. Leonards, agreed with the views expressed on this point by the minority of the judges, Alderson and Parke, B.B., Pollock, C.J., and Jervis, C.J.; and the House of Lords, reversing the decision of the Exchequer Chamber, upheld the direction given by Rolfe, B., to the jury at the original trial of the case, and thus decided^(a) that to entitle a foreigner to the copyright in any work first published by him in this country, *he must be actually resident here at the time of the publication of such work*, and consequently that no assignment by a foreigner, not resident here at the time of publication, can vest in a British subject a copyright in the work of the foreigner published here by that British subject.

The grounds on which the judgment of the House of Lords in this important case rested, will appear from the following extracts from the judgments delivered. Lord Cranworth, C., after recapitulating the facts, said: "It may be assumed that on the facts thus proved, the rights of Bellini, the author (if any), had been effectually transferred to Boosey, the defendant in error; and thus the important question arose, whether Bellini had by our law a copyright which he could transfer through Ricordi to Boosey, so as to entitle the latter to the protection of our laws? . . . In the first place, it is proper to bear in mind that the right now in question—namely, the copyright claimed by the defendant in error (Boosey)—is not the right to publish or to abstain from publishing a work not yet published at all, but the exclusive right of multiplying copies of a work already published, and first published by the defendant in error (Boosey) in this country. Copyright thus defined, if not the creature, as I believe it to be, of our statute law, is now entirely regulated by it, and, therefore, in determining its limits, we must look exclusively to the statutes on which it depends. . . . The substantial question is whether under the term 'author' [in 8 Anne, c. 19] we are to understand the Legislature as referring to British authors only, or to have contemplated all authors of every nation. My opinion is that the statute

(a) But see *Routledge v. Low* (post, p. 19).

must be construed as referring to British authors only. *Prima facie*, the Legislature of this country must be taken to make laws for its own subjects exclusively, and where, as in the statute now under consideration, an exclusive privilege is given to a particular class at the expense of the rest of Her Majesty's subjects, the object of giving that privilege must be taken to have been a national object, and the privileged class to be confined to a portion of that community, for the general advantage of which the enactment was made. When I say that the Legislature must, *prima facie*, be taken to legislate only for its own subjects, I must be taken to include under the word "subjects," all persons who are within the Queen's dominions, and who thus owe to her a temporary allegiance. I do not doubt but that a foreigner resident here, and composing and publishing a book here, is an author within the meaning of the statute—he is within its words and spirit. . . . Copyright, defined to mean the exclusive right of multiplying copies, commences at the instant of publication; and if the author is at that time in England, and while here he first prints and publishes his work, he is, I apprehend, an author within the meaning of the statute, even though he should have come here solely with a view to the publication. . . . But if at the time when copyright commences by publication the foreign author is not in this country, he is not, in my opinion, a person whose interests the statute meant to protect. I do not forget the argument that from this view of the law the apparent absurdity results, that a foreigner having composed a work at Calais, gains a British copyright if he crosses to Dover, and there first publishes it, whereas he would have no copyright if he should send it to an agent to publish for him. I own that this does not appear to me to involve any absurdity. It is only one among the thousand instances that happen, not only in law, but in all the daily occurrences of life, showing that whenever it is necessary to draw a line, cases bordering closely on either side of it are so near to each other, that it is difficult to imagine them as belonging to separate classes; and yet our reason tells us they are as completely distinct as if they were immeasurably removed from each other. . . . If the object of the enactment was to give, at the expense of British subjects, a premium to those who laboured, no matter where, in the cause of literature, I see no adequate reason for the exception, which it is admitted on all hands we must introduce, against those who not only compose, but first publish abroad. If we are to read the

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statute (a) as meaning by the word 'author' to include 'foreign authors living and composing abroad,' why are we not to put a similar extended construction on the words 'first published?' And yet no one contends for such an extended use of these latter words. Some stress was laid on the supposed analogy between copyright and the right of a patentee for a new invention; but the distinction is obvious. The Crown, at common law had, or assumed to have, a right of granting to any one, whether native or foreigner, a monopoly for any particular manufacture. This was claimed as a branch of the royal prerogative, and all which the statute, 21 Jac. 1, c. 3, s. 6, did was to confine its exercise within certain prescribed limits; but it left the persons to whom it might extend untouched. The analogy, if pursued to its full extent, would tend to show that first publication abroad ought not to interfere with an author's rights in this country. For certainly it is no objection to a patent that the subject of it has been in public use in a foreign country. . . . My opinion is founded on the general doctrine, that a British statute must *prima facie* be understood to legislate for British subjects only, and that there are no special circumstances in the statute of Anne (a) relating to authors, leading to the notion that a more extended range was meant to be given to its enactments." The reasons assigned by Lord Brougham were of a similar nature. Lord St. Leonards, in the course of his judgment said, "If there is no common law right, which in my opinion there clearly is not, (b) and if the statute does not apply to foreigners, *quod* foreigners (although I entirely, of course, admit, that when a man owes a temporary allegiance, he is entitled to the benefit of it), then there being no common law right, it would be a new right given by Act of Parliament, and the foreigner must bring himself within the terms of that Act of Parliament in order to enjoy it; and to do so, in my apprehension, he must be able to predicate of himself that he is a subject of these realms, at least for the time being."

How far *Jeffreys v. Boosey* is a binding authority.

The authority of *Jeffreys v. Boosey* as a decision binding

(a) The part of the statute 8 Anne, c. 19, referred to is this: "The author of any book or books already composed and not printed and published, or that shall hereafter be composed, and his assignee or assignes, shall have the sole liberty of printing and reprinting such book and books for the term of fourteen years, to commence from the day of the first publishing the same, and no longer."

(b) It must be remembered that the common law right of which the existence is denied here and elsewhere in the judgments in this case, is a common law copyright *after publication*.

at the present day has been much shaken by the opinions expressed by Lords Cairns and Westbury in *Routledge v. Low* (a) to the effect that no matter where the author resided at the time of publication, he was entitled to copyright if he first published in the United Kingdom. It was not necessary, however, expressly to decide the point in that case, as the authoress of the book in question resided in Canada at the time of the publication here; and two other law lords (Lords Cranworth and Chelmsford) adhered to the view of the law laid down in *Jeffreys v. Boosey*.

Lord Cairns stated the reasons for his opinion thus: "The intention of the Act is to obtain a benefit for the people of this country by the publication to them of works of learning, of utility, of amusement. This benefit is obtained, in the opinion of the Legislature, by offering a certain amount of protection to the author, thereby inducing him to publish his work here. This is, or may be, a benefit to the author, but it is a benefit given, not for the sake of the author of the work, but for the sake of those to whom the work is communicated. The aim of the Legislature is to increase the common stock of the literature of the country; and if that stock can be increased by the publication for the first time here of a new and valuable work composed by an alien who never has been in the country, I see nothing in the wording of the Act which prevents, nothing in the policy of the Act which should prevent, and everything in the professed object of the Act, and in its wide and general provisions which should entitle such a person to the protection of the Act, in return and compensation for the addition he has made to the literature of the country." Lord Westbury said, "The case of *Jeffreys v. Boosey* is a decision which is attached to and depends on the particular statute of which it was the exponent; and as that statute has been repealed, and is now replaced by another Act, with different enactments expressed in different language, the case *Jeffreys v. Boosey* is not a binding authority in the exposition of this later statute. The Act appears to have been dictated by a wise and liberal spirit, and in the same spirit it should be interpreted, adhering, of course, to the settled rules of legal construction. The preamble is, in my opinion, quite inconsistent with the conclusion that the protection given by the statute was intended to be confined to the works of British authors. On the contrary, it seems to contain an invitation to men of

Opinion of Lord Cairns.

Opinion of Lord Westbury.

(a) L. Rep. 3 H. L. Cas. 100; 18 L. T. N. S. 874; 37 L. J. 454, Ch.

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learning in every country to make the *United Kingdom* the place of first publication of their works; and an extended term of copyright throughout the whole of the British dominions is the reward of their so doing. So interpreted and applied, the Act is auxiliary to the advancement of learning in this country. The real condition of obtaining its advantages is the first publication by the author of his work in the *United Kingdom*. Nothing renders necessary his bodily presence here at the time, and I find it impossible to discover any reason why it should be required, or what it can add to the merit of the first publication. It was asked, in *Jeffreys v. Boosey*, why should the Act (meaning the statute of Anne) be supposed to have been passed for the benefit of foreign authors? But if the like question be repeated with reference to the present Act, the answer is, in the language of the preamble, that the Act is intended 'to afford greater encouragement to the production of literary works of lasting benefit to the world;' a purpose which has no limitation of person or place. But the Act secures a special benefit to British subjects, by promoting the advancement of learning in this country, which the Act contemplates as the result of encouraging all authors to resort to the United Kingdom for the first publication of their work. The benefit of the foreign author is incidental only to the benefit of the British public. Certainly the obligation lies on those who would give the term 'author' a restricted signification to find in the statute the reason for so doing. If the intrinsic merits of the reasoning on which *Jeffreys v. Boosey* was decided be considered (and which we are at liberty to do, for it does not apply to this case as a binding authority), I must frankly admit that it by no means commands my assent."

33 Vict. c. 14.

Sect. 2 of the Naturalization Act, 1870 (33 Vict. c. 14), enacts that "real and personal property of *every description* may be taken, acquired, held, and disposed of by an alien *in the same manner in all respects as a natural-born British subject*; and a title to real and personal property of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject." This enactment, unless its very general words are in some manner explained away as not intended to apply to the case of copyright, would appear to do away wholly with the effect of the decision in *Jeffreys v. Boosey* as to all future cases. For all copyright is "personal property" by 5 and 6 Vict. c. 45, s. 25: it can be acquired by any natural-born British subject by first publishing his work in this country *wherever*

It is at the time of its publication: by the enactment above set out, real and *personal property of every description* may be "acquired" by an alien "in the same manner in all respects as a natural-born British subject;" from which it would seem to follow that an alien may acquire copyright in a work which he first publishes here, wherever he is at the time of its publication.^(a) Though the question is not quite free from doubt, in all probability the ultimate court of appeal, should it ever come before that tribunal for determination, will decide it in favour of the alien, in accordance with the opinions of Lords Westbury and Cairns above referred to.

It is quite settled that it is not necessary in order to entitle a foreign author to copyright in his work, that he should be resident within the United Kingdom at the time of its first publication here. It is sufficient that he should at that time be resident in *any part of the British dominions*. And the words "British dominions" are defined by 5 and 6 Vict. c. 45, s. 2, to mean and include all parts of the United Kingdom of Great Britain and Ireland, the islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements, and possessions of the Crown, which now are or hereafter may be acquired. In conformity with this it was determined by the Court of Appeal in Chancery, in the case of *Low v. Routledge*,^(b) that an alien friend (a native of the United States of America) could, by a temporary residence in Canada at the time of publication in England, acquire a British copyright in the work published here. In that case it was agreed between the plaintiffs and an American authoress, from whom they had purchased the manuscript of a book written by her, that she should go to Montreal and reside there till after the publication of the work in England by the plaintiffs. She resided at Montreal from the 19th of May, 1864, till after the 4th of June, 1864, when the book was published for the first time by the Messrs. Low, in London. An injunc-

Meaning of
residence in
British
dominions.

^(a) An argument in favour of the applicability of the above section to cases of copyright is furnished by the fact that certain exceptions are expressly made, of which copyright is not one. It is provided [sect. 1] that this enactment "shall not confer any right on an alien to hold real property situate out of the United Kingdom, and shall not qualify an alien for any office or for any municipal, parliamentary, or other franchise; and shall not entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of *property* as are hereby expressly given to him," and also [sect. 14] that nothing in the Act contained "shall qualify an alien to be the owner of a British ship."

^(b) 35 L. J. 114, Ch.; 13 L. T. N. S. 421.

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tion was granted by Vice-Chancellor Kindersley to restrain Messrs. Routledge from publishing an edition of the same work ; and on appeal the Lords Justices upheld his decision. Lord Justice Turner observed : “ It was said for the defendants that the same word ‘author,’ which is contained in this statute, was also contained in the statute of Anne, the first Copyright Act, and that strong opinions were expressed by the judges, and by the law lords in the House of Lords, in the case of *Jeffreys v. Boosey*, that the word ‘author’ in the statute of Anne means an author resident in England at the time of publication, and that the same construction ought to be given to the word ‘author’ in the stat. 5 & 6 Vict. c. 45, now under our consideration. But there is no provision in the statute of Anne that the statute shall extend to the colonies, and in the statute we are now considering it is expressly so provided.” It was also urged on behalf of the defendants that 5 & 6 Vict. c. 45 did not extend to colonies having legislatures of their own, as Canada ; but the Lord Justice held that the word “colonies,” in the absence of a context to control it, must extend to all colonies. This decision was affirmed by the House of Lords.(a)

Even if a statute of the colony in which the alien resides at the time of the publication of his work here, prevents an alien acquiring a copyright in a work published by him in the colony during his residence there, that would make no difference as to his title to copyright here. An alien has rights as a subject of the Crown whilst residing in one of its colonies, as well as rights as a subject of the colony ; and though his civil rights within the colony depend upon the colonial laws, his civil rights beyond the limit of the colony are independent of those laws. “Every alien,” said Turner, L.J., in the case last referred to, “coming into a British colony becomes temporarily a subject of the Crown, bound by, subject to, and entitled to the benefit of, the laws which affect all British subjects. He has obligations both within and beyond the colony into which he comes. As to his rights within the colony, he may well be bound by its laws ; but as to his rights beyond the colony he cannot be affected by those laws, for the laws of a colony cannot extend beyond its territorial limits.”

Publication in the United Kingdom is indispensable to copyright. That this was the intention of the Legislature is shown by various provisions of the statute ; besides which

Publication in
United Kingdom
indispensable.

(a) See L. Rep. 3 Eng. & Ir. App. 100 ; 18 L. T. N. S. 874 ; 37 L. J. 454, Ch.

“it would be very inconsistent with the usual practice of the Imperial Parliament to create a system of copyright law for all the colonies and dependencies in the Empire, many of which have representative institutions of their own, without any consultation with those colonies or dependencies, and without any consideration whether a uniform and arbitrary system, such as that introduced by this Act, would be suitable to the varied circumstances, states of civilisation, and systems of jurisprudence and judicature in these different colonies and possessions.”(a)

But when copyright once exists, the area over which it extends is the whole of the British dominions.(b)

It is important to observe that by the International Copyright Act (7 & 8 Vict. c. 12, s. 19) a British subject who first publishes abroad is, equally with a foreigner, deprived of any copyright save such as he may acquire under that Act; and if there is no treaty giving effect to the Act in his particular case, he has no copyright in this country. This was so decided by Wood, V.C., in *Boucicault v. DeLafield*,(c) in which case the plaintiff prayed for an injunction to restrain the defendant from producing a drama (“The Colleen Bawn”) written by the plaintiff, and, as it appeared on the hearing of the case, represented by the plaintiff at New York prior to its being represented in England. The Vice-Chancellor refused to grant the injunction, and dismissed the bill with costs, being of opinion that the words of the 19th section of 7 & 8 Vict. c. 12 took away whatever rights the plaintiff might otherwise have had. If he had first represented his drama here, he would have been entitled to the provisions of the Dramatic Copyright Act. Then 7 & 8 Vict. c. 12 was passed, enabling Her Majesty to make arrangements conferring on other nations the privileges accorded to all people who first publish their works here. If the plaintiff had this sort of double right it was the very thing which the 7 & 8 Vict. c. 12 was intended to extinguish. The statute says in effect (sect. 19) that “if any person, British subject or not, chooses to deprive this country of the advantage of the first representation of his work, then he may get the benefit of copyright, if he can, under the arrangement which may have been come to pursuant to 7 & 8 Vict. c. 12, between this country and

British subject
first publishing
abroad.

(a) *Per Lord Cairns, C., Routledge v. Low* (L. Rep. 3 Eng. & Ir. App. 108; 18 L. T. N. S. 874; 37 L. J. 454, Ch.).

(b) *Routledge v. Low, ubi supra.*

(c) 1 H. & M. 597; 9 L. T. N. S. 709; 33 L. J. 38, Ch. See also *Boucicault v. Chatterton*, L. R. 5 C. D. 267.

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the country which he so favours with his representation; but if he chooses to publish his performance in a country which has not entered into any treaty or made any such arrangement with regard to copyright, then this country has nothing more to say to him; he must be taken to have elected under which of the two statutes with respect to copyright he wishes to come, by performing his work in one country instead of the other, and he is thereby excluded from all advantage of publishing in the other.”(a)

Simultaneous
publication here
and abroad.

The publication abroad of the work on the same day that it is published here will not disentitle to copyright in this country.(b)

Allen's rights in
unpublished
works.

The property which an author has in his unpublished ideas embodied in a tangible shape being independent of statute(c) it should seem that an alien friend might prevent the unauthorised publication here of any of his unpublished works.(d)

Besides the copyright which may be possessed by individual authors and proprietors, there is also a copyright enjoyed in certain works by the Crown, and in others by the Universities, to which attention will subsequently be directed.

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PROPERTY IN UNPUBLISHED WORKS.

Unpublished
manuscripts.

It has already been stated that every new, and it should be added innocent, product of mental labour which has been embodied in writing or some other material form becomes the exclusive property of its author; and, without his express permission, the law will not allow any other person to publish it. Whether the ideas thus un-

(a) *Per Wood*, V.C. (1 H. & M. 597; 9 L. T. N. S. 709; 33 L. J. 38. Ch.).

(b) See *Buxton v. James*, 5 De G. & S. 80.

(c) See *Prince Albert v. Strange* (2 De G. & S. 652; 1 Mac. & G. 25).

(d) It has been held in America that the sect. (9) of the Act of Congress (Act of 1831, c. 16) which gave redress for the unauthorised printing or publishing of manuscripts, operated in favour of a resident of the United States who had acquired the proprietorship of an *unprinted* literary composition from a non-resident alien author: (*Keene v. Wheatley*, 9 Amer. Law Reg. 33).

published take the shape of written manuscripts of literary, dramatic, or musical compositions, or whether they are the designs for works of ornament or utility planned by the mind of an artist, they are equally inviolable while they remain unpublished, and the author possesses an absolute right to publish them or not as he thinks fit, and (if he does not desire to publish them) to hinder their publication either in whole or in part by any one else. "It is certain every man has a right to keep his own sentiments if he pleases. He has certainly a right to judge whether he will make them public or commit them only to the sight of his friends: in that state a manuscript is in every sense his peculiar property, and no man can take it from him, or make any use of it which he has not authorised, without being guilty of a violation of his property. And as every author or proprietor of a manuscript has a right to determine whether he will publish it or not, he has a right to the first publication, and whoever deprives him of that privilege is guilty of a manifest wrong, and the court have a right to stop it."^(a)

The ideas of an author have been quaintly compared to "birds in a cage, which none but he can have a right to let fly, for till he thinks proper to emancipate them they are under his own dominion."^(b) "The property," says Lord Cottenham,^(c) "of an author or composer of any work, whether of literature, art, or science, in such work unpublished, and kept for his private use or pleasure, cannot be disputed after the many decisions in which that proposition has been affirmed or assumed. I say 'assumed,' because in most of the cases which have been decided, the question was not as to the original right of the author, but whether what had taken place did not amount to a waiver of such right. . . . If then such right and property exist

^(a) *Pee Yates*, J. (4 Burr. 2378).

^(b) *Ibid.*

^(c) *Prince Albert v. Strange* (13 Jur. 112; 1 Mac. & G. 42; 18 L. J. 126, Ch.); see *Burbell v. Crittenden* (4 McLean, 301); *Hoyt v. McKnight* (3 Barb. Ch. 523); *Wheaton v. Peters* (8 Pet. 657). "No length of time, where the invention does not go into public use, can invalidate the right of the inventor. He may take his own time to perfect his discovery, and apply for a patent. And the same principle applies to the manuscript of an author. If he permit copies to be taken for the gratification of his friends, he does not authorise those friends to print them for general use. This is the author's right, from which arise the high motive of pecuniary profit and literary reputation. When the inventor consents to the construction and use of his machine he yields the whole value of his invention. But an author's manuscripts are very different from a machine. As manuscripts in modern times, they are not and cannot be of general use" (McLean, J., *Burbell v. Crittenden*, *ubi supra*).

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This property
is independent
of statute.

in the author of such works, it must so exist exclusively of all other persons."

For this exclusive property in the *unpublished* products of his mental labours the author, it must be remembered, is not indebted to any Copyright Acts. His right is independent of statute, and, as observed by Lord Cottenham in the judgment from which the preceding extract is taken, depends entirely on the common law right of property. To the same effect Knight Bruce, V.C., on the final hearing of *Prince Albert v. Strange* (a) in the court below, remarks—“Upon the principle, therefore, of protecting property it is that the common law, in cases not aided nor prejudiced by statute, shelters the privacy and seclusion of thoughts and sentiments committed to writing, and desired by the author to remain not generally known. . . . Such then being, as I believe, the nature and foundation of the common law as to manuscripts, independently of Parliamentary additions and subtractions, its operation cannot of necessity be confined to literary subjects. That would be to limit the rule by its example. Wherever the produce of labour is liable to invasion in an analogous manner, there must, I suppose, be a title to analogous protection or redress.”

The protection afforded by the common law to unpublished compositions cannot be evaded by translation, abridgment, summary, or even review.(b)

Prince Albert v. Strange.

How complete the right of the author is to prevent every, even the slightest, infringement of the property in his unpublished productions is forcibly shown by the facts of the case in which the preceding opinions have been judicially expressed—a case which is in fact the leading one on the subject now treated of. In *Prince Albert v. Strange*(c) it appeared that Her Majesty the Queen and the Prince her husband had occasionally for their amusement made drawings and etchings, principally of subjects of private and domestic interest to themselves, and had some lithographic impressions struck off by means of a private press kept for that purpose, for their own use, and not for publication. Some few impressions had indeed been given to private

(a) 2 De G. & Sm. 695.

(b) *Per* Knight Bruce, V.C., in *Prince Albert v. Strange* (2 De G. & Sm. 693).

(c) 2 De G. & S. 652; 1 Mac. & G. 25; 13 Jur. 45, 109, 507. There was also an information filed by the *Attorney-General v. Strange*, for the purpose of protecting the interests of Her Majesty in those portions of the etchings which were the property of Her Majesty, and praying relief as to them similar to that prayed in the bill of Prince Albert.

friends of Her Majesty and the Prince, but no further publication was intended or desired. Some further copies being required, the plates for the purpose of printing them were sent to Mr. Brown, a printer at Windsor, and whilst they remained in his possession one of his workmen surreptitiously made some impressions of the etchings for himself. These surreptitiously procured impressions were subsequently obtained by a Mr. Judge, and from his possession they passed into that of the defendant Strange, a London publisher. Strange printed a catalogue of the etchings, in which was expressed an intention of publicly exhibiting the impressions of them, which had come into his possession by means of Judge. The catalogue was entitled "A Descriptive Catalogue of the Royal Victoria and Albert Gallery of Etchings," and contained, after a long introduction stating the general nature of the subjects, a detailed list of sixty-three etchings, with observations upon them, chiefly of a commendatory character. The bill prayed that the defendants might be ordered to deliver up to the plaintiff all impressions and copies of the said several etchings made by the plaintiff; and that they, their servants, &c., might be restrained by injunction from exhibiting the said gallery or collection of etchings, and from selling or in any manner publishing, and from printing the said descriptive catalogue, or any work being or purporting to be a catalogue of the said etchings, and that all the copies of the said catalogue in the possession or power of the said defendants might be given up to be destroyed. An interim injunction having been granted by Knight Bruce, V.C., extending to Judge as well as Strange, the defendant Strange put in his answer, stating, amongst other things, his original belief that the impressions had come honestly into Judge's hands, that Judge wrote the descriptive catalogue, which he (Strange) then printed, striking off only fifty-one copies, after which the type was broken up, that the catalogue had never been published, or sold, or exposed for sale, and that on receiving the first information that the contemplated exhibition was disapproved of by Her Majesty and the Prince, he had abandoned the whole scheme; and he expressly denied that he ever threatened or intended to make such exhibition, or to make any copies or engravings of the etchings. After this answer had been put in, a motion was made on behalf of Strange to dissolve the injunction granted against him, so far only as it sought to restrain him from selling or in any manner publishing or printing the descriptive catalogue of the etchings, leaving unquestioned

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the remaining portion of the injunction against exhibiting, publishing, or parting with the etchings described in the catalogue. It was contended in support of the motion and of the defendant's asserted right to print and publish the catalogue, that although the owner of a print might prevent another from publishing a copy of it, it was impossible to prevent the other from describing it, and printing and publishing such description; that the law of England could not prevent a party obtaining knowledge through the medium of perceiving these etchings, from using that knowledge, and from conveying that information to others, and a Court of Equity, in the absence of contract, could not interfere with the use of that knowledge; it was difficult to understand how the rights of any one could be interfered with by the making of a catalogue describing the articles and making remarks upon them in the shape of friendly, if not flattering criticism; that if a spectator had a right to contemplate any of the productions of so exalted a personage, which he might do without any invasion of domestic privacy, he had a right to communicate full information connected with those productions; and this, substantially, was all that had been done by the descriptive catalogue: that it was a fallacy to say, as had been said on the part of the plaintiff, that privacy is essential to the right of property, for though the owner of anything may use every means in his power to prevent that thing being seen by another, yet if that other person sees it, the owner can have no right of property in the notion or idea created in the mind of the person who has seen it; that there is no property in the ideas created by seeing the etchings—the property is confined to the etchings; and no regard could be paid to a mere injury to private feelings, and that in substance the complaint is of an offence not against law but against manners.

Notwithstanding, however, the ingenious arguments by which a distinction between the publication of copies of the (unpublished) etchings themselves and that of a mere descriptive catalogue of them was endeavoured to be maintained, the Vice-Chancellor (Knight Bruce), and on appeal the Lord Chancellor (Cottenham), refused to admit the distinction, and held that the plaintiff was entitled to restrain the publication of the one as well as the other. Though the fraudulent manner in which the impressions of the etchings had been originally acquired formed one of the grounds on which the decision rested, the right of the plaintiff to restrain the publication of the catalogue on the

sole ground of his property in the things described was unmistakably asserted by both the learned judges. "Property in mechanical works or works of art," said Knight Bruce, V.C.,^(a) "executed by a man for his own amusement, instruction, or use, is allowed to subsist certainly, and may, before publication by him, be invaded, not merely by copying, but by description or by catalogue, as it appears to me. A catalogue of such works may in itself be valuable. It may also as effectually show the bent and turn of the mind, feelings, and taste of the artist, especially if not professional, as a list of his papers. The portfolio or the studio may declare as much as the writing-table. A man may employ himself in private in a manner very harmless, but which disclosed to society may destroy the comfort of his life, or even his success in it. Every one, however, has a right, I apprehend, to say that the produce of his private hours is not more liable to publication without his consent, because the publication must be creditable or advantageous to him, than it would be in opposite circumstances. Addressing the attention specifically to the particular instance before the court, we cannot but see that the etchings, executed by the plaintiff and his consort for their private use, the produce of their labour, and belonging to themselves, they were entitled to retain in a state of privacy, to withhold from publication. The right, I think it equally clear, was not lost by the limited communication which they appear to have made, nor confined to prohibiting the taking of impressions without or beyond their consent, from the plates their undoubted property. It extended also, I conceive, to the prevention of persons unduly obtaining a knowledge of the subjects of the plates, from publishing (at least by printing or writing, though not by copy or resemblance) a description of them, whether more or less limited or summary, whether in the form of a catalogue or otherwise." And similarly Lord Cottenham:^(b) "It being admitted that the defendant could not publish a copy—that is an impression—of the etchings, how in principle does a catalogue, list, or description differ? A copy or impression of the etching would only be a means of communicating knowledge and information of the original, and does not a list and description do the same? The means are different, but the object and effect are similar; for in both, the object and effect is to make known to the public more or less of the unpublished work and

(a) 2 De G. & S. 696; 13 Jur. 58.

(b) 1 Mac. & G. 43; 18 L. J. 126, Ch.; 13 Jur. 112.

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composition of the author, which he is entitled to keep wholly for his private use and pleasure, and to withhold altogether, or so far as he may please, from the knowledge of others. . . . Upon the first question, therefore—that of property—I am clearly of opinion that the exclusive right and interest of the plaintiff in the composition or work in question being established, and there being no right or interest whatever in the defendant, the plaintiff is entitled to the injunction of this court to protect him against the invasion of such right and interest by the defendant, which the publication of any catalogue would undoubtedly be.”

Points decided
by *Prince Albert*
v. *Strange*.

The elaborate judgments in this important case have established the following points:—That the right of property of the author or composer of any works of literature, art, or science in such works, so long as they remain unpublished, is so complete and absolute that no one else, without his permission, may publish even a list or descriptive catalogue of them; that the circulation amongst a few private friends of impressions of etchings not otherwise published is not such a publication of them as disentitles the owner to the protection of the aforesaid right, and that this right is but part of the general common law right of property.

Earlier cases.

The earliest case on the subject of copyright before publication that we find in the books is that of *Wobb v. Rose*,^(a) in which Sir Joseph Jekyll, M.R., in 1732, granted an injunction to restrain the clerk of a deceased conveyancer from printing unauthorised the conveyancing drafts of his late master. The bill in that case was filed by the son and devisee of the conveyancer. In *Forrester v. Waller*,^(b) in 1741, an injunction was granted to hinder the printing of the plaintiff's notes obtained surreptitiously without his consent. In *Maulcy v. Owen*,^(c) in 1755, a bill was filed by some printers who had bought from the Lord Mayor the copy of the sessions paper of trials, to enjoin the defendants from printing it. The Lord Chancellor considered that the right to print purchased from the Lord Mayor gave the plaintiff's the property, and the injunction prayed for was granted.^(d)

In *Morris v. Kelly*^(e) Lord Eldon granted an injunction to restrain the performance at the English Opera House of

(a) Cited 4 Burr. 2330. (b) *Ibid.* (c) Cited 4 Burr. 2329.

(d) See also *Duke of Queensberry v. Shubley* (2 Ed. 329), cited *post*, p. 46: and as to letters *Pope v. Curl*, 2 Atk. 342.

(e) 1 Jac. & W. 481.

the comedy of the "Young Quaker," of which the plaintiffs, the proprietors of the Haymarket Theatre, had purchased the copyright in the manuscript.^(a) This was in 1820, several years before the Act of 3 & 4 Will. 4, c. 15, gave to authors of plays the sole right of representing them, and it is not easy to see on what ground the injunction was granted.

Of innocent productions there is also a species of property ^{Letters.} on the part of the writer in the private letters which one person sends to another. The earliest assertion of this doctrine in our law books is to be found in the judgment of Lord Hardwicke in *Pope v. Curl*,^(b) in which case his lordship refused to dissolve an injunction which Pope had obtained to restrain the defendant from publishing a collection of letters written by the poet. "The first question," said Lord Hardwicke, "is whether letters are within the grounds and intention of the statute made in the 8th year of Queen Anne, c. 19, entitled, 'An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or Purchasers of such Copies.' I think it would be exceedingly mischievous to make a distinction between a book of letters which comes out into the world, either by permission of the writer, or the receiver of them, and any other learned work. . . . Another objection has been made by the defendant's counsel, that where a man writes a letter it is in the nature of a gift to the receiver. But I am of opinion that it is only a special property in the receiver; possibly the property of the paper may belong to him, but this does not give a licence to any person whatsoever to publish them to the world, for at most the receiver has only a joint property with the writer." And to the objection insisted on by the defendant's counsel that this was a sort of work which did not come within the meaning of the Act of Parliament, because it contained only letters on familiar subjects, and inquiries after the health of friends, and therefore could not properly be called a learned work, his lordship replied: "It is certain that no works have done more service to mankind than those which have appeared in this shape, upon familiar subjects, and which, perhaps, were never intended to be published, and it is this makes them so valuable; for I must confess, for my own part, that letters which are very elaborately written, and originally intended for the press, are generally the most insignificant,

^(a) See the prior case of *Macklin v. Richardson* (Amb. 694), referred to *post*, p. 44.

^(b) 2 Atk. 342.

and very little worth any person's reading." (a) The injunction was continued by the Lord Chancellor only as to those letters in the book which were written *by* Pope, and not as to those which were written *to* him.

In *Thompson v. Stanhope* (b) (a case respecting the letters written by Lord Chesterfield to his son) Lord Apsley, C., took the same view of the law as that expressed in the preceding case by Lord Hardwicke. In the later case of *Percival v. Phipps* (c) Sir Thomas Plumer, V.C., adhering to the same doctrine, observed: "An injunction restraining the publication of private letters must stand upon this foundation: that letters, whether of a private nature or upon general subject, may be considered as the subject of literary property; and it is difficult to conceive in the abstract that they may not be so. . . . The question then arose, whether letters having that character of literary composition, the transmission of them to the person to whom they were addressed deprived the author of his power over them as his composition, so far as to authorise a publication without his consent; and it has been decided that by sending a letter the writer does not give the receiver the power of publishing it; that, whether he is to be considered as a joint proprietor or not, letters have the character of literary composition stamped upon them, so that they are within the spirit of the Act of Parliament protecting literary property; and a violation of the right in that instance is attended with the same consequences as in the case of an unpublished manuscript of an original composition of any other description."

An important qualification of the right of property in private letters was stated by the Vice-Chancellor in the case last referred to. "Though the form of familiar letters might not prevent their approaching the character of a literary work, every private letter upon any subject to any person is not to be described as a literary work, to be protected upon the principle of copyright. The ordinary use of correspondence by letters is to carry on the intercourse of life between persons at a distance from each other, in the prosecution of commercial or other business; which it would be very extraordinary to describe as a literary work in which the writers have a copyright."

Lord Eldon followed the previous decisions in *Gee v. Pritchard*, (d) though expressing his doubts relative to the

(a) 2 Atk. 343. See *Byre v. Hybee* (22 How. Pr. 200).

(b) Amb. 737.

(c) 2 V. & B. 19.

(d) 2 Swans. 402. See *Brandreth v. Luce* (8 Paige's Rep. 24).

jurisdiction assumed by the Court of Chancery over the publication of letters,^(a) and hinting his determination to give effect to those doubts should the question ever be brought on appeal before the House of Lords. An injunction was granted to the plaintiff in this case to restrain the publication of private letters written by her to the defendant.

In *Gudell v. Stewart*,^(b) the Scotch Court of Session restrained the publication of certain letters written by the poet Burns to Clarinda. The interdict was granted after the death of Burns on the application of the publishers of his works, concurred in by the brother of the poet and the curator of his children. The report of the case says, "There was little difference of opinion upon the bench. The ground upon which the court seemed to pronounce the decision was, that the communication in letters is always made under the implied confidence that they shall not be published without the consent of the writer, and that the representatives of Burns had a sufficient interest for the vindication of his literary character to restrain this publication."

In a bill filed by the executor and residuary legatee of Lady Tyrawly, the Irish Court of Chancery restrained a connection of her ladyship, who resided in her house, from publishing after her death a collection of letters addressed to her.^(c)

There seems to be no distinction with reference to the writer's title to restrain the publication of letters written to another, between merely private letters not intended as literary compositions, and those which are written with a view to their literary character, although Sir T. Plumer in *Percival v. Phipps*, appears to consider such a distinction material. Notwithstanding the doubts expressed by Lord Eldon^(d) as to the existence of what Lord Hardwicke^(e) called a "joint property" in a letter in the writer and receiver, the Court of Chancery has restrained the

(a) "My predecessors," said his lordship, "did not inquire whether the intention of the writer was or was not directed to publication. The difficulty which I have felt in all these cases is this: if I had written a letter on the subject of an individual for whom both the person to whom I wrote and myself had a common regard, and the question arose for the first time, I should have found it difficult to satisfy my mind that there is a property in the letter; but it is my duty to submit my judgment to the authority of those who have gone before me; and it will not be easy to remove the weight of the decisions of Lord Hardwicke and Lord Apsley."

(b) 13 Fac. Dec. 375, June 1, 1854.

(c) *Earl of Granard v. Dunkin* (1 Ball & B. 207).

(d) *Gee v. Pritchard* (2 Swans. 402). (e) *Pope v. Curl* (2 Atk. 342).

publication of letters on the sole ground of the property (of whatever nature it be) which the writer has in the letters written by him. Whether the right to control the act of publication and to decide whether there shall be any publication at all be correctly termed a right of property or no, it is on the ground of this right that equity interferes to aid the writer of letters. And, if so, there can be no valid distinction between the writer's property in private and familiar letters, and those of a more elaborate and literary character. Indeed it would be completely impossible to draw a line of distinction between the two; and were the case otherwise it is difficult to resist the conclusion that "if the mere sending of letters to third persons is not to be deemed, in cases of literary composition, a total abandonment of the right of property therein by the sender, *à fortiori* the act of sending them cannot be presumed to be an abandonment thereof in cases where the very nature of the letters imports, as matter of business or friendship, or advice, or family or personal confidence, the implied or necessary intention and duty of privacy and secrecy." (a)

Limitations of
property in
letters.

The decided cases, however, have placed certain restrictions on the title of the writer of private letters to insist on his special property in them, and to hinder their publication by others. The writer may by his own acts disentitle himself to prevent the publication of his letters to another person, and justify that other person in giving them to the world;—*e.g.*, a false accusation brought by the writer against the recipient of the letters which may be disproved by their publication, will justify such publication, and courts of equity have refused to aid by injunction the writer of the letters in such a case. Sir Thomas Plumer, V.C., whose *dicta* in favour of the abstract right of property in private letters have been quoted above, refused an injunction to prevent the publication of the letters under the particular circumstances of the case before him, (b) which are briefly these. The defendant Phipps was the proprietor of a newspaper called *The News*, in which were published from time to time articles and paragraphs on a subject which then engrossed the public attention, which articles and paragraphs were supplied to Phipps by a Mr. Mitford, but were written, as Mitford informed Phipps, by Lady Percival, and in her handwriting. A piece of intelligence in one of these published articles being found to be false, Phipps applied to Lady Percival on the subject, who denied that the intelli-

(a) St. Eq. Jur. 947. (b) *Percival v. Phipps* (2 V. & B. 19).

gence had ever been sent, and stated that the papers containing it were forgeries. Mitford positively asserted the contrary, and to enable Phipps to justify himself to the public delivered to him several letters written by Lady Percival to Mitford upon similar subjects, materially tending to show that the false intelligence published in *The News* had come from Lady Percival through Mitford. Phipps published in *The News* one of the letters given to him by Mitford, and announced an intention of publishing the others. A bill was filed on the part of Lady Percival to restrain the publication of those letters written by her to Mitford as being of a private nature, and having been sent to him in confidence that he would not part with them or communicate their contents to any other person. The answer denied that the letters had been sent in any such confidence. It was urged on behalf of Phipps that a gross imputation had been cast upon him, and that though he might derive a profit from publishing the letters in his own paper, his object was not profit, but the vindication of his character from the imputation thrown upon it, and to effect that object he was entitled to use the letters. And the Vice-Chancellor held that he was entitled to make this use of the letters. "Whatever degree of confidence," he said, (a) "or reservation of property may be implied from the transmission of a private letter, it would be too much to hold that the individual who receives it can in no case use it for the purpose of protecting himself from an unfounded imputation; stating that to be the sole and *bona fide* object of the publication; and upon the answer in this case it must be taken that the defendant has no purpose of gain, or to deprive another of the benefit derived from a literary composition; but that his only object is by proving agency to answer the imputation cast upon him."

The distinction, to which Sir T. Plumer seems to attach importance, between the publication of private letters without the writer's consent, *for the purpose of profit or gain*, and publication for a different purpose is treated by Lord Eldon, in *the v. Pritchard*, (b) as of no moment. His lordship considered the previous cases to have decided that, *ultra* the purposes for which the letter was sent, the property was in the sender. "If that is the principle," he observes, "it is immaterial whether the publication is for the purpose of profit or not. If for profit, the party is then selling, if not for profit, he is giving that a portion of which belongs to the writer." In the case before him, an attempt was made on the part of the

(a) 2 V. & B. 25.

(b) See 2 Swanst., 415.

defendant to avail himself of the decision in *Percival v. Phipps*; but Lord Eldon distinguished the cases, and granted the injunction asked for by the plaintiff. The defendant in the case before Lord Eldon was the illegitimate son of the plaintiff's deceased husband, and had received many letters from the plaintiff during her husband's lifetime. After her husband's death, the plaintiff ceased to be on terms of friendship with the defendant, and denied the truth of statements made by him as to the expectations which he had been led to entertain from the plaintiff and her husband. The defendant returned to the plaintiff the original letters which she had written to him, but took copies of the letters before returning them, without the plaintiff's knowledge, and advertised his intention to publish the letters, but, as he stated in his answer, for private circulation only. This he did, as he alleged, in order to clear his character from the charge of want of veracity which the plaintiff had brought against it. In this case the defendant, by returning the originals, had abandoned whatever property he had—for if he had any right of property it was in the originals,^(a) and Lord Eldon restrained the threatened publication. In giving judgment he observed, "I do not say there may not be a case, such as the Vice-Chancellor (Sir T. Plumer) thought the case before him, where the acts of the parties supply reasons for not interfering; but that differs most materially from this case. In April last, the defendant having so much of property in these letters as belongs to the receiver, and of interest in them as possessor, thinks proper to return them to the person who has in them, as Lord Hardwicke says, a joint property, keeping copies of them without apprising her, and assigning such a reason as he assigns for the return [his 'being unworthy of the sentiments and expressions of kindness contained in them']. Now I say, that if, in the case before the Vice-Chancellor, Lady Percival had given to Phipps a right to publish her letters, this case is the converse of that; and that the defendant, if he previously had it, has renounced the right of publication."

Lord Eldon was careful to rest his decision in this case on the ground of the plaintiff's property in the letters (as determined by previous cases) and not on any considerations as to wounded feelings. When reference was made to such considerations by the defendant's counsel, his lordship interposed: "I will relieve you from that argument. The question will be, whether the bill has stated facts of which

(a) 2 Swans., 418.

the court can take notice, as *a case of civil property*, which it is bound to protect. The injunction cannot be maintained on any principle of this sort, that if a letter has been written in the way of friendship, either the continuance or the discontinuance of that friendship affords a reason for the interference of the court.”(a)

The Scotch Court of Session held that the proprietors of a newspaper to which a person wrote a letter with a request that it might be inserted in reply to a previous article, did not acquire the property in the letters, and were not entitled to publish it after the writer had expressed his wish to withdraw it.(b)

If the agent or servant of a company write a letter, apparently on behalf of the company, to a shareholder, it is the property of the company, and the agent or servant cannot prevent the company from publishing the letter.(c)

Where the solicitor of an insurance company established in London, wrote a letter not marked “private” or “confidential,” to one of the shareholders in the country, by which he appeared to negotiate a new arrangement as to certain shares allotted to the country shareholder, he was held not entitled to restrain the publication of this letter in a pamphlet, published after the winding up of the company by its late manager, to whom a copy of it had been sent by the shareholder the day after he received it.(d) “If the solicitor of an insurance company established in London,” said the Master of the Rolls in this case, “by the direction of the directors, wrote a letter to one of the shareholders in the country, it is clear that such letter is not the property of the solicitor, and that he cannot say that the company have not a right to publish it. Take it a step further, and assume that the solicitor wrote a letter, but not by the direction or on behalf of the directors, though it had all the appearance of being written on their behalf, and by their direction. Thus, if it were written to a person who proposed to take shares in the company, and it related to the affairs of the company, and contained authoritative information on behalf of the company, in answer to an application for shares, and the person who receives it treats it as such, and sends back to the company objecting to its contents, shall the solicitor be allowed to complain of its publication, and

(a) 5 T. R. 245; see also the American cases *Wetmore v. Scoville* 3 Ed. 527, Ch.); and *Woolsey v. Judd* (4 Duer, 382)

(b) *Davis v. Miller & Fairly*, 17 Scotch Sess. Cas. 2nd Ser. 1166.

(c) *Per* Lord Romilly, M.R., *Howard v. Gunn* (32 Beav. 465).

(d) *Ibid.*

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to insist that it is a private letter, though it appears to be written on behalf of the directors? The answer is, if that be so, it ought not to have been written. It has all the appearance of having been written by the plaintiff on their behalf, and Jamieson [the shareholder to whom it was addressed] so treats it, for he writes to the manager in answer to it. Can the plaintiff be allowed to say that the company have no right to publish it? and if they have, is not the defendant entitled, as regards the plaintiff, to bring it forward? It is obvious that this was not a private letter, and was not intended to be a private letter."

Summary of the
Law on Letters.

An excellent summary of the whole law on this subject is contained in the judgment of the American judge Story, in the case of *Bolton v. Marsh*(a). "The author of any letter or letters, and his representatives, whether they are literary compositions or familiar letters or letters of business, possess the sole and exclusive copyright therein; and no person, neither those to whom they are addressed, nor other persons, have any right or authority to publish the same upon their own account, or for their own benefit. But, consistently with this right, the persons to whom they are addressed may have, may, must by implication possess, the right to publish any letter or letters addressed to them, upon such occasions as require or justify the publication or public use of them; but this right is strictly limited to such occasions.(b) Thus, a person may justifiably use and publish in a suit at law or in equity such letter or letters as are necessary and proper to establish his right to maintain the suit, or defend the same. So, if he be aspersed or misrepresented by the writer, or accused of improper conduct in a public manner, he may publish such parts of such letter or letters, but no more, as may be necessary to vindicate his character and reputation, or free him from unjust obloquy and reproach. If he attempt to publish such letter or letters on other occasions, not justifiable, a court of equity will prevent the publication by an injunction, as a breach of private confidence or contract, or of the rights of the author, and *a fortiori* if he attempt to publish them for profit; for then it is not a mere breach of confidence or contract, but it is a violation of the exclusive copyright of the writer. In short, the person to whom the letters are addressed has but a limited right or special property (if I may so call it) in such letters, as a trustee or bailee for particular purposes, either of information or protection, or of support of his own rights

(a) 2 Story's Rep. 111.

(b) See 2 Swans. 415, 419, and *Palin v. Gathercole* (1 Coll. 565).

and character. The general property, and the general rights incident to property, belong to the writer, whether the letters are literary compositions, or familiar letters, or details of facts, or letters of business. The general property in the manuscripts remains in the writer and his representatives as well as the general copyright. *A fortiori*, third persons standing in no privity with either party are not entitled to publish them, to subserve their own private purposes of interest, or curiosity, or passion."

The right of an oral lecturer, before the Stat. 5 & 6 Will. 4, Lectures c. 65, to restrain the publication for profit of lectures delivered by him stood on a somewhat peculiar footing. In the year 1824, Mr. Abernethy, the distinguished surgeon, delivered a series of lectures on the principles and practice of surgery to the medical students of St. Bartholomew's Hospital. The *Lancet* newspaper proceeded to publish these lectures; and, besides publishing some, it contained an announcement that the remaining lectures would also be published as they were delivered. A bill was filed by Mr. Abernethy against the proprietors of the *Lancet* to restrain the publication.^(a) It was contended on behalf of the defendants that no man could have any right of property in ideas and language not reduced into writing; and it was acknowledged by Mr. Abernethy, that although a good deal of the materials for his lectures had been reduced by him to writing, yet at the time of delivering the lectures he did not read or refer to any writing before him, but that he delivered them orally. As the written notes were not produced, the Lord Chancellor (Eldon), when the case first came before him, refused to grant an injunction grounded on an infringement of the plaintiff's copyright, because no case had determined that there was such copyright in unpublished productions not reduced into writing. The case was postponed to enable Mr. Abernethy to produce his manuscripts if he wished to do so. The manuscripts were not produced, and Lord Eldon, treating the lectures as orally delivered, refused to grant an injunction on the ground of a right of property in sentiments and language not deposited on paper; though he did grant the injunction on another ground, namely, the existence of an implied contract between the lecturer and his hearers that the latter would make use of the lectures only for their own information, and not publish for profit that which they had not the right of selling. The Lord Chancellor is reported to have stated

(a) *Abernethy v. Hutchinson* (1 H. & T. 39; 3 L. J. 209, Ch.).

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that where the lecture was orally delivered, it was difficult to say that an injunction could be granted upon the same principle upon which literary composition was protected; because the court must be satisfied that the publication complained of was an invasion of the written work, and this could only be done by comparing the composition with the piracy. But it did not follow that because the information communicated by the lecturer was not committed to writing but orally delivered, it was therefore within the power of the person who heard it to publish it. On the contrary, he was clearly of opinion that whatever else might be done with it, the lecture could not be published for profit. He had no doubt whatever that an action could be brought against a pupil who published these lectures; and whether an action would or would not lie against a third person obtaining the lectures from a pupil, an injunction undoubtedly might be granted; because if there had been a breach of contract on the part of the pupil who heard the lectures, and if the pupil could not publish for profit, to do so would be regarded by the court as a fraud in a third party.^(a)

5 & 6 Will. 4.
c. 65.

A distinct property in lectures delivered (after notice given, see, 5) is now given to the lecturer by 5 & 6 Will. 4, c. 65. After stating that printers, publishers, and other persons have frequently taken the liberty of printing and publishing lectures delivered upon divers subjects without the consent of the authors of such lectures, sect. 1 enacts, "that from and after the first day of September, one thousand eight hundred and thirty-five, the author of any lecture or lectures, or the person to whom he hath sold or otherwise conveyed the copy^(b) thereof, in order to deliver the same in any school, seminary, institution, or other place, or for any other purpose, shall have the sole right and liberty of printing and publishing such lecture or lectures; and that if any person shall, by taking down the same in shorthand or otherwise in writing, or in any other way, obtain or make a copy of such lecture or lectures, and shall print or lithograph or otherwise copy and publish the

(a) 3 L. J. 219, Ch.

(b) "I use the word 'copy,'" said Lord Mansfield, in *Millar v. Taylor* (4 Burr. 2396), "in the *technical* sense in which that name or term has been used for ages, to signify an *incorporeal right* to the *sole* printing and publishing of somewhat intellectual communicated by letters." "The copy of a book," said Aston, J., in the same case (*Ibid.*, 2396), "seems to have been not familiarly only, but *legally* used as a *technical* expression of the *aut. or's sole right of printing and publishing* that work." See also *per* Willes, J. (*Ibid.*, 2311).

same, or cause the same to be printed, lithographed, or otherwise copied and published, without leave of the author thereof, or of the person to whom the author thereof hath sold or otherwise conveyed the same, and every person who, knowing the same to have been printed or copied and published without such consent, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, any such lecture or lectures, shall forfeit such printed or otherwise copied lecture or lectures, or parts thereof, together with one penny for every sheet thereof which shall be found in his custody, either printed, lithographed, or copied, or printing, lithographing, or copying, published or exposed to sale, contrary to the true intent and meaning of this Act, the one moiety thereof to His Majesty, his heirs or successors, and the other moiety thereof to any person who shall sue for the same, to be recovered in any of His Majesty's Courts of Record in Westminster, by action of debt."

Sect. 2 enacts, "that any printer or publisher of any newspaper who shall, without such leave as aforesaid, print and publish in such newspaper any lecture or lectures, shall be deemed and taken to be a person printing and publishing without leave within the provisions of this Act, and liable to the aforesaid forfeitures and penalties in respect of such printing and publishing."

And sect. 3 provides, "that no person allowed for certain fee and reward, or otherwise to attend and be present at any lecture delivered in any place, shall be deemed and taken to be licensed or to have leave to print, copy, and publish such lectures only because of having leave to attend such lecture or lectures."

Sect. 4 makes an exception in the case of lectures published with leave of the authors or their assignees, and of which the statutory term of copyright had expired, and also in the case of lectures published before the passing of the Act (9th September, 1835).

Exceptions to
copyright in
lectures.

Sect. 5 makes some further exceptions. It enacts "that nothing in the Act shall extend to any lecture or lectures, or the printing, copying, or publishing any lecture or lectures, or parts thereof, of the delivering of which notice in writing shall not have been given to the justices living within five miles from the place where such lecture or lectures shall be delivered two days at the least before delivering the same, or to any lecture or lectures delivered in any university or public school or college, or on any public foundation, or by any individual in virtue of or according to any gift, endowment, or foundation, and that the law relating

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Rule as to all
unpublished
works.

thereto shall remain the same as if this Act had not been passed."

It matters not how the unpublished work of any one who does not intend to publish it may have come into the hands of another person than the author, that other person cannot publish it without the author's consent. "If any person takes it to the press without his consent, he is certainly a trespasser, though he came by it by *legal means*, as by a loan or by devolution; for he transgresses the *bounds* of his trust, and therefore is a trespasser."^(a) And the law is the same whether the case be *mechanical* or *literary*; whether it be an epic poem or an orrery. The inventor of the one as well as the author of the other has a right to determine "whether the world shall see it or not."^(b)

What is a
previous pub-
lication.

It being essential to the right of which we now treat that no previous publication should have taken place, it becomes important to determine what constitutes a previous publication in the eye of the law.

Publication
abroad.

The publication of a work in a foreign country disentitles the author to a copyright in it here. This, before the Legislature interfered in the matter, had been judicially determined in several cases. In *Clementi v. Walker*^(c) it was decided that if an author first published abroad, and then instead of using due diligence to publish here, forebore to publish until some other person had honestly published here, the author could not insist upon his privilege, and at a distance of time stop a publication which in the interim had taken place here, or treat the continuance of that publication as a piracy. "Whether the act of printing and publishing abroad," said the learned judge who delivered the judgment of the court in that case, "makes the work at once *publici juris*, it is not necessary now to decide; but we have no doubt that it becomes *publici juris* if the author does not take prompt measures to publish here."^(d) And in *Guichard v. Mori*,^(e) an injunction was refused on the ground that there had been a publication abroad before there was any publication in this country.

Contemporaneous
publication
here and abroad.

But where there was a contemporaneous publication abroad and in this country it was held that the copyright of the author here was not infringed by the foreign publication.^(f)

(a) Per Yates, J., in *Taylor v. Millar* (4 Burr. 2379).

(b) *Ibid.*, p. 2386. (c) *Clementi v. Walker* (2 Barn. & Cress. 861).

(d) See *Page v. Townsend*, (5 Sim. 395) as to publication abroad of prints engraved.

(e) 9 L. J. (1831) 227, Ch.; see also *Hedderwick v. Griffin* (3 Sess. Cas., 2nd Ser., 383).

(f) By Erle, J., *Cocks v. Purday* (2 Car. & K. 269, Nisi Prius).

The language of Bayley, J., in *Clementi v. Walker*, was in favour of the author's title to copyright, provided he print and publish here "promptly" and with due "diligence" after the publication abroad.^(a) But sect. 19 of 7 Vict. c. 12, now enacts that "neither the author of any book, nor the author or composer of any dramatic piece or musical composition, nor the inventor, designer, or engraver of any print, nor the maker of any article of sculpture, or of such other work of art as aforesaid, which shall, after the passing of this Act, be first published out of Her Majesty's dominions, shall have any copyright therein respectively, or any exclusive right to the public representation or performance thereof, otherwise than such (if any) as he may become entitled to under this Act."

In the case of dramatic representation, first representation abroad is a first publication abroad within the meaning of this section.^(b)

Of course a publication at home equally disentitles the author to any property in his work other than that copyright after publication, which is secured to him by statute, and of which we shall afterwards treat at length.

Publication at home.

An author may lend or let his manuscript to others, or may print for private circulation only, without foregoing the right which he has in the work before publication.^(c)

Printing, &c., for private circulation.

Though the public exhibition of a picture at the Royal Academy and in picture galleries is, in one sense, a publication of it, yet it is a publication which may be restricted by the rules of the place of exhibition, by which the managers may preclude any use being made of their rooms for the purpose of copying; and an exhibition under such circumstances would not disentitle the proprietor to an injunction to restrain the piracy of the picture.^(d)

Public exhibition of a picture.

The publication of an engraving of a picture in a magazine, with an article describing the picture, is not a publication of the picture itself.^(e)

Publications by engravings.

Nor would the distribution by a sculptor amongst his friends of copies of a plaster cast taken from the bust of a statue be a publication of the statue itself.^(f) The exhibition of the picture itself for the purpose of obtaining subscribers to an engraving of it is not a publication of the

(a) 2 Barn. & Cress. 870.

(b) *Boucicault v. Delafield* (L. H. & M. 597; 9 L. T. N. S. 709; 33 L. J. 38, Ch.), and *Boucicault v. Chatterton*, L. R. 5 C. D. 207.

(c) See the opinion of Erle, J., in *Jeffreys v. Boosey* (4 H. L. 367), and *Bartlett v. Crittenden* (5 M'Clean, 37).

(d) *Turner v. Robinson* (10 Ir. Ch. Rep. 121, 516). (e) *Ibid.*

(f) 10 Ir. Ch. Rep. 134.

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picture.(a) Nor, as already stated, is the private circulation among friends of lithographic impressions of drawings a publication of the drawings themselves.(b)

It is by publication of the thing itself that the common law right is lost, and not by the publication of something else that resembles it; so that the author of a literary work does not lose his common law right of property in it before its publication by previously publishing an abridgment of it.(c)

Publication of
abridgment.

Performance
of a play.

The public performance of a play by the author's permission is not such a publication of it by him as disentitles him to restrain the unauthorised printing or publishing of it by any other person. This was decided in *Macklin v. Richardson*.(d) The plaintiff in that case was the author of the farce called "Love à la Mode," which was performed, by his special permission, at the different theatres several times in 1760, and the following years, but never printed or published by him; and it appeared that when the play was over the plaintiff used to take the copy away from the prompter. The defendants employed a shorthand-writer to go to the playhouse and take down the words of the farce from the mouths of the actors. These notes having been corrected by one of the defendants from his own memory, the first act of the farce was published by them in a magazine called the *Court Miscellany*, of which they were the proprietors, and notice was given that the second act would be published in the next month's *Miscellany*. The plaintiff filed a bill to restrain this publication; and the Lord Commissioner (Smythe) granted an injunction. He said, "It has been argued to be a publication by being acted, and therefore the printing is no injury to the plaintiff; but that is a mistake, for besides the advantage from the performance, the author has another means of profit from the printing and publishing; and there is as much reason that he should be protected in that right as any other author."

The acting of a piece is in no case a publication of it, considered as a book. In *Coleman v. Wathen*(e) the defendant acted on the stage a piece of which the plaintiff had purchased the copyright, and it was sought to make the defendant liable for the penalty under the statute 8 Anne, c. 19, as for an unauthorised publication of the piece. Buller, J., said, "reporting anything from memory can never

(a) 10 Ir. Ch. Rep. 134.

(b) *Prince Albert v. Strange*, ante, p. 26, seq.

(c) *Ibid.* 133.

(d) *Ambl.* 694.

(e) 5 T. R. 245.

be a publication within the statute. Some instances of strength of memory are very surprising; but the mere act of repeating such a performance cannot be left as evidence to the jury that the defendant had pirated the work itself."(a)

In connection with the author's property in unpublished works an important question arises as to what conduct on his part may be deemed to have authorised their publication. What conduct is deemed to authorise publication.

In the case of letters written and sent to another person we have already seen that the writer does not lose his right to prevent their publication.(b) We have seen also that a licence to act an unpublished play is not a licence to print or publish the play.(c) Nor does the mere gift of copies of the author's work to a few friends amount to an abandonment of his copyright before publication in the work.(d)

Where the author of a musical composition had sold several thousand copies of it in manuscript, a year before it was printed, it was held that he had not thereby lost the copyright.(e) Abbot, C.J., in that case, was of opinion that it was not the intention of the Legislature in conferring a copyright upon authors, to impose on them as a condition precedent, that they should not sell their compositions in manuscript before they were printed.

Nor does the mere parting with the possession of a manuscript, or entrusting its possession to another person, or a permission to that person to take and hold a copy of the manuscript amount to an authorisation of its publication by that other person. Such acts must be deemed strictly limited in point of effect to the very occasions expressed or implied, and ought not to be construed as a general gift or authority for any purposes of profit or publication to which the receiver may choose to devote them.(f) "Suppose," says Willes, J., in *Millar v. Taylor*,(g) "the original or a transcript was given or lent to a man to read, for his own use; and he publishes it; it would be a violation of the author's common law right to the copy. This never was doubted, and has often been determined."

Where the son of the great Earl of Clarendon gave

(a) See also *Murray v. Elliston*, 5 B. & Ald. 657.

(b) *Ante*, p. 31, *seq.*

(c) *Ante*, p. 44.

(d) *Prince Albert v. Strange*, *ante*, p. 26, *seq.*

(e) *White v. Geroch* (2 B. & Ald. 298).

(f) St. Eq. Jur. 943; see *Bartlett v. Crittenden* (4 M'Clean, 303; 5 M'Clean, 41), where the Court says, "To make a gift of a copy of the manuscript is no more a transfer of the right or abandonment of it than it would be a transfer or an abandonment of an exclusive right to republish, to give the copy of a printed work."

(g) 4 Burr. 2330.

permission to a Mr. Gwynne to take a copy of the manuscript of his deceased father's "History of the Reign of Charles II.," and Mr. Gwynne's son and administrator sold it to a Dr. Shebbeare, the Court of Chancery, at the suit of the Duke of Queensberry (the personal representative of the Earl of Clarendon and his son), restrained Dr. Shebbeare from printing and publishing the copy of the manuscript.(a) The Lord Keeper Henley said it was not to be presumed that Lord Clarendon (the younger), when he gave a copy of his work to Mr. Gwynne, intended that he should have the profit of multiplying it in print; that Mr. Gwynne might make every use of it, except that.(b)

Abandonment
of right.

Where, however, the author of a poem had sent it to a bookseller, and had allowed it to remain in his hands unpublished for twenty-three years, Lord Eldon was of opinion that the writer had abandoned his right as an author, and refused to grant an injunction to prevent the publication of the poem by the bookseller.(c) Notwithstanding this decision, the decided cases seem to warrant the rule laid down by Willes, J., in *Millar v. Taylor*,(d) that "when express consent is not proved, the negative is implied as a tacit condition."

A teacher of the art of book-keeping, who had reduced to writing the system he taught, on separate cards for the convenience of imparting instruction to his pupils, and permitted his students to copy these cards, with a view to their own instruction, and to enable them to instruct others, was held in an American case(e) not to have thereby abandoned these manuscripts to the public, or authorised their publication. "The students," said the court, "who made these copies, have a right to them, and to their use as originally intended. But they have no right to a use which was not in the contemplation of the complainant and of themselves when the consent was first given. Nor can they, by suffering others to copy the manuscripts, give a greater licence than was vested in themselves."

Alteration of
sold manuscript
before publi-
cation.

Where a person contracts for reward to write a certain portion of a book to be published by another, equity will not aid him by injunction to prevent his portion of the work

(a) 2 Eden. 329.

(b) We learn from a note to this case that Dr. Shebbeare afterwards recovered before Lord Mansfield, a large sum against Mr. Gwynne for having represented that he had a right to print the manuscript.

(c) *Southey v. Sherwood* (2 Meriv. 435).

(d) 4 Burr. 2330.

(e) *Bartlett v. Crittenden* (4 M'Clellan, 300).

being printed and published in an altered or mutilated form.^(a) Wood, V.C., intimated an opinion, though the point did not arise in the case before him, that unless there be a special contract, either expressed or implied, reserving to the author a qualified copyright, the purchaser of a manuscript is at liberty to alter and deal with it as he thinks proper. The court is not moved in such a case by the possible effects of the alterations as affecting the writer's reputation. "The possible effect on reputation," said Wood, V.C., "unless connected with property, is not a ground for coming to this court, though it may be an ingredient for the court to consider when the question of a right of property also arises."

To sum up, then, the law relating to the property in unpublished works:— Summary of the law.

The author or owner of unpublished manuscripts has a right independent of statute to the exclusive use of them, and to prevent their publication by any one else. Manuscripts.

The writer of letters has a special property in them, and has a right to prevent their publication by the receiver, unless by his own misconduct (for the decided cases go no further than this) he has rendered their publication necessary to the vindication of the receiver's character from some unfounded imputation. And, with respect to this right, there would seem to be no distinction between private letters, or letters of friendship, and letters intended as literary compositions. Letters.

The author, or his assignee, of lectures, has now by statute^(b) the sole right to publish them, provided notice of the delivering of the lectures shall be given two days at least before the delivery to two justices living within five miles of the place where they are to be delivered. But the right does not extend to lectures delivered in a university, public school, or college, or on any public foundation, or by any one in virtue of any gift, endowment, or foundation. Lectures.

The author, or his assignee, of a dramatic composition has a right similar to the foregoing to prevent the printing and publishing of his composition. And he does not lose his exclusive right of printing and publishing it by allowing it to be represented on the stage. He has now, also, by Stat. 3 & 4 Will. 4, c. 15, s. 1, the sole right of having it represented in any part of the British dominions. Dramatic compositions.

Musical compositions, when in manuscript, stand on the same footing as other unpublished compositions, and by sect. 20 of 5 & 6 Vict. c. 45, the provisions of 3 & 4 Will. 4, Musical compositions.

(a) *Cox v. Cox* (11 Hare, 118). (b) 5 & 6 Will. 4, c. 65.

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 CHAPTER IV.

Engravings,
 maps and charts.

s. 15, as to the sole right of representing dramatic works, are extended also to musical compositions.

Engravings, maps, and charts also, whilst unpublished, are on the same footing as the foregoing.

CHAPTER V.

CROWN AND COLLEGE COPYRIGHT IN BOOKS.

Works in which
 Crown copy-
 right exists.

THE copyright claimed by the Crown extended to the English Translation of the Bible, the Book of Common Prayer, the Statutes, Orders of the Privy Council, and State Proclamations; also to Almanacs, Lilley's Latin Grammar, the Year-books and reports of judicial proceedings. The exclusive right of printing these was held to be vested in the King; and he granted letters patent authorizing others to print and publish them. Some part of this claim has now become obsolete, but a large part still remains unquestioned, and has been recognized in various decisions of our courts.

The claim of the Crown to this copyright has by some been based upon a right of property similar to the right of a private author or his assigns; (a) by others it has been treated as grounded on naked prerogative and reasons of state policy. It is impossible to decide the point satisfactorily, nor is the matter one of importance.

The English
 translation of
 the Bible.

Blackstone (b) rests the claim of the Crown to copyright in English translations of the Bible on two grounds, that the translation was made at the expense of the Crown, and that the Sovereign is the head of the Church. Lord Mansfield (c) regarded it as a mere right of property founded on the purchase of the translation by the King in the time of James I. Lord Lyndhurst (d) refers it to another consideration, namely, the character of the duty (carrying with it a corresponding prerogative) imposed on the Sovereign as the chief executive officer of the government to superintend the publication of the works upon which the established doctrines of religion are founded, a duty extending to Scotland

(a) *E.g.*, Lord Mansfield in *Millar v. Taylor* (4 Burr. 2401).

(b) 2 Steph. Black. 39; see also the remarks of Yates, J., in *Millar v. Taylor* (4 Burr. 2382).

(c) 4 Burr. 2405.

(d) *Manners v. Blair* (3 Bligh, N. S. 402); see also the opinions of Lord Camden in *Donaldson v. Becket* (4 Burr. 2408), and of Skinner, C.B., in *Eyre v. Carnan* (6 Bac. Abr. Prer. F. p. 509).

as well as England. On whatever ground the claim rests, its validity seems now beyond dispute, though the reported cases on the subject are between rival patentees, of whom neither would raise the question of the validity of their patents as against the public in general. An Irish Lord Chancellor, indeed, in 1794, doubted the right of the Crown to grant a monopoly of this kind, and held that a patentee claiming an exclusive right of printing Bibles must establish his patent at law before he could have an injunction in equity.^(a) But Lord Eldon, in 1802, granted an injunction to restrain the King's printer in Scotland, who had a patent for the sale of Bibles there, from printing or selling Bibles in England.^(b) And in 1828, the House of Lords held that the King's printers in Scotland had, by virtue of their patent, a right to prevent the importation from England of Bibles and other works contained in their patent.^(c)

The exclusive right of printing and publishing and selling copies of the Bible, New Testament, and Book of Common Prayer, is vested by letters patent of the 13 Eliz. in the Universities of Oxford and Cambridge, concurrently with the Queen's printer, and no one else may print or publish in England any such copies, or sell in England any other copies of the said books than such as have been printed and published by or for the Universities and the Queen's printer, or one of them.^(d)

Concurrent right
of Universities.

It seems to be agreed that the Bible may be printed by others than those having the patent right, if it be accompanied by *bond fide* notes.^(e)

Bond fide notes.

There is no Crown copyright in the Hebrew Bible, the Greek Testament, or the Septuagint. They are all common, according to Lord Mansfield;^(f) and, said that learned judge, "if any man should turn the Psalms, or the writings of Solomon or Job into verse, the King could not stop the printing or the sale of such a work. It would be the author's work."

Hebrew, Greek,
Septuagint.

Nor has any attempt ever been made to prevent any person from publishing a translation of one book, or of a *part* of the Bible, from the original text, and enjoying a copyright in his production.^(g)

Translation of a
part from
original.

The Bible patent of the Queen's printer for Scotland expired in 1839. The patent of the Queen's printer for

(a) *Grierson v. Jackson* (Ridg. Ir. T. R. 304).

(b) *Universities of Oxford and Cambridge v. Richardson* (6 Ves. 689).

(c) *Manners v. Blair* (3 Bligh, N. S. 391).

(d) *Universities of Oxford and Cambridge v. Richardson* (*ubi supra*).

(e) 2 Ev. Stat. p. 19, note 11.

(f) 4 Burr. 2405.

(g) Godson on Patents and Copyright, 442.

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CHAPTER V.

The Book of
Common Prayer.

England has lately been renewed during pleasure, notwithstanding the recommendation of a committee of the House of Commons that the exclusive privilege of printing and publishing English translations of the Bible should not be renewed.

The claim of the Crown to the exclusive publication of the Book of Common Prayer is put upon similar grounds—the duty and prerogative of the Sovereign as head of the Church and as chief executive magistrate, to superintend the publication of books of divine service.^(a) It seems that down to the 34th year of Henry VIII. the different books used in divine service were not printed here, but were imported from abroad. A patent was granted in that year for the sole printing of such books, and in the first year of Elizabeth the exclusive right of printing books of divine service was inserted in the same patent with the right of printing the Acts of Parliament, which had some time before been granted, and from that time they were regularly enjoyed together by the King's patentee. In 1781, in the case of *Eyre v. Carnan*,^(b) an injunction was granted to restrain the defendant from printing and publishing a form of prayer which had been ordered to be read in all churches. And in *Manners v. Blair*,^(c) before the House of Lords in 1828, the copyright of the Crown was fully recognised.

Lilly's Latin
Grammar.

The claim of the Crown, now obsolete, to the copyright in Lilly's Latin Grammar was founded on the alleged original compilation and publication of the grammar at the king's expense, independently of any idea of prerogative.^(d)

Almanacs.

Various grounds for the claim of the Crown, at one time asserted, to copyright in almanacs have been alleged. In the *Stationers' Company v. Seymour*^(e) (*temp.* Charles II.), the right to grant the exclusive privilege of printing almanacs was held to vest in the king; first, because an almanac has no certain author, and therefore, by the rule of our law, the

(a) In *Manners v. Blair* (3 Bligh, N. S. 391), it was contended that as to the Book of Common Prayer the King could not *in Scotland* confer the exclusive right of printing it on his printer there, as the King was not the supreme head of the Scotch Church as he was of the English; and the Scotch court from which the appeal was brought to the House of Lords seems to have been of that opinion. Lord Lyndhurst, however, in moving the judgment of the House of Lords, based the claim of the Crown to copyright in the Prayer Book as well as the Bible on the executive character of the Sovereign—a character which he has equally in Scotland and England; and the patent of the King's printer in Scotland was held valid as to the Book of Common Prayer as well as the translation of the Bible.

(b) Cited 6 Bac. Abr. 509

(c) 3 Bligh, N. S. 391.

(d) 4 Burr. 2329.

(e) 1 Mod. 256.

Sovereign had the property in it; secondly, because the almanacs made yearly are but applications of the general rules laid down in the almanac prefixed to the Book of Common Prayer which regulates the movable feasts of the Church. And the addition of prognostications and other things that are common in almanacs was held not to alter the case, "any more than if a man should claim a property in another man's copy, by reason of some inconsiderable additions of his own." Notwithstanding the decision in this case, the Court of King's Bench in the case of the *Stationers' Company v. Partridge*,^(a) strongly inclined against the prerogative right to the printing of almanacs. No judgment, indeed, was given in that case, but it stood over, that the court might see if they could make it like the case of the Book of Common Prayer, and show that the right of the Crown had any foundation in property; and it was never moved afterwards.

The subject, however, received a positive decision adverse to the claim of the Crown in the *Stationers' Company v. Curran*.^(b) That was a case sent from the Court of Exchequer for the opinion of the Court of Common Pleas, and that court, after hearing counsel on both sides of the question, certified their opinion "that the Crown had not a prerogative or power to make such grant [of almanacs] to the plaintiff's exclusive of any other or others." In consequence of this it was enacted by 21 Geo. 3, c. 56, s. 10, that £500 a-year should be paid to the Universities of Oxford and Cambridge severally out of the duty upon almanacs, as a compensation for the annual sum of £1000, for which they had demised to the Stationers' Company the privilege of printing almanacs. In 1799, Lord North brought in a Bill to re-vest in the Universities and the Stationers' Company the exclusive right of printing almanacs, but the Bill was thrown out in the House of Commons after Erskine had been heard at the bar of the House against it. No further assertion of the right of the Crown appears to have been made since.

With regard to nautical almanacs, sect. 2 of 9 Geo. 4, c. 66, enacts that "It shall and may be lawful to and for the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland for the time being, to cause such nautical almanacs or other useful table or tables which he or they shall from time to time judge necessary and useful,

Nautical
almanacs.

(a) 10 Mod. 105; 4 Burr. 2402; 6 Bac. Abr. 508.

(b) 2 W. Bl. 1004.

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CHAPTER V.

in order to facilitate the method of discovering the longitude at sea, to be constructed, printed, published, and vended and that every person who, without the special license and authority of the Lord High Admiral or Commissioners for executing the office of Lord High Admiral aforesaid, for the time being, to be signified under the hand of the Secretary of the Admiralty, for the time being, shall print, publish, or vend, or cause to be printed, published, or vended, any such almanac or almanacs, or other table or tables, shall for every copy of such almanac or table so printed, published, or vended, forfeit and pay the sum of twenty pounds, to be recovered with costs of suit, by any person to be authorised for that purpose by the Lord High Admiral or Commissioners for executing the office of Lord High Admiral aforesaid (such authority to be signified under the hand of the Secretary of the Admiralty as aforesaid), by action of debt, bill, plaint, or information, in any of His Majesty's Courts of Record at Westminster; and that the proceeds of the said penalty, when recovered, shall be paid and applied to the use of the Royal Hospital for Seamen at Greenwich."

A narrative of a voyage of discovery prepared under the orders of the Crown is the property of the Crown; but a publisher authorised to publish it by the Secretary to the Admiralty, the profits remaining at their disposition, was held by Lord Chancellor Thurlow not entitled to restrain a stranger from publishing it.(a)

Acts of Parliament and other State documents.

The Crown still possesses the exclusive right of printing and publishing Acts of Parliament. Blackstone rests the right on grounds of political and public convenience; the king, as executive magistrate, possessing the right of promulgating to the people all acts of State and Government.(b) Lord Clare(c) recognised the right, because it is necessary that there should be a responsibility for correct printing, and because copy can only be had from the Rolls of Parliament, which are within the authority of the Crown. In olden times the king's officers transmitted authentic copies of all State ordinances to the sheriffs, who proclaimed them in their county courts: when the demand for authentic copies began to increase, and when the introduction of printing facilitated the multiplication of copies, the king's patentee, by command of the king, supplied copies to the people, this seeming an obvious and reasonable extent of that

(a) *Nicol v. Stockdale* (3 Swans. 687.)

(b) 2 Bl. Com. 410.

(c) *Grierson v. Jackson* (Ridg. Rep. 511).

duty which lay upon the Crown to furnish the people with the authentic texts of their ordinances.(a)

The right of the Crown was recognised in repeated decisions,(b) some of which, however, proceeded upon notions which are now exploded. The right of the patentees of the Crown to the sole printing of the statutes, as now recognised, must depend upon usage, and the force of the decision of the Court of King's Bench, in *Basket v. The University of Cambridge*,(c) in 1758, and upon the recognition of the doctrine of prerogative copies by the House of Lords in the case of *Manners v. Blair*,(d) in 1828.(e) The former case did not present for direct decision the question of the validity of patents for the exclusive printing of the statutes, as between the Crown and the public, the dispute being there between rival patentees under patents from different Sovereigns, each party, therefore, being interested in upholding the general prerogative. The Court of Chancery sent the case into the King's Bench for the opinion of that court, and after argument the validity of the patents given to both the parties litigant was upheld. This of course assumes the validity of the claim of the Crown.

If *bond fide* notes accompany statutes printed by others than those having the patent right, the copyright of the latter, it seems, is not infringed;(f) but there is no express decision on this subject. The notes must, however, be *bond fide*, and not merely colourable or collusive. In *Baskett v. Cunningham*(g) the defendant, in conjunction with several booksellers, was publishing, in weekly numbers, a digest of the statute law, methodised under alphabetical heads, with large notes from Coke and other writers on the law. He had contracted with Strahan and Woodfall, the proprietors of the patent for printing law books, to print this work, and it was printed at their press. Baskett, the king's printer (whose patent extended to all statutes), filed a bill for an injunction. It was urged for the defendant that the work was not within the meaning of the letters patent, being a work of labour and industry, and the method entirely new. The Lord Chancellor, however, was of opinion that the work

Statutes with
bond fide notes.

(a) See judgment of Skinner, C.B., in *Eyre v. Carnan* (6 Bac. Abr. 511).

(b) *Atkins's case* (Carter, 89, Bac. Abr. Prer. F. 4 Burr. 2315), *Roper v. Streuter* (Skin. 234), *Stationers' Company v. Parker* (Skin. 233), *Eyre v. Carnan* (6 Bac. Abr. 509), *Basket v. University of Cambridge* (1 W. Bl. 105), *Baskett v. Cunningham* (*Id.* 370; 2 Eden. 137).

(c) 1 W. Bl. 105.

(d) 3 Bligh, N. S. 391.

(e) Curtis on Copyright, 126.

(f) Maugham, 106; 2 Evans's Statutes, 19. (g) 1 W. Bl. 370.

was within the patent of the king's printer, and that the notes were merely collusive; but he would not interfere between the two contending patents in the summary method of injunction, but left them to adjust their respective rights at law. He therefore ordered an injunction to issue to restrain the proprietors from printing at any other than at a patent press; which, as Woodfall and Strahan were strictly in league with Baskett, and were at that time jointly concerned in a new edition of the statutes, was equivalent to a total injunction.

Except, then, in the case of editions of the statutes published with *bonâ fide* notes, the right to print and publish the statutes is vested in the Crown patentees concurrently with the Universities of Oxford and Cambridge.

It seems that the concurrent authority which the two Universities have with the patentees of the Crown to print Acts of Parliament and abridgments of them, has not been extended to the Sovereign's proclamations, Orders in Council, and other State Papers, which would accordingly appear to be vested in the king's printer solely. (a)

Reports of judicial proceedings.

Besides the reasons of State already mentioned, a further ground has been alleged for the claim of the Crown to the exclusive right to print and publish all reports of judicial proceedings, namely, the payment by the king of the salaries of the judges who pronounce the law, and the payment also, in former times, of the costs of compiling and publishing the volumes of reports. The right was twice affirmed by the House of Lords in the reign of Charles II.—with respect to Rolle's Abridgment (b) and Croke's Reports. (c) Shortly after the Restoration, an Act of Parliament having prohibited the printing of law books without the licence of the Lord Chancellor, the two Chief Justices, and the Chief Baron of the Exchequer, it became the practice to prefix such a licence to all reports published after that period, in which it was usual for the rest of the judges to concur, and to add to the *imprimatur* a testimonial of the *great judgment and learning* of the author. The Act was renewed from time to time, but finally expired in the reign of William III. The same form of licence and testimonial, however, continued in use for a long time after, until the judges refused to grant them any longer, which they did some time before the appearance of "Douglas's Reports." (d) The Reports since then have appeared without

(a) Maugham, 106.

(b) Carter, 89; Bac. Abr. Prer. F. 5; 4 Burr. 2315.

(c) Skin. 234; 1 Mod. 217; 4 Burr. 2316.

(d) See preface to Doug., p. vii. With reference to these licenses.