

shall be the duty of the copyright owner, if he uses the musical composition himself for the manufacture of parts of instruments serving to reproduce mechanically the musical work, or licenses others to do so, to file notice thereof, accompanied by a recording fee, in the copyright office, and any failure to file such notice shall be a complete defense to any suit, action, or proceeding for any infringement of such copyright.

Notice of use of music on records.

License to use music on records.

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

Failure to pay royalties.

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

Reproduction of music on coin-operated machines.

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 That nothing in this Act shall be construed to annul or limit the right of the author or proprietor of an unpublished work, at common law or in equity, to prevent the copying, publication, or use of such unpublished work without his consent, and to obtain damages therefor.

Right at common law or in equity.

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

Component parts of copyrightable work.

Composite works or periodicals.

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

Works protected.

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

Classification of copyright works.

Books, composite, cyclo-pædic works, directories, gazeteers, etc.

- (a) Books, including composite and cyclopædic works, directories, gazeteers, and other compilations;
- (b) Periodicals, including newspapers;
- (c) Lectures, sermons, addresses (prepared for oral delivery);
- (d) Dramatic or dramatico-musical compositions;
- (e) Musical compositions;
- (f) Maps;
- ~~(g) Works of art; models or designs for works of art;~~
- ~~(h) Reproductions of a work of art;~~
- (i) Drawings or plastic works of a scientific or technical character;
- (j) Photographs;
- (k) Prints and pictorial illustrations;
- (l) *Motion-picture photoplays*; ¹
- (m) *Motion pictures other than photoplays*:

Classification does not limit copyright.

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

Compilations, abridgements, dramatizations, translations, new editions.

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

Subsisting copyright not affected.

Not subject-matter of copyright: works in public domain; Government publications.

SEC. 7. That no copyright shall subsist in the original text of any work which is in the public domain, or in any work which was published in this country or any foreign country prior to the going into effect of this Act and has not been already copyrighted in the United States, or in any publication of the United States Government, or any reprint, in whole or in part, thereof: *Provided, however,*

1—The changes marked, and the addition of the words printed in italics are authorized by the amendatory Act of August 24, 1912.

That the publication or republication by the Government, either separately or in a public document, of any material in which copyright is subsisting shall not be taken to cause any abridgement or annulment of the copyright or to authorize any use or appropriation of such copyright material without the consent of the copyright proprietor.

SEC. 8. That the author or proprietor of any work made the subject of copyright by this Act, or his executors, administrators, or assigns, shall have copyright for such work under the conditions and for the terms specified in this Act: *Provided, however,* That the copyright secured by this Act shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only:

Copyright to author or proprietor for terms specified in Act.

Foreign authors who may secure copyright protection.

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

Alien authors domiciled in U. S.

(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto.

Authors, when citizens of countries granting reciprocal rights.

International agreement.

The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this Act may require.

Presidential proclamations.

SEC. 9. That any person entitled thereto by this Act may secure copyright for his work by publication thereof with the notice of copyright required by this Act; and such notice shall be affixed to each copy thereof published or offered for sale in the United States by authority of the copyright proprietor, except in the case of books seeking ad interim protection under section twenty-one of this Act.

Publication with notice entitles copyright.

SEC. 10. That such person may obtain registration of his claim to copyright by complying with the provisions of this Act, including the deposit of copies, and upon such

Registration of copyright.

Copyright certificate.

Copyright protection of unpublished works: lectures, dramas, music, etc.

Deposit of copies after publication.

Two complete copies of best edition.

Label and print.

Work by foreigner, published abroad, only one copy required.

Periodical contributions.

Work not reproduced in copies for sale.

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

SEC. 11. That copyright may also be had of the works of an author of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production or a dramatic, musical, or *dramatico-musical* composition; *of a title and description, with one print taken from each scene or act, if the work be a motion-picture photoplay;* of a photographic print if the work be a photograph; *of a title and description, with not less than two prints taken from different sections of a complete motion picture, if the work be a motion picture other than a photoplay;*² or of a photograph or other identifying reproduction thereof, if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt the copyright proprietor from the deposit of copies, under sections twelve and thirteen of this Act, where the work is later reproduced in copies for sale.

SEC. 12. That after copyright has been secured by publication of the work with the notice of copyright as provided in section nine of this Act, there shall be promptly deposited in the copyright office or in the mail addressed to the register of copyrights, Washington, District of Columbia, two complete copies of the best edition thereof then published, *or if the work is by an author who is a citizen or subject of a foreign state or nation and has been published in a foreign country, one complete copy of the best edition then published in such foreign country,* which copies or copy,³ if the work be a book or periodical, shall have been produced in accordance with the manufacturing provisions specified in section fifteen of this Act; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution; or if the work is not reproduced in copies for sale, there shall be deposited

2—The words printed in italics indicate the amendments authorized by the amendatory Act of August 24, 1912.

3—The words printed in italics in sec. 12 are inserted by the amendatory Act of Mar. 28, 1914, which also provides "That all Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed."

the copy, print, photograph, or other identifying reproduction provided by section eleven of this Act, such copies or copy, print, photograph, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this Act with respect to the deposit of copies and registration of such work shall have been complied with.

No action for infringement until deposit of copies.

SEC. 13. That should the copies called for by section twelve of this Act not be promptly deposited as herein provided, the register of copyrights may at any time after the publication of the work, upon actual notice, require the proprietor of the copyright to deposit them, and after the said demand shall have been made, in default of the deposit of copies of the work within three months from any part of the United States, except an outlying territorial possession of the United States, or within six months from any outlying territorial possession of the United States, or from any foreign country, the proprietor of the copyright shall be liable to a fine of one hundred dollars and to pay to the Library of Congress twice the amount of the retail price of the best edition of the work, and the copyright shall become void.

Failure to deposit copies.

Register of copyrights may demand copies.

Failure to deposit on demand.

Fine \$100 and retail price of 2 copies, best edition.

Forfeiture of copyright.

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

Postmaster's receipt.

SEC. 15. That of the printed book or periodical specified in section five, subsections (a) and (b) of this act, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this act, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photoengraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which re-

Printed from type set within the United States.

Book in foreign language excepted.

Lithographic or photoengraving process.

Printing and binding of the book.

Illustrations
in a book.

Separate
lithographs
and photo-
engravings.

Books for
blind ex-
cepted.

Books in
foreign
languages
excepted.

Affidavit of
American
manufacture.

Printing and
binding of
the book.

Establish-
ment where
printing was
done.

Date of pub-
lication.

False aff-
davit, a mis-
demeanor ;
fine, \$1,000
and forfeit-
ure of copy-
right.

Notice of
copyright.

quirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photo-engraving process, and also to separate lithographs or photo-engravings, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art; but they shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under this act.

SEC. 16. That in the case of the book the copies so deposited shall be accompanied by an affidavit, under the official seal of any officer authorized to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorized agent or representative residing in the United States, or by the printer who has printed the book, setting forth that the copies deposited have been printed from type set within the limits of the United States or from plates made within the limits of the United States from type set therein; or, if the text be produced by lithographic process, or photo-engraving process, that such process was wholly performed within the limits of the United States, and that the printing of the text and binding of the said book have also been performed within the limits of the United States. Such affidavit shall state also the place where and the establishment or establishments in which such type was set or plates were made or lithographic process, or photo-engraving process or printing and binding were performed and the date of the completion of the printing of the book or the date of publication.

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

SEC. 18. That the notice of copyright required by section nine of this act shall consist either of the word

“Copyright” or the abbreviation “Copr.,” accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of works specified in subsections (f) to (k), inclusive, of section five of this act, the notice may consist of the letter C inclosed within a circle, thus: ©, accompanied by the initials, monogram, mark, or symbol of the copyright proprietor: *Provided*, That on some accessible portion of such copies or of the margin, back, permanent base, or pedestal, or of the substance on which such copies shall be mounted, his name shall appear. But in the case of works in which copyright is subsisting when this act shall go into effect, the notice of copyright may be either in one of the forms prescribed herein or in one of those prescribed by the Act of June eighteenth, eighteen hundred and seventy-four.

Notice on maps, copies of works of art, photographs, and prints.

Notice on accessible portion.

Notice on existing copyright works.

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

Notice of copyright on book.

On periodical.

One notice in each volume or periodical.

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

Omission of notice by accident or mistake.

Innocent infringement.

SEC. 21. That in the case of a book published abroad in the English language before publication in this country, the deposit in the copyright office, not later than thirty

Book published abroad in the English language.

Ad interim
copyright
for 30 days.

Extension
to full term.

Deposit of
copies, filing
of affidavit.

Duration of
copyright:
First term,
28 years.

Posthumous
works, peri-
odicals, cyclo-
pædic or
composite
works.

Renewal term,
28 years.

Other copy-
righted
works, first
term 28 years.

Renewal term,
28 years; to
author, widow,
children,
heirs, or next
of kin.

days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the copyright proprietor and of the date of publication of the said book, shall secure to the author or proprietor an ad interim copyright, which shall have all the force and effect given to copyright by this Act, and shall endure until the expiration of thirty days after such deposit in the copyright office.

SEC. 22. That whenever within the period of such ad interim protection an authorized edition of such book shall be published within the United States, in accordance with the manufacturing provisions specified in section fifteen of this Act, and whenever the provisions of this Act as to deposit of copies, registration, filing of affidavit, and the printing of the copyright notice shall have been duly complied with, the copyright shall be extended to endure in such book for the full term elsewhere provided in this Act.

SEC. 23. That the copyright secured by this Act shall endure for twenty-eight years from the date of first publication, whether the copyrighted work bears the author's true name or is published anonymously or under an assumed name: *Provided*, That in the case of any posthumous work or of any periodical, cyclopædic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopædic or other composite work when such contribution has been separately registered, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or chil-

dren be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall determine at the expiration of twenty-eight years from first publication.

Notice that renewal term is desired.

Copyright ends in 28 years unless renewed.

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

Extension of subsisting copyrights.

Proprietor entitled to renewal for composite work.

Renewal application.

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

Infringement of copyright.

(a) To an injunction restraining such infringement;

Injunction.

(b) To pay to the copyright proprietor such damages

Damages.

as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits such damages as to the court shall appear to be just, and in assessing such damages the court may, in

Proving sales.

Newspaper reproduction of photograph; recovery, \$50 to \$200.	its discretion, allow the amounts as hereinafter stated, but in ⁴ case of a newspaper reproduction of a copy-
Infringement by motion pictures.	righted photograph such damages shall not exceed the sum of two hundred dollars nor be less than the sum of fifty dollars, <i>and in the case of the infringement of an undramatized or nondramatic work by means of motion pictures, where the infringer shall show that he was not aware that he was infringing, and that such infringement could not have been reasonably foreseen, such damages shall not exceed the sum of one hundred dollars; and in the case of an infringement of a copyrighted dramatic or</i>
Undramatized or non-dramatic work, maximum damages, \$100.	<i>dramatico-musical work by a maker of motion pictures and his agencies for distribution thereof to exhibitors, where such infringer shows that he was not aware that he was infringing a copyrighted work, and that such infringements could not reasonably have been foreseen, the entire sum of such damages recoverable by the copyright proprietor from such infringing maker and his agencies for the distribution to exhibitors of such infringing motion picture shall not exceed the sum of five thousand dollars nor be less than two hundred and fifty dollars, and such damages shall in no other case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty. But the foregoing exceptions shall not deprive the copyright proprietor of any other remedy given him under this law, nor shall the limitation as to the amount of recovery apply to infringements occurring after the actual notice to a defendant, either by service of process in a suit or other written notice served upon him.⁵</i>
Dramatic work, maximum damages, \$5,000.	
Maximum recovery, \$5,000.	
Minimum recovery, \$250.	
Painting, statue, or sculpture, \$10 for every infringing copy.	First. In the case of a painting, statue, or sculpture, ten dollars for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;
Other works, \$1 for every infringing copy.	Second. In the case of any work enumerated in section five of this Act, except a painting, statue, or sculpture, one dollar for every infringing copy made

4—The word “the” before the words “case of a newspaper reproduction,” etc., was struck out by the amendatory Act of August 24, 1912.

5—The words printed in italics indicate the amendments authorized by the amendatory Act of August 24, 1912.

or sold by or found in the possession of the infringer or his agents or employees;

Third. In the case of a lecture, sermon, or address, fifty dollars for every infringing delivery;

Fourth. In the case of a dramatic or dramatico-musical or a choral or orchestral composition, one hundred dollars for the first and fifty dollars for every subsequent infringing performance; in the case of other musical compositions, ten dollars for every infringing performance;

Lectures, \$50 for every infringing delivery.
Dramatic or musical works, \$100 for first and \$50 for subsequent infringing performance.
Other musical compositions, \$10 for every infringing performance.

(c) To deliver up on oath, to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all articles alleged to infringe a copyright;

Delivering up infringing articles.

(d) To deliver up on oath for destruction all the infringing copies or devices, as well as all plates, molds, matrices, or other means for making such infringing copies as the court may order;

Destruction of infringing copies, etc.

(e) Whenever the owner of a musical copyright has used or permitted the use of the copyrighted work upon the parts of musical instruments serving to reproduce mechanically the musical work, then in case of infringement of such copyright by the unauthorized manufacture, use, or sale of interchangeable parts, such as disks, rolls, bands, or cylinders for use in mechanical music-producing machines adapted to reproduce the copyrighted music, no criminal action shall be brought, but in a civil action an injunction may be granted upon such terms as the court may impose, and the plaintiff shall be entitled to recover in lieu of profits and damages a royalty as provided in section one, subsection (e), of this Act: *Provided also*, That whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, relying upon the compulsory license provision of this Act, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at his last address disclosed by the records of the copyright office, sending to the copyright office a duplicate of such notice; and in case of his failure so to do the court may, in its discretion, in addition to sums herein-

Infringement by mechanical musical instruments.

Injunction may be granted.

Recovery of royalty.

Notice to proprietor of intention to use.

Damages, three times amount provided.	above mentioned, award the complainant a further sum, not to exceed three times the amount provided by section one, subsection (e), by way of damages, and not as a penalty, and also a temporary injunction until the full award is paid.
Temporary Injunction.	
Rules for practice and procedure.	Rules and regulations for practice and procedure under this section shall be prescribed by the Supreme Court of the United States.
Judgment enforcing remedies.	SEC. 26. That any court given jurisdiction under section thirty-four of this Act may proceed in any action, suit, or proceeding instituted for violation of any provision hereof to enter a judgment or decree enforcing the remedies herein provided.
Proceedings, Injunction, etc., may be united in one action.	SEC. 27. That the proceedings for an injunction, damages, and profits, and those for the seizure of infringing copies, plates, molds, matrices, and so forth, aforementioned, may be united in one action.
Penalty for willful infringement.	SEC. 28. That any person who willfully and for profit shall infringe any copyright secured by this Act, or who shall knowingly and willfully aid or abet such infringement, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not exceeding one year or by a fine of not less than one hundred dollars nor more than one thousand dollars, or both, in the discretion of the court: <i>Provided, however,</i> That nothing in this Act shall be so construed as to prevent the performance of religious or secular works, such as oratorios, cantatas, masses, or octavo choruses by public schools, church choirs, or vocal societies, rented, borrowed, or obtained from some public library, public school, church choir, school choir, or vocal society, provided the performance is given for charitable or educational purposes and not for profit.
Oratorios, cantatas, etc., may be performed.	
False notice of copyright (penalty for).	SEC. 29. That any person who, with fraudulent intent, shall insert or impress any notice of copyright required by this Act, or words of the same purport, in or upon any uncopyrighted article, or with fraudulent intent shall remove or alter the copyright notice upon any article duly copyrighted shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars and not more than one thousand dollars. Any person who shall knowingly issue or sell any article bearing a notice of
Fraudulent removal of notice. fine \$100-\$1,000.	
Issuing, selling, or importing article bearing false notice; fine \$100.	

United States copyright which has not been copyrighted in this country, or who shall knowingly import any article bearing such notice or words of the same purport, which has not been copyrighted in this country, shall be liable to a fine of one hundred dollars.

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

Importation prohibited of articles bearing false notice and piratical copies.

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

Prohibition of importation of books.

Exceptions to prohibition of importation:

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

Works for the blind.

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

Foreign newspapers or magazines.

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

Books in foreign languages of which only translations are copyrighted.

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

Importation of authorized foreign books permitted.

First. When imported, not more than one copy at one time, for individual use and not for sale; but

For individual use and not for sale.

such privilege of importation shall not extend to a foreign reprint of a book by an American author copyrighted in the United States;

For the use
of the United
States.

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

For the use
of societies,
libraries, etc.

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

Libraries pur-
chased en
bloc.

Fourth. When such books from parts of libraries or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph, or from parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale:

Books brought
personally
into the
United States.

Imported
copies not to
be used to
violate copy-
right.

Provided, That copies imported as above may not lawfully be used in any way to violate the rights of the proprietor of the American copyright or annul or limit the copyright protection secured by this Act, and such unlawful use shall be deemed an infringement of copyright.

Seizure of un-
lawfully im-
ported copies.

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

Copies of au-
thorized books
imported may
be returned.

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

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

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

Jurisdiction of courts in copyright cases.

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

District in which suit may be brought.

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

Injunctions may be granted.

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

Certified copy of papers filed.

SEC. 38. That the orders, judgments, or decrees of any court mentioned in section thirty-four of this Act arising

Judgments, etc., may be reviewed on

appeal or writ
of error.

under the copyright laws of the United States may be reviewed on appeal or writ of error in the manner and to the extent now provided by law for the review of cases determined in said courts, respectively.

No criminal
proceedings
shall be main-
tained after
three years.

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

Full costs
shall be al-
lowed.

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

Copyright
distinct from
property in
material ob-
ject.

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

Transfer of
any copy of
copyrighted
work permit-
ted.

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

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

Assignment
executed in
foreign coun-
try to be ac-
knowledged.

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

Assignments
to be recorded.

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

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

Register of copyrights to record assignments.

SEC. 46. That when an assignment of the copyright in a specified book or other work has been recorded the assignee may substitute his name for that of the assignor in the statutory notice of copyright prescribed by this Act.

Assignee's name may be substituted in copyright notice.

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

Copyright records.

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

Register of copyrights and assistant register of copyrights.

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

Register of copyrights to deposit and account for fees.

Shall make monthly report of fees.

applied copyright fees for each calendar month, together with a statement of all remittances received, trust funds on hand, moneys refunded, and unpaid balances.

Bond of register of copyrights.

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

Annual report of register of copyrights.

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

Seal of copyright office.

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

Rules for the registration of copyrights.

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

Record books.

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

Entry of copyright.

Certificate of registration.

SEC. 55. That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain the name and address of said claimant, *the name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the copyright office shall show the same), the title of the work which is registered for which copyright is claimed, the date of the deposit of the copies of such work, the date of publication if the*

Nationality of author.

work has been reproduced in copies for sale, or publicly distributed, and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book the certificate shall also state the receipt of the affidavit, as provided by section sixteen of this Act, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The register of copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for *in the case of all registrations made after this Act goes into effect, and in the case of all previous registrations so far as the copyright office record books shall show such facts,*⁶ which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same. Said certificate shall be admitted in any court as prima facie evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration.

Certificate for book to state receipt of affidavit.

Certificate may be given to any person.

Receipt for copies deposited.

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

Index to copyright registrations.

Catalogue of copyright entries.

Catalogue cards.

Catalogues and indexes prima facie evidence.

SEC. 57. That the said printed current catalogues as they are issued shall be promptly distributed by the copyright office to the collectors of customs of the United States and to the postmasters of all exchange offices of receipt of foreign mails, in accordance with revised lists of such

Distribution of catalogue of copyright entries.

⁶—The words printed in italics indicate the amendments authorized by the amendatory Act of March 2, 1913.

Subscription
price.

collectors of customs and postmasters prepared by the Secretary of the Treasury and the Postmaster-General, and they shall also be furnished to all parties desiring them at a price to be determined by the register of copyrights, not exceeding five dollars per annum for the complete catalogue of copyright entries and not exceeding one dollar per annum for the catalogues issued during the year for any one class of subjects. The consolidated catalogues and indexes shall also be supplied to all persons ordering them at such prices as may be determined to be reasonable, and all subscriptions for catalogues shall be received by the Superintendent of Public Documents, who shall forward the said publications; and the moneys thus received shall be paid into the Treasury of the United States and accounted for under such laws and Treasury regulations as shall be in force at the time.

Superintendent of documents to receive subscriptions.

Record books, etc., open to inspection.

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

Copies may be taken of entries in record books.

Disposition of copyright deposits.

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

Preservation of copyright deposits.

Disposal of copyright deposits.

SEC. 60. That of any articles undisposed of as above provided, together with all titles and correspondence relating thereto, the Librarian of Congress and the register of copyrights jointly shall, at suitable intervals, determine what of these received during any period of years it is desirable or useful to preserve in the permanent files of the copyright office, and, after due notice as hereinafter provided, may within their discretion cause the remain-

ing articles and other things to be destroyed: *Provided*, That there shall be printed in the Catalogue of Copyright Entries from February to November, inclusive, a statement of the years of receipt of such articles and a notice to permit any author, copyright proprietor, or other lawful claimant to claim and remove before the expiration of the month of December of that year anything found which relates to any of his productions deposited or registered for copyright within the period of years stated, not reserved or disposed of as provided for in this Act: *And provided further*, That no manuscript of an unpublished work shall be destroyed during its term of copyright without specific notice to the copyright proprietor of record, permitting him to claim and remove it.

Manuscript copies to be preserved.

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

Fees.

Fee for registration.

Fee for certificate.

Fee for recording assignment.

Fee for copy of assignment.

Fee for recording notice of user upon mechanical musical instruments.

Fee for comparing copy of assignment.
Fee for recording renewal of copyright.

Fee for re-

ording trans-
fer of pro-
prietorship.

Fee for search.

Only one reg-
istration re-
quired for
work in sev-
eral volumes.

Definitions:
"Date of
publication."

"Author."

Repealing
clause.

Date of en-
forcement.

copyrighted articles, ten cents for each title of a book or other article, in addition to the fee prescribed for recording the instrument of assignment. For any requested search of copyright office records, indexes, or deposits, fifty cents of each full hour of time consumed in making such search: *Provided*, That only one registration at one fee shall be required in the case of several volumes of the same book deposited at the same time.

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

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

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

Approved, March 4, 1909.

NOTE TO SECTION 18 PROVISIO.

The Act of June 18, 1874, provides that the notice of copyright to be inscribed on each copy of a copyrighted work shall consist of the following words:

"Entered according to Act of Congress, in the year —, by A. B., in the office of the Librarian of Congress, at Washington"; or, . . . the word "copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out, thus: "Copyright, 18—, by A. B."

RULES FOR PRACTICE AND PROCEDURE

*Under Section 25 of An Act to Amend
and Consolidate the Acts Respecting*

COPYRIGHT

Approved March 4, 1909, to Take Effect July 1, 1909

*Adopted and Promulgated by the Supreme Court of the United States
June 1, 1909*

RULES ADOPTED BY THE SUPREME COURT OF THE UNITED STATES FOR PRACTICE AND PROCEDURE UNDER SECTION 25 OF AN ACT TO AMEND AND CONSOLIDATE THE ACTS RESPECTING COPYRIGHT, APPROVED MARCH 4, 1909. TO GO INTO EFFECT JULY 1, 1909.

1.

The existing rules of equity practice, so far as they may be applicable, shall be enforced in proceedings instituted under section twenty-five (25) of the act of March fourth, nineteen hundred and nine, entitled "An act to amend and consolidate the acts respecting copyright."

2.

A copy of the alleged infringement of copyright, if actually made, and a copy of the work alleged to be infringed, should accompany the petition, or its absence be explained; except in cases of alleged infringement by the public performance of dramatic and dramatico-musical compositions, the delivery of lectures, sermons, addresses, and so forth, the infringement of copyright upon sculptures and other similar works and in any case where it is not feasible.

3.

Upon the institution of any action, suit, or proceeding, or at any time thereafter, and before the entry of final judgment or decree therein, the plaintiff or complainant, or his authorized agent or attorney, may file with the clerk of any court given jurisdiction under section 34 of the act of March 4, 1909, an affidavit stating, upon the best of his knowledge, information, and belief, the number and location, as near

as may be, of the alleged infringing copies, records, plates, molds, matrices, etc., or other means for making the copies alleged to infringe the copyright, and the value of the same, and with such affidavit shall file with the clerk a bond executed by at least two sureties and approved by the court or a commissioner thereof.

4.

Such bond shall bind the sureties in a specified sum, to be fixed by the court, but not less than twice the reasonable value of such infringing copies, plates, records, molds, matrices, or other means for making such infringing copies, and be conditioned for the prompt prosecution of the action, suit or proceeding; for the return of said articles to the defendant, if they or any of them are adjudged not to be infringements, or if the action abates, or is discontinued before they are returned to the defendant; and for the payment to the defendant of any damages which the court may award to him against the plaintiff or complainant. Upon the filing of said affidavit and bond, and the approval of said bond, the clerk shall issue a writ directed to the marshal of the district where the said infringing copies, plates, records, molds, matrices, etc., or other means of making such infringing copies shall be stated in said affidavit to be located, and generally to any marshal of the United States, directing the said marshal to forthwith seize and hold the same subject to the order of the court issuing said writ, or of the court of the district in which the seizure shall be made.

5.

The marshal shall thereupon seize said articles or any smaller or larger part thereof he may then or thereafter find, using such force as may be reasonably necessary in the premises, and serve on the defendant a copy of the affidavit, writ, and bond by delivering the same to him personally, if he can be found within the district or if he can not be found, to his agent, if any, or to the person from whose possession the articles are taken, or if the owner, agent, or such person can not be found within the district by leaving said copy at the usual place of abode of such owner or agent, with a person of suitable age and discretion, or at the place where said articles are found, and shall make immediate return of such seizure, or attempted seizure, to the court. He shall also attach to said articles a tag or label stating the fact of such seizure and warning all persons from in any manner interfering therewith.

6.

A marshal who has seized alleged infringing articles, shall retain them in his possession, keeping them in a secure place, subject to the order of the court.

7.

Within three days after the articles are seized, and a copy of the affidavit, writ and bond are served as hereinbefore provided, the defendant shall serve upon the clerk a notice that he excepts to the amount of the penalty of the bond, or to the sureties of the plaintiff or complainant, or both, otherwise he shall be deemed to have waived all objection to the amount of the penalty of the bond and the sufficiency of the sureties thereon. If the court sustain the exceptions it may order a new bond to be executed by the plaintiff or complainant or in default thereof within a time to be named by the court, the property to be returned to the defendant.

8.

Within ten days after service of such notice, the attorney of the plaintiff or complainant shall serve upon the defendant or his attorney a notice of the justification of the sureties, and said sureties shall justify before the court or a judge thereof at the time therein stated.

9.

The defendant, if he does not except to the amount of the penalty of the bond or the sufficiency of the sureties of the plaintiff or complainant, may make application to the court for the return to him of the articles seized, upon filing an affidavit stating all material facts and circumstances tending to show that the articles seized are not infringing copies, records, plates, molds, matrices, or means for making the copies alleged to infringe the copyright.

10.

Thereupon the court in its discretion, and after such hearing as it may direct, may order such return upon the filing by the defendant of a bond executed by at least two sureties, binding them in a specified sum to be fixed in the discretion of the court, and conditioned for the delivery of said specified articles to abide the order of the court. The plaintiff or complainant may require such sureties to justify within ten days of the filing of such bond.

11.

Upon the granting of such application and the justification of the sureties on the bond, the marshal shall immediately deliver the articles seized to the defendant.

12.

Any service required to be performed by any marshal may be performed by any deputy of such marshal.

13.

For services in cases arising under this section, the marshal shall be entitled to the same fees as are allowed for similar services in other cases.

PRESIDENTIAL PROCLAMATIONS.

The following proclamations have been issued by the President, by which copyright protection is granted in the United States to works of authors who are citizens or subjects of the countries named. It is to be noted that this protection does not include "copyright controlling the parts of instruments serving to reproduce mechanically the musical work" provided in Sec. 1 (e) of the Act of March 4, 1909, except in the case of the countries named below, viz: Belgium, Cuba, Germany, Hungary, Luxemburg, and Norway.

July 1, 1891—Belgium, France, Great Britain and the British possessions, and Switzerland. (Stat. L., vol. 27, pp. 981-982.)

April 15, 1892—Germany. (Stat. L., vol. 27, pp. 1021-1022.)

October 31, 1892—Italy. (Stat. L., vol. 27, p. 1043.)

May 8, 1893—Denmark. (Stat. L., vol. 28, p. 1219.)

July 20, 1893—Portugal. (Stat. L., vol. 28, p. 1222.)

July 10, 1895—Spain. (Stat. L., vol. 29, p. 871.)

February 27, 1896—Mexico. (Stat. L., vol. 29, p. 877.)

May 25, 1896—Chile. (Stat. L., vol. 29, p. 880.)

October 19, 1899—Costa Rica. (Stat. L., vol. 31, pp. 1955-1956.)

November 20, 1899—Netherlands and possessions. (Stat. L., vol. 31, p. 1961.)

November 17, 1903—Cuba. (Stat. L., vol. 33, pt. 2, p. 2324.)

January 13, 1904—China. (Treaty of October 8, 1903, Article XI.) (Stat. L., vol. 33, pt. 2, pp. 2208, 2213, 2214.)

July 1, 1905—Norway. (Stat. L., vol. 34, pt. 3, pp. 3111-3112.)

May 17, 1906—Japan. (Treaty of November 10, 1905.) Stat. L., vol. 34, pt. 3, pp. 2890-2891.)

September 20, 1907—Austria. (Stat. L., vol. 35, pt. 2, p. 2155.)

April 9, 1908—Convention between the United State and other powers on literary and artistic copyrights, signed at the City of Mexico, January 27, 1902. (This treaty is effective from July 1, 1908, as between the United States and the following countries: Guatemala, Salvador, Costa Rica, Honduras, and Nicaragua.) Stat. L., vol. 35, pt. 2, pp. 1934-1946. English, French, and Spanish texts.)

August 11, 1908—Japan. (Treaty of May 19, 1908, for protection in China.) (Stat. L., vol. 35, pt. 2, pp. 2044-2046.)

August 11, 1908—Japan. (Treaty of May 19, 1908, for protection in Korea.) Stat. L., vol. 35, pt. 2, pp. 2041-2043.)

April 9, 1910—Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions, Italy, Mexico, the Netherlands and possessions, Norway, Portugal, Spain, and Switzerland. (Stat. L., vol. 36, pt. 2, pp. 2685-2686.)

June 29, 1910—Luxemburg. (Stat. L., vol. 36, pt. 2, p. 2716.)

May 26, 1911—Sweden. (Effective June 1, 1911.) (Stat. L., vol. 37, pt. 2, pp. 1682-1683.)

October 4, 1912—Tunis. (Stat. L., vol. 37, pt. 2, p. 1765.)

October 15, 1912—Hungary. (Copyright convention between the United States and Hungary, effective October 16, 1912, including protection under Sec. 1 (e).) (Stat. L., vol. 37, pt. 2, pp. 1631-1633.)

PRESIDENTIAL PROCLAMATIONS UNDER SECTION 1 (e).

December 8, 1910—Germany. (Stat. L., vol. 36, pt. 2, pp. 2761-2762.)

June 14, 1911—Belgium, Luxemburg, and Norway. (Stat. L., vol. 37, pt. 2, pp. 1687-1690.)

November 27, 1911—Cuba. (Stat. L., vol. 37, pt. 2, pp. 1721-1722.)

October 15, 1912—Hungary. (See above.)

COPYRIGHT.

By the President of the United States of America.

A PROCLAMATION.

Whereas it is provided by the act of Congress of March 4, 1909, entitled "An act to amend and consolidate the acts respecting copyright," that the benefits of said act, excepting the benefits under section 1 (e) thereof, as to which special conditions are imposed, shall extend to the work of an author or proprietor who is a citizen or subject of a foreign State or nation, only upon certain conditions set forth in section 8 of said act, to wit:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign State or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this act or by treaty; or when such foreign State or nation

is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto:

And whereas it is also provided by said section that "The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time as the purposes of this act may require":

And whereas satisfactory evidence has been received that in Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions, Italy, Mexico, the Netherlands and possessions, Norway, Portugal, Spain, and Switzerland the law permits and since July 1, 1909, has permitted to citizens of the United States the benefit of copyright on substantially the same basis as to citizens of those countries:

Now, therefore, I, WILLIAM HOWARD TAFT, President of the United States of America, do declare and proclaim that one of the alternative conditions specified in section 8, of the act of March 4, 1909, is now fulfilled, and since July 1, 1909, has continuously been fulfilled, in respect to the citizens or subjects of Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions, Italy, Mexico, the Netherlands and possessions, Norway, Portugal, Spain, and Switzerland, and that the citizens or subjects of the aforementioned countries are and since July 1, 1909, have been entitled to all of the benefits of the said act other than the benefits under section 1 (e) thereof, as to which the inquiry is still pending.

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

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

WM. H. TAFT.

By the President:

P. C. KNOX,

Secretary of State.

In "The Statutes at Large of the United States of America, from March, 1909, to March, 1911." Vol. 36, part 2. 8 vo. Washington, 1911, pp. 2685-2686.

COPYRIGHT CONVENTION.*United States and Hungary.*

IN FORCE OCTOBER 16, 1912.

The President of the United States of America and His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, desiring to provide, between the United States of America and Hungary, for a reciprocal legal protection in regard to copyright of the citizens and subjects of the two countries, have, to this end, decided to conclude a convention, and have appointed as their plenipotentiaries:

The President of the United States of America—

Richard C. Kerens, Ambassador Extraordinary and Plenipotentiary of the United States of America to His Imperial and Royal Apostolic Majesty; and

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary—

Count Paul Esterházy, Baron of Galántha, Viscount of Fraknó, Privy Councillor and Chamberlain, Chief of Section in the Ministry of the Imperial and Royal House and of Foreign Affairs, and

Dr. Gustavus de Töry, Secretary of State in the Royal Hungarian Ministry of Justice;

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

ARTICLE 1.

Authors who are citizens or subjects of one of the two countries or their assigns shall enjoy in the other country, for their literary, artistic, dramatic, musical, and photographic works (whether unpublished or published in one of the two countries) the same rights which the respective laws do now or may hereafter grant to natives.

The above provision includes the copyright control of mechanical musical reproductions.

ARTICLE 2.

The enjoyment and the exercise of the rights secured by the present Convention are subject to the performance of the conditions and formalities prescribed by the laws and regulations of the country where protection is claimed under the present Convention; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work.

ARTICLE 3.

The term of copyright protection granted by the present Convention shall be regulated by the law of the country where protection is claimed.

ARTICLE 4.

The present Convention shall be ratified and the ratification shall be exchanged at Washington as soon as possible.

ARTICLE 5.

The present Convention shall be put in force one month after the exchange of ratifications, and shall remain in force until the termination of a year from the day on which it may have been denounced.

In faith whereof the Plenipotentiaries have signed the present Convention in two copies, each in English and Hungarian languages, and have affixed thereto their seals.

Done at Budapest, the 30th day of January, 1912.

(SEAL) RICHARD C. KERENS.

(SEAL) ESTERHÁZY PÁL.

(SEAL) TÖRY GUSTÁV.

NOTE.—Ratification was advised by the Senate, July 23, 1912; ratifications were exchanged, September 16, 1912; proclaimed by the President, October 15, 1912. The Convention went into force October 16, 1912.

In "The Statutes at Large of the United States of America, from March, 1911, to March, 1913." Vol. 37, part 2. 8 vo. Washington, 1913, pp. 1631-1633.

RULES AND REGULATIONS
FOR THE
REGISTRATION OF CLAIMS TO COPYRIGHT

Copyright
under act.

1. Copyright under the act of Congress entitled: "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909,⁷ is ordinarily secured by printing and publishing a copyrightable work with a notice of claim in the form prescribed by the statute. Registration can be made *after* such publication, but the statute expressly provides, in certain cases, for registration of manuscript works.

WHO MAY SECURE COPYRIGHT.

Persons entitled to copyright.

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

(1) The *author* of the work, if he is:

(a) A citizen of the United States, or

(b) An alien author domiciled in the United States at the time of the first publication of his work, or

(c) A citizen or subject of any country which grants either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens. The existence of reciprocal copyright conditions is determined by presidential proclamation.⁸

7—Amendatory acts were approved August 24, 1912 (providing for the registration of motion pictures), and March 2, 1913 (amending sec. 55, with regard to the certificate of registration).

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

(2) The *proprietor* of a work. The word "proprietor" is here used to indicate a person who derives his title to the work from the author. If the author of the work should be a person who could not himself claim the benefit of the copyright act, the proprietor can not claim it.

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

REGISTRATION.

3. After the publication of any work entitled to copy-
right, the claimant of copyright should register his claim
in the Copyright Office. An action for infringement of
copyright can not be maintained in court until the pro-
visions with respect to the deposit of copies and registra-
tion of such work shall have been complied with.

Copyright
registration.

A certificate of registration is issued to the applicant and duplicates thereof may be obtained on payment of the statutory fee of 50 cents.

SUBJECT MATTER OF COPYRIGHT.

4. The act provides that no copyright shall subsist in the original text of any work published prior to July 1, 1909, which has not been already copyrighted in the United States (sec. 7).

Works sub-
ject to copy-
right.

Section 5 of the act divides the works for which copyright may be secured into eleven classes, as follows:

(a) *Books*.—This term includes all printed literary works (except dramatic compositions) whether published in the ordinary shape of a book or pamphlet, or printed as a leaflet, card, or single page. The term "book" as used in the law includes tabulated forms of information, frequently called charts; tables of figures showing the results of mathematical computations, such as logarithmic tables; interest, cost, and wage tables, etc., single poems, and the words of a song when printed and published without music; librettos; descriptions of motion pictures or spectacles; encyclopædias; catalogues; directories; gazeteers and similar compilations; circulars or folders containing information in the form of reading matter other than mere lists of articles, names and addresses, and literary contributions to periodicals or newspapers.

Blank books,
etc., not copy-
rightable.

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

Blank books for use in business or in carrying out any system of transacting affairs, such as record books, account books, memorandum books, diaries or journals, bank deposit and check books; forms of contracts or leases which do not contain original copyrightable matter; coupons; forms for use in commercial, legal, or financial transactions, which are wholly or partly blank and whose value lies in their usefulness and not in their merit as literary compositions.

Periodicals.

6. (b) *Periodicals*.—This term includes newspapers, magazines, reviews, and serial publications appearing oftener than once a year; bulletin or proceedings of societies, etc., which appear regularly at intervals of less than a year; and, generally, periodical publications which would be registered as second-class matter at the post office.

Lectures, etc.

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

Dramatic
compositions,
etc.

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

The designation "dramatic composition" does not include the following: Dances, ballets, or other choregraphic works; tableaux and motion-picture shows; stage settings or mechanical devices by which dramatic effects are produced, or "stage business"; animal shows, sleight-of-hand performances, acrobatic or circus tricks of any kind; descriptions of motion pictures or of settings for the production of motion pictures. (These, however, when printed and published, are registrable as "books.")

Dramatico-
musical com-
positions, etc.

9. *Dramatico-musical compositions* include principally operas, operettas, and musical comedies, or similar productions which are to be acted as well as sung.

Songs sepa-
rately pub-
lished.

Ordinary songs, even when intended to be sung from the stage in a dramatic manner, or separately published songs from operas and operettas, should be registered as musical compositions, not dramatico-musical compositions.

Musical com-
positions.

10. (e) *Musical compositions*, including other vocal and all instrumental compositions, with or without words.

But when the text is printed alone it should be registered as a "book," not as a "musical composition."

"Adaptations" and "arrangements" may be registered

as "new works" under the provisions of section 6. Mere transpositions into different keys are not expressly provided for in the copyright act; but if published with copyright notice and copies are deposited with application, registration will be made.

11. *(f) Maps.*—This term includes all cartographical works, such as terrestrial maps, plats, marine charts, star maps, but not diagrams, astrological charts, landscapes, or drawings of imaginary regions which do not have a real existence. Maps.

12. *(g) Works of art.*—This term includes all works belonging fairly to the so-called fine arts. (Paintings, drawings, and sculpture.) Works of art.

Productions of the industrial arts utilitarian in purpose and character are not subject to copyright registration, even if artistically made or ornamented.

No copyright exists in toys, games, dolls, advertising novelties, instruments or tools of any kind, glassware, embroideries, garments, laces, woven fabrics, or any similar articles. Toys, games, etc.

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

14. *(i) Drawings or plastic works of a scientific or technical character.*—This term includes diagrams or models illustrating scientific or technical works, architects' plans, designs for engineering work, etc. Drawings or plastic works.

15. *(j) Photographs.*—This term covers all positive prints from photographic negatives, but not half tones or other photo-engravings. Photographs.

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

17. *(l) Motion-picture photoplays.*

18. *(m) Motion pictures other than photoplays.*

Postal cards can not be copyrighted as such. The pictures thereon may be registered as "prints or pictorial illustrations" or as "photographs." Text matter on a postal card may be of such a character that it may be registered as a "book."

Trade-marks can not be copyrighted nor registered in the Copyright Office.

HOW TO SECURE REGISTRATION.

Registrable works.

19. Copyright registration may be secured for:

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

UNPUBLISHED WORKS.

Unpublished works are such as have not at the time of registration been printed or reproduced in copies for sale or been publicly distributed. They include: (a) Lectures, sermons, addresses, or similar productions for oral delivery; (b) dramatic and musical compositions; (c) photographic prints; (d) works of art (paintings, drawings, and sculpture); (e) plastic works; (f) motion-picture photoplays; and (g) motion pictures other than photoplays.

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

Registration of unpublished works.

20. (1) In the case of lectures, sermons, addresses, and dramatic and musical compositions, deposit one typewritten or manuscript copy of the work.

This copy should be in convenient form, clean and legible, the leaves securely fastened together, and should bear the title of the work corresponding to that given in the application.

The entire work in each case should be deposited. It is not sufficient to deposit a mere outline or epitome, or, in the case of a play, a mere scenario, or a scenario with the synopsis of the dialogue.

Unpublished photograph.

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

Photograph of work of art.

22. (3) In the case of works of art, models or designs for works of art, or drawings or plastic works of a scientific or technical character, deposit a photograph or other identifying reproduction.

(4) In the case of motion-picture photoplays, deposit a title and description, with one print taken from each scene or act.

(5) In the case of motion pictures other than photo-

plays, deposit a title and description, with not less than two prints taken from different sections of the complete motion picture.

In each case the deposited article should be accompanied by an application for registration and a money order for the amount of the statutory fee.

23. Any work which has been registered under section 11, if reproduced in copies for sale or distribution, must be deposited a second time (two copies, accompanied by an application for registration and the statutory fee) in the same manner as is required in the case of works published in the first place.

Reproduction
of unpublished
work.

PUBLISHED WORKS. DEPOSIT OF COPIES.

24. After publication of the work with the copyright notice inscribed, two *complete* copies of the best edition of the work must be sent to the Copyright Office, with a proper application for registration correctly filled out and a money order for the amount of the legal fee.

Deposit of
copies.

The statute requires that the deposit of the copyright works shall be made "promptly," which has been defined as "without unnecessary delay." It is not essential, however, that the deposit be made on the very day of publication.

25. Published works are such as are printed or otherwise produced and "placed on sale, sold, or publicly distributed." Works intended for sale or general distribution must first be printed with the statutory form of copyright notice inscribed on every copy intended to be circulated.

Definition of
"published
work."

NOTICE OF COPYRIGHT.

26. The ordinary form of copyright notice for books, periodicals, dramatic and musical compositions is "Copyright, 19— (the year of publication), by A. B. (the name of the claimant)." The name of the claimant printed in the notice should be the real name of a living person, or his trade name if he always uses one (but not a pseudonym or pen name), or the name of the firm or corporation claiming to own the copyright. The copyright notice should not be printed in the name of one person *for the benefit of another*. The beneficiary's name should be printed in such cases.

Form of
notice.

Short form
of notice.

27. In the case of maps, photographs, reproductions of works of art, prints or pictorial illustrations, works of art, models or designs for works of art, and plastic works of a scientific or technical character, the notice may consist of the letter C, inclosed within a circle, thus ©, accompanied with the initials, monogram, mark, or symbol of the copyright proprietor. But in such cases the name itself of the copyright proprietor must appear on some accessible portion of the work, or on the mount of the picture or map, or on the margin, back, or permanent base or pedestal of the work.

Notice upon
each copy.

28. The prescribed notice must be affixed to each copy of the work published or offered for sale in the United States. But no notice is required in the case of foreign books printed abroad seeking *ad interim* protection in the United States, as provided in section 21 of the copyright act.

AMERICAN MANUFACTURE OF COPYRIGHT BOOKS.

Works pro-
duced in
United States.

29. The following works must be manufactured in the United States in order to secure copyright:

(a) All "books" in the English language and books in any language by a citizen or domiciled resident of the United States must be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text of such books be produced by lithographic process or photo-engraving process, then by a process wholly performed within the limits of the United States; and the printing of the text and binding of the book must be performed within the limits of the United States.

(b) All *illustrations* within a book produced by lithographic process or photo-engraving process and all *separate lithographs* or *photo-engravings* must be produced by lithographic or photo-engraving process wholly performed within the limits of the United States, except when the subjects represented in such illustrations in a book or such separate lithographs or photo-engravings "are located in a foreign country and illustrate a scientific work or reproduce a work of art."

Books by for-
eign authors.

30. Books by foreign authors in any language other

than English are not required to be printed in the United States.

In the case of books printed abroad in the English language an *ad interim* term of copyright of thirty days from registration made in the Copyright Office within thirty days after publication abroad may be secured; but in order to extend the copyright to the full term of protection, an edition of the work must be published in the United States within the thirty days *ad interim* term, printed or produced within the limits of the United States as required in section 15 of the copyright act.

Books printed
abroad.

APPLICATION FOR REGISTRATION.

31. The application for copyright registration required to be sent with each work must state the following facts, without which no registration can be made:

Application
for registra-
tion.

(1) The *name* and address of the claimant of copyright.

(2) The name of the country of which the author of the work is a citizen or subject.

(3) The *title* of the work.

(4) The name and address of person to whom certificate is to be sent.

(5) In the case of works reproduced in copies for sale or publicly distributed, the actual date (year, month, and day) when the work was published.

32. In addition, it is desirable that the application should state for record the name of the author. If, however, the work is published anonymously or under a pseudonym and it is not desired to place on record the real name of the author, this may be omitted. In the case of works made for hire, the employer may be given as the author. By the nationality of the author is meant citizenship, not race; a person naturalized in the United States should be described as an American. An author, a citizen of a foreign country having no copyright relations with the United States, may secure copyright in this country, if at the time of publication of his work he is domiciled in the United States. The fact of such domicile in the United States should be expressly stated in the application, including a statement of this place of domicile. Care should be taken that the title of the work, the name of the author, and the name of the copyright claimant should be correctly stated

Name of
author.

Nationality of
author.

in the application, and that they should agree exactly with the same statements made in the work itself.

APPLICATION FORMS.

Application forms.

33. The Copyright Office has issued the following application forms, which will be furnished on request, and should be used when applying for copyright registration:

A1. New book printed and published for the first time in the United States; also United States edition of English book.

A2. Book reprinted in the United States with new copyright matter.

A3. Book by foreign author in foreign language.

A4. Ad interim for 30 days. Book published abroad in the English language.

A5. Contribution to a newspaper or periodical.

B1. Periodical. For registration of single issue.

B2. Periodical. General application and deposit.

C. Lecture, sermon or address.

D1. Published dramatic composition.

D2. Dramatic composition not reproduced for sale.

D3. Published dramatico-musical composition.

E. New musical composition published for the first time.

E1. Musical composition republished for new copyright matter.

E2. Musical composition not reproduced for sale.

F. Published map.

G. Work of art (painting, drawing, or sculpture); or model or design for a work of art.

I1. Published drawing or plastic work of a scientific or technical character.

I2. Unpublished drawing or plastic work of a scientific or technical character.

J1. Photograph published for sale.

J2. Photograph not reproduced for sale.

K. Print or pictorial illustration.

L1. Motion-picture photoplay reproduced for sale.

L2. Motion-picture photoplay not reproduced for sale.

M1. Motion picture, not a photoplay, reproduced for sale.

M2. Motion picture, not a photoplay, not reproduced for sale.

- R1. Renewal of a copyright for 28 years. .
 R2. Extension of a renewal copyright for 14 years.

AFFIDAVIT OF MANUFACTURE.

34. In the case of books by American authors and all books in the English language the application must be accompanied by an affidavit, showing the following facts: Affidavit for book.

(1) That the copies deposited have been printed from type set within the limits of the United States; or from plates made within the limits of the United States from type set therein; or if the text be produced by lithographic process or photo-engraving process, that such process was wholly performed within the limits of the United States, stating, in either case, the place and the establishment where such work was done.

(2) That the printing of the text has been performed within the limits of the United States, showing the place and the name of the establishment doing the work.

(3) That the binding of such book has been performed within the limits of the United States, showing the place and the name of the establishment where the work was done. This can be omitted if the work is unbound.

(4) That the completion of the printing of said book was on a stated day, or that the book was published on a given date.

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

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

The applicant and the officer administering the oath for such affidavit are specially requested to make sure that the instrument is properly executed, so as to avoid the delay of having it returned for amendment. Experience shows that among the common errors made by applicants are the following: Errors by applicants.

Failure to write in the "venue"—that is, the name of the county and State—and to make sure that the notary's statement agrees.

Reciting a corporation or partnership as affiant. Oaths can be taken only by individuals.

Failure to state in what capacity the affiant takes the oath, whether as claimant, agent of the claimant, or printer. Where a corporation or firm is the claimant, the affiant should swear as agent.

Failure to state the *exact date* of publication or completion of printing. The month alone is insufficient.

Failure to sign the affidavit. The signature should correspond exactly with the name of the affiant stated at the beginning. Corporation or firm names must not appear in this place.

Failure to obtain signature of the notary after swearing to the contents.

Failure to obtain the seal of the notary.

Swearing before an officer not authorized to act in the place stated in the venue.

Variance between names and dates as stated in the affidavit and the application.

The affidavit must never be made *before* publication has taken place.

By whom affidavit may be made.

36. The affidavit may be made by: (1) The person claiming the copyright; or (2) his duly authorized agent or representative residing in the United States; or (3) the printer who has printed the book.

The person making the affidavit should state in which of the above-mentioned capacities he does so.

Book in foreign language.

37. In the case of a foreign author applying for a book in a language other than English, no affidavit is required, as such books are not subject to the manufacturing clause.

In the case of a foreign author applying for a book in the English language, the same affidavit must be made as in that of an American author, except where a book is deposited for *ad interim* protection under section 21. In such cases the affidavit must be filed when the *ad interim* copyright is sought to be extended to the full term.

The affidavit is only required for *books*.

PERIODICALS (FORM B).

Periodicals.

38. Application should be made in the same manner as for books, depositing two copies, but no affidavit is required.

Separate registration is necessary for each number of

the periodical published with a notice of copyright, and can only be made after publication. It is not possible to register the title of the periodical in advance of publication.

CONTRIBUTIONS TO PERIODICALS (FORM A5).

39. If special registration is requested for any contribution to a periodical, *one* copy of the number of the periodical in which the contribution appears should be deposited promptly after publication. Contributions
to periodicals.

The entire copy should be sent; sending a mere clipping or a page containing the contribution does not comply with the statute.

The date of publication of a periodical is not necessarily the date stated on the title-page. The application should state the day on which the issue is "first placed on sale, sold, or publicly distributed," which may be earlier or later than the date printed on the title-page.

AD INTERIM APPLICATIONS (FORM A4).

40. Where a book in the English language has been printed abroad, an *ad interim* copyright may be secured by depositing in the Copyright Office one complete copy of the foreign edition, with an application containing a request for the reservation and a money order for \$1. Such applications should state: (1) Name and nationality of the author; (2) Name, nationality, and address of the copyright claimant; (3) Exact date of original publication abroad. Ad interim
copyright.

The deposit must be made within thirty days from publication abroad. Whenever, within the thirty days' period of *ad interim* protection, an edition manufactured in the United States is published and two copies have thereafter been promptly deposited, the copyright claim therein may be registered the same as any other book (Form A1).

MAILING APPLICATIONS AND COPIES.

41. All mail matter intended for the Copyright Office should be addressed to the "Register of Copyrights, Library of Congress, Washington, D. C." No letters dealing with copyright matters should be addressed to individuals in the office. Address of
mail matter.

Copyright matter designed for deposit in the Copyright

Office will be transmitted by the postmaster free of charge when requested. The postmaster will also, when requested, give a receipt for matter so delivered to him for transmission.

No franking label is issued by the Copyright Office for this purpose.

FEES.

Copyright fees.

42. The fee required to be paid for copyright registration is \$1, except that in case of photographs it is only 50 cents when no certificate of registration is desired.

Remittances.

All remittances to the Copyright Office should be sent by money order or bank draft. Postage stamps should not be sent for fees or postage. Checks can not be accepted unless certified. Coin or currency inclosed in letter or packages if sent will be at the remitter's risk.

Publishers may for their own convenience deposit in the Copyright Office a sum of money in advance against which each registration will be charged.

ASSIGNMENTS OF COPYRIGHT.

Assignments of copyright.

43. When a copyright has been assigned the instrument in writing signed by the proprietor of the copyright may be filed in this office for record within six calendar months after its execution without the limits of the United States or three calendar months within the United States.

After having been recorded the original assignment will be returned to the sender with a sealed certificate of record attached. The assignment will be returned by registered mail, if the post-office registration fee (10 cents) is sent for that purpose.

Fee for recording assignment.

44. The fee for recording and certifying an assignment is \$1 up to 300 words; \$2 from 300 to 1,000 words; and another dollar for each additional thousand words or fraction thereof over 300 words.

Name of assignee in claim.

45. After the assignment has been duly recorded, the assignee may substitute his name for that of the assignor in the copyright notice on the work assigned. Such substitution or transfer of ownership will be indexed in this office upon request, at a cost of 10 cents for each work assigned.

NOTICE OF USER OF MUSICAL COMPOSITIONS.

46. Whenever the owner of the copyright in a musical composition uses such music in phonographs himself or permits anyone else to do so, he must send a notice of such use by him or by any other person to the Copyright Office to be recorded.⁹

Notice of user
of music.

47. Whenever any person in the absence of a license intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce the same mechanically, the act requires that he shall serve notice of such intention upon the copyright proprietor and must also send a duplicate of such notice to the Copyright Office.

Notice in
absence of
license.

APPLICATION FOR THE RENEWAL OR EXTENSION OF
SUBSISTING COPYRIGHTS.

48. Application for the renewal or extension of a subsisting copyright (except copyright of a composite work) may be filed within one year prior to the expiration of the existing term by:

Renewals and
extensions.

- (1) The author of the work if still living;
- (2) The widow, widower, or children of the author if the author is not living;
- (3) The author's executor, if such author, widow, widower, or children be not living;
- (4) If the author, widow, widower, and children are all dead, and the author left no will, then the next of kin.

49. If the work be a composite work upon which copyright was originally secured by the proprietor thereof, then such proprietor is entitled to the privilege of renewal and extension.

Renewal for
composite
work.

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

Renewal fee.

SEARCHES.

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

Searches.

⁹—Presidential proclamations have been issued under section 1 (e), securing "copyright controlling the parts of instruments serving to reproduce mechanically the musical work" in behalf of Belgium, Cuba, Germany, Luxemburg, and Norway.

information as they may contain relative to copyright claims. Persons desiring searches to be made should state clearly the nature of the work, its title, the name of the claimant of copyright and probable date of entry; in the case of an assignment, the name of the assignor or assignee or both, and the name of the copyright claimant and the title of the music referred to in case of notice of user.¹⁰

Search fee.

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

10—NOTE.—The law provides as follows: “That the record books of the copyright office, together with the indexes to such record books, and all works deposited and retained in the copyright office, shall be open to public inspection; and copies may be taken of the copyright entries actually made in such record books, subject to such safeguards and regulations as shall be prescribed by the register of copyrights and approved by the Librarian of Congress.” (Sec. 58, act of Mar. 4, 1909.)

APPLICATION FORMS ISSUED BY COPYRIGHT OFFICE,
WASHINGTON, D. C.

APPLICATION FORMS.

BOOKS.

For any new book printed and published for the first time in the United States, ask for *Application Form "A1,"* and *Affidavit Form,* specifying in the request whether the book is to be *printed from type* or plates made from type, or is to be *produced by lithographic or photo-engraving process.*

For a reissued book manufactured in the United States, with new copyright matter, ask for *Application Form "A2."*

For a book of foreign origin in a language or languages other than English, ask for *Application Form "A3."*

For *ad interim* copyright in a book published abroad in the English language, ask for *Application Form "A4."*

For the American edition of a book in the English language on which *ad interim* copyright has been previously secured, ask for *Application Form "A1,"* and *Affidavit Form,* specifying in the request whether the book is to be printed from type or plates made from type or is to be produced by lithographic or photo-engraving process.

For a contribution to a newspaper or periodical, ask for *Application Form "A5."*

PERIODICALS.

For a periodical, if it is desired to make a separate application and remittance as each issue appears, ask for *Application Form "B1."* If the fee is to be charged against a trust fund previously deposited to cover several issues, ask for *Application Form "B2."*

ORAL WORKS.

For a Lecture, Sermon, or Address for oral delivery, ask for *Application Form "C."*

DRAMAS.

For a *published* Dramatic Composition, ask for *Application Form "D1."*

For a Dramatic Composition *of which copies are not reproduced for sale*, ask for *Application Form "D2."*

For a *published* Dramatico-Musical Composition, ask for *Application Form "D3."*

For a Dramatico-Musical Composition *of which copies are not reproduced for sale*, ask for *Application Form "D4."*

MUSIC.

For a Musical Composition *published for the first time*, ask for *Application Form "E."*

For a Musical Composition *republished with new copyright matter*, ask for *Application Form "E1."*

For a Musical Composition *of which copies are not reproduced for sale*, ask for *Application Form "E2."*

MAPS.

For a *published* map, ask for *Application Form "F."*

WORKS OF ART.

For a Work of Art (Painting, Drawing, or Sculpture); or for Model or Design for a Work of Art, ask for *Application Form "G."*

DRAWING OR PLASTIC WORK.

For a *published* drawing or plastic work of a scientific or technical character, ask for *Application Form "I1."*

For an *unpublished* drawing or plastic work of a scientific or technical character, ask for *Application Form "I2."*

PHOTOGRAPHS.

For a photograph *published for sale*, ask for *Application Form "J1."*

For a photograph *of which copies are not reproduced for sale*, ask for *Application Form "J2."*

PRINTS OR PICTORIAL ILLUSTRATIONS.

For the registration of any "print" or "pictorial illustration," which is a printed picture, complete in itself and having artistic quality, ask for *Application Form "K."*

MOTION PICTURES.

For the registration of a motion-picture photoplay *reproduced in copies for sale*, ask for *Application Form "L1."*

For a motion-picture photoplay of which copies are not reproduced for sale, ask for *Application Form "L2."*

For a motion picture, not a photoplay, reproduced in copies for sale, ask for *Application Form "M1."*

For a motion picture, not a photoplay, not reproduced in copies for sale, ask for *Application Form "M2."*

RENEWAL OR EXTENSION.

For the renewal of copyright subsisting in any work for the new renewal term of 28 years as provided by section 24 of the new law, ask for *Renewal Form "R1."*

For the extension of an existing renewal term from 14 years as provided under the old law, to 28 years granted by the new law, ask for *Extension Form "R2."*

[These renewal forms can only be used within a period of one year prior to the expiration of the existing term.]

No forms are issued by the Copyright Office for assignments, or licenses, nor for Postmaster's receipts for articles deposited.

JOINT REGULATIONS OF THE TREASURY AND POST OFFICE
DEPARTMENTS GOVERNING THE ENTRY AS IMPORTED
MERCHANDISE OF COPYRIGHTED BOOKS AND OTHER
ARTICLES.

ART. 613. Copyrighted books and articles, the importation of which is prohibited by section 4956, Revised Statutes, as amended by section 3 of the act of March 3, 1891, shall not be admitted to entry. Such books and articles, if imported *with* the previous consent of the proprietor of the copyright, shall be seized by the collector of customs, who will take the proper steps for the forfeiture of the goods to the United States under section 3082, Revised Statutes.

Treasury Decisions 10269, Oct. 8, 1890; 11098, May 2, 1891; 11436, July 3, 1891; 11449, July 9, 1891; 11617, Aug. 11, 1891; 14898, Apr. 20, 1894; 15664, Feb. 28, 1895; 16046, May 14, 1895; 16739, Feb. 3, 1896; 17454, Oct. 13, 1896; 17885, Mar. 11, 1897; 20430, Dec. 16, 1898; 21003, Apr. 13, 1899; 21012, Apr. 17, 1899.

ART. 614. Copyrighted books and articles imported contrary to said prohibition and *without* the previous consent of the proprietor of the copyright, being primarily subject to forfeiture to the proprietor of the copyright, shall be detained by the collector, who shall forthwith notify such proprietor in order to ascertain whether or not he shall institute proceedings for the enforcement of his right to the forfeiture.

ART. 615. If the proprietor institute such proceedings and obtain a decree of forfeiture, the goods shall be delivered to him upon payment of the expenses incurred in the detention and storage, and the duties accrued thereon. If such proprietor shall fail to institute such proceedings within 60 days from date of notice, or shall declare in writing that he abandons his right to the forfeiture, then the collector shall proceed as in the case of articles imported with the previous consent of such proprietor.

ART. 616. Copyrighted articles, the importation of which is not prohibited, but which, by virtue of section 4965, Revised Statutes, as amended by section 8 of said act, are forfeited to the proprietor of the copyright when imported without his previous consent, and are moreover subject to the forfeiture of \$1 or \$10 per copy, as the case may be, one-half thereof to the said proprietor and the other half to the use of

the United States, shall be taken possession of by the collector, who shall take the necessary steps for securing to the United States half of the sum so forfeited, and shall keep the goods in his possession until a decree of forfeiture is obtained, and the half of the sum so forfeited, as well as the duties and charges accrued, are paid; whereupon he shall deliver the goods to the proprietor of the copyright. Duties collected on prohibited copyrighted articles can not be refunded.

Treasury Decision 19722, July 22, 1898.

In case of failure to obtain a decree of forfeiture, the goods shall be admitted to entry.

ART. 617. For the purpose of carrying into effect the provisions in section 4965, Revised Statutes, as amended by the copyright acts of March 3, 1891, and March 2, 1895, which prohibits the importation of musical compositions duly copyrighted thereunder, and under the authority conferred by section 4958, Revised Statutes, as amended, which provides that "the Secretary [of the Treasury] and Postmaster-General are hereby empowered and required to make and enforce such rules and regulations as shall prevent the importation into the United States, except upon the conditions above specified, of all articles prohibited by this act," the following regulations are promulgated for the government of the officers of the customs and of the postal service, viz:

Treasury Decision 19514, June 21, 1898.

ART. 618. Inasmuch as under paragraph 403, act of July 24, 1897, music in books or sheets, except in certain specified cases, is liable to customs duty, postmasters are instructed to carefully examine the mails from foreign countries and to forward all musical publications found therein to the nearest customs officer. Customs officers are instructed to keep a close watch for matter imported through the usual channels in violation of the copyright act.

Treasury Decision 20490, Jan. 4, 1899.

ART. 619. Upon the receipt of such matter from postmasters or in the usual channels, customs officers will proceed to collect, in the regular manner, the duty on all such matter as is properly admissible, and shall hold all music in books or sheets imported in violation of any copyright of the United States, and notify by mail the owner of the copyright and the owner, importer, or consignee of the prohibited articles, or the person to whom addressed.

ART. 620. If within three months from the mailing of the notice the owner of the copyright shall not institute proceedings for forfeiture of such articles under the provisions of section 4965, Revised Statutes, as amended by the act of March 22, 1895 (28 Stat., 965), or the owner or

importer of the prohibited articles, or the person to whom addressed, shall not appear and show cause to the contrary, the customs officer is directed to burn or otherwise destroy the prohibited articles.

[Reprinted from "Customs Regulations of the United States Prescribed for the Instruction and Guidance of Officers of Customs. United States Treasury Department." 8°. Washington: Government Printing Office, 1900, pages 210, 211, 212.]

REGULATIONS GOVERNING THE IMPORTATION OF MOVING-PICTURE FILMS UNDER THE COPYRIGHT ACT OF MARCH 4, 1909.

(T. D. 31754 of July 17, 1911, modified.)

TREASURY DEPARTMENT, March 10, 1913.

To Collectors and Other Officers of the Customs:

Attention is invited to section 30 of the copyright act of March 4, 1909, as follows:

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

The following regulations governing the importation of moving-picture films are hereby promulgated for the guidance of officers of the customs:

1. A "piratical copy" of a film is defined as a film which constitutes either an actual copy or a substantial reproduction of a legally copyrighted film produced and imported in contravention of the rights of the copyright proprietor.

2. Collectors will admit to entry imported films concerning which either (a) adverse copyrights are claimed by parties in interest, or (b) an infringement only is claimed by a copyright proprietor other than the importer. In such cases the copyright claimants will be remitted to their rights at law or in equity.

3. Collectors will not permit entry of imported films concerning which either (a) representations are made that they are piratical copies and such representations are not denied by the importers, or (b) if the collector is satisfied they do, in fact, constitute piratical copies as above defined.

4. Collectors will detain films covered by the preceding regulation and report the facts to the department for instructions.

5. If the collector is not satisfied that an imported film is a piratical copy, and the importer files an affidavit denying that it is in fact such a piratical copy, and alleging that the detention of the film will result in a material depreciation of its value or loss or damage to him, the film

will be admitted to entry, unless a written demand for its exclusion is filed by the copyright proprietor or other party in interest, setting forth that the imported film is a piratical copy of a film legally copyrighted in the United States, and unless there is also filed with the collector a good and sufficient bond conditioned to hold the importer or owner of such film harmless from any loss or damage resulting from its detention in the event that the same is held by the department not to be prohibited from importation under section 30.

6. Upon the filing of such demand and bond the collector will cause the film to be detained, and will fix a time at which the parties in interest may submit evidence to substantiate their respective claims, which evidence shall be reduced to writing at the expense of the parties in interest and transmitted by the collector to the department, with such report and recommendation as he may deem proper.

7. No film will be presumed to be prohibited from entry as a piratical copy under said act, and the burden of proof that any film is in fact a piratical copy will be upon the party making such claim.

8. If the film is held by the department to be a piratical copy, its seizure and forfeiture will be directed in accordance with section 32 of the copyright act, and the bond will be returned to the copyright proprietor, but if not so held, the collector will be directed to release the film and transmit the bond to the importer.

9. Regulations contained in T. D. 31754 of July 17, 1911, so far as they relate to moving-picture films, are hereby modified accordingly.

(88725—4.)

JAMES F. CURTIS,
Assistant Secretary.

COPYRIGHT IN ENGLAND

ACT 1 AND 2 GEO. 5. CH. 46.

*An Act to Amend and Consolidate the Law Relating to
Copyright, Passed December 16, 1911*

1 & 2 GEO. 5. CH. 46.

COPYRIGHT ACT, 1911.

CHAPTER 46.

AN ACT to amend and consolidate the Law relating to Copyright.
[16th December 1911.]

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

PART I.

IMPERIAL COPYRIGHT.

RIGHTS.

Copyright se-
cured.

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

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

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

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

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

Copyright defined.

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

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

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

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

and to authorise any such acts as aforesaid.

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

Publication defined.

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

Infringement of copyright.

Acts which
do not in-
fringe copy-
right.

- (i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary:
- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work:
- (iii) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situated in a public place or building, or the making or publishing of paintings, drawings, engravings, or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art:
- (iv) The publication in a collection, mainly composed of non-copyright matter, bonâ fide intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged:
- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries:

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

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

Acts which
infringe
copyright.

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

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

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

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

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

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

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

Term of copy-
right.

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this proviso, the Board

of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

Compulsory
licenses.

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

Ownership of
copyright, etc.

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

Provided that—

Engraving,
photograph,
or portrait.

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

Person who
employs au-
thor, etc.

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

otherwise than as part of a newspaper, magazine, or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent:

Assignment of copyright.

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

Copyright not assignable beyond 25 years after author's death.

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

Divided ownership.

CIVIL REMEDIES.

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies

Civil remedies for infringement of copyright.

by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

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

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

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

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

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

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant

Prima facie ownership, etc.

Author as stated on work.

Publisher, when author's name is not printed.

Rights of owner against persons possessing or dealing with infringing copies, etc.

Exemption of innocent infringer from liability to pay damages etc.

proves that at the date of the infringement he was not aware and had no reasonable ground for suspecting that copyright subsisted in the work.

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

Restriction on remedies in the case of architecture.

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

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

Limitation of actions.

SUMMARY REMEDIES.

11. (1) If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) sell or lets for hire, or by way of trade exposes or offers for sale or hire any infringing copy of any such work; or
- (c) distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work; or
- (e) imports for sale or hire into the United Kingdom any infringing copy of any such work:

Penalties for dealing with infringing copies, etc.

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

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

(3) The court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright or otherwise dealt with as the court may think fit.

2 Edw. 7 c. 15.

6 Edw. 7. c. 36.

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

Appeals to
quarter ses-
sions.

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

Extent of
provisions as
to summary
remedies.

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

IMPORTATION OF COPIES.

Importation
of copies.

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

the Customs Consolidation Act, 1876, and that section shall apply accordingly. 39 & 40 Vict.
c. 36.

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

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

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

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

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

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

DELIVERY OF BOOKS TO LIBRARIES.

15. (1) The publisher of every book published in the United Kingdom shall, within one month after the publi- Delivery of
copies to
British Muse-

um and other
libraries.

ation, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.¹

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

British Mu-
seum copies.

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

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

National
Library of
Wales.

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

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceed-

¹—Pursuant to 5 and 6 Geo. V. c. 38, and the Board of Trade regulations passed pursuant thereto, deposit is not required in the British Museum, except on special demand, of commercial printed matter such as advertisements, cards, catalogues, circulars, drawings, formulae, tickets, plans, posters, price lists, prospectuses, sample cards and envelopes.

ing five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

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

Book defined.

SPECIAL PROVISIONS AS TO CERTAIN WORKS.

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

Works of joint authors.

Term of copyright.

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

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

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

Work of joint authorship defined.

Married woman as joint author.

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

Posthumous works.

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

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

Provisions as to Government publications.

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

Provisions as to mechanical instruments.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where

such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

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

When *not* an infringement.

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

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

Provided that—

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

Alterations in or omissions from work.

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

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

Rate of royalties.

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

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

Change in
rate of roy-
alties.

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

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

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

Board of
Trade regula-
tions.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency

of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

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

Modifications
in case of
works pub-
lished before
Act.

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

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

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

Right of me-
chanical re-
production of
assigned
work belongs
to author.

(d) The saving contained in this Act of the rights and interests arising from, or in connexion with, action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether

made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section:

- (e) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed.

Copyright in contrivances previously made.

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

Provided that—

- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright; and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

Provision as to political speeches.

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

Provisions as to photographs.

21. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within

the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

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

Provisions as to designs registrable under 7 Edw. 7. c. 29.

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

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

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

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

Existing works.

Provided that—

(a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the

Existing assignments.

whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either—

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

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

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

(b) where any person has, before the twenty-sixth day of July nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or

with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

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

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

No copy-
right in
work made
before Act.

APPLICATION TO BRITISH POSSESSIONS.

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

Application of
Act to Brit-
ish dominions.

(2) If the Secretary of State certifies by notice published in the London Gazette that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall,

Notice in
London
Gazette.

for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

Legislative
powers of
self-govern-
ing domin-
ions.

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

Self-govern-
ing dominions.

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

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

the parts of His Majesty's dominions to which this Act extends:

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

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

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

Power of Legislatures of British possessions to pass supplemental legislation.

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

Application to protectorates.

PART II.

INTERNATIONAL COPYRIGHT.

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

Power to extend act to foreign works.

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;
- (b) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or

citizens of a foreign country to which the order relates, in like manner as if the authors were British subjects:

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

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

Provided that—

Reciprocal
protection.

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

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

Delivery of
foreign books
not required.

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

Conditions
and formal-
ties.

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

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

- (vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may pro-

vide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886.

49 & 50 Vict.
c. 33.

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

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

Application of
Part II. to
British pos-
sessions.

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

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

PART III.

SUPPLEMENTAL PROVISIONS.

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

Abrogation of
common law
rights.

Provisions as to Orders in Council.

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

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

Saving of university copyright. 15 Geo. 3. c. 53.

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

Saving of compensation to certain libraries.

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

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

Interpretation.

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

“Literary work” includes maps, charts, plans, tables, and compilations;

“Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;

“Artistic work” includes works of painting, drawing, sculpture and artistic craftsmanship, and archi-

tectural works of art and engravings and photographs;

“Works of sculpture” includes casts and models;

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

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

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

“Cinematograph” includes any work produced by any process analogous to cinematography;

“Collective work” means—

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

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

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

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

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

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

“Plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made;

“Lecture” includes address, speech, and sermon;

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

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

Simultaneous
publication.

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

Unpublished
work; resi-
dence in His
Majesty's
dominions.

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

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

Repeal.

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

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

37. (1) This Act may be cited as the Copyright Act, 1911. Short title and commencement.

(2) This Act shall come into operation—

- (a) in the United Kingdom, on the first day of July nineteen hundred and twelve or such earlier date as may be fixed by Order in Council;
- (b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion;
- (c) in the Channel Islands, at such date as may be fixed by the States of those islands respectively;
- (d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

SCHEDULES.

FIRST SCHEDULE.

Section 24.

EXISTING RIGHTS.

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

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

“Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on Copyright defined.

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

publication, includes the right at common law (if any) to restrain publication or other dealing with the work;

Performing
right defined.

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

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Section 36.

Session and Chapter	Short Title	Extent of Repeal
8 Geo. 2. c. 13....	The Engraving Copyright Act, 1734....	The whole Act.
7 Geo. 3. c. 38....	The Engraving Copyright Act, 1767....	The whole Act.
15 Geo. 3. c. 53....	The Copyright Act, 1775.....	The whole Act.
17 Geo. 3. c. 57....	The Prints Copyright Act, 1777.....	The whole Act.
54 Geo. 3. c. 56....	The Sculpture Copyright Act, 1814....	The whole Act.
3 & 4 Will. 4. c. 15.	The Dramatic Copyright Act, 1833....	The whole Act.
5 & 6 Will. 4. c. 65.	The Lectures Copyright Act, 1835....	The whole Act.
6 & 7 Will. 4. c. 59.	The Prints and Engravings Copyright (Ireland) Act, 1836.	The whole Act.
6 & 7 Will. 4. c. 110	The Copyright Act, 1836.....	The whole Act.
5 & 6 Vict. c. 45....	The Copyright Act, 1842.....	The whole Act.
7 & 8 Vict. c. 12....	The International Copyright Act, 1844.	The whole Act.
10 & 11 Vict. c. 95.	The Colonial Copyright Act, 1847.....	The whole Act.
15 & 16 Vict. c. 12.	The International Copyright Act, 1852.	The whole Act.
25 & 26 Vict. c. 68.	The Fine Arts Copyright Act, 1862....	Sections one to six. In section eight the words "and pursuant to any Act for the protection of copyright engravings," and "and in any such Act as aforesaid." Sections nine to twelve.
38 & 39 Vict. c. 12.	The International Copyright Act, 1875.	The whole Act.
39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876..	Section forty-two, from "Books wherein" to "such copyright will expire." Sections forty-four, forty-five and one hundred and fifty-two.
45 & 46 Vict. c. 40.	The Copyright (Musical Compositions) Act, 1882.	The whole Act.
49 & 50 Vict. c. 33.	The International Copyright Act, 1886.	The whole Act.
51 & 52 Vict. c. 17.	The Copyright (Musical Compositions) Act, 1888.	The whole Act.
52 & 53 Vict. c. 42.	The Revenue Act, 1889.....	Section one from "Books first published" to "as provided in that section."
6 Edw. 7. c. 36....	The Musical Copyright Act, 1906.....	In section three the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886."

[From the official edition of the Act printed by Eyre and Spottiswoode for Rowland Bailey, the King's Printer, London. II, 29 pp. sm. 4°.]

ENGLAND.

PREVIOUS COPYRIGHT ACTS NOT REPEALED.

[Repealed matter indicated by italics and brackets.]

THE FINE ARTS COPYRIGHT ACT, 1862.

25 AND 26 VICTORIA, CHAPTER 68.

Act 25 and 26
Vict., c. 68, 1862.

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 their such 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:

[Sections 1-6 are repealed by the Copyright Act, 1911.]

7. No Person shall do or cause to be done any or either of the following Acts; that is to say,

Penalties on
fraudulent pro-
ductions and
sales.

First, no Person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any Painting, Drawing, or Photograph, or the Negative thereof, any Name, Initials, or Monogram:

Secondly, no Person shall fraudulently sell, publish, exhibit, or dispose of, or offer for Sale, Exhibition, or Distribution, any Painting, Drawing, or Photograph, or Negative of a Photograph, having thereon the Name, Initials, or Monogram of a Person who did not execute or make such Work:

Thirdly, no Person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any Copy or colourable Imitation of any Painting, Drawing, or Photograph, or Negative of a Photograph, whether there shall be subsisting Copyright therein or not, as having been made or executed by the Author or Maker of the original Work from which such Copy or Imitation shall have been taken:

Fourthly, where the Author or Maker of any Painting, Drawing, or Photograph, or Negative of a Photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the Possession of such Work, if any Alteration shall afterwards be made therein by any other Person, by Addition or otherwise, no Person shall be at liberty during the life of the Author or Maker of such Work, without his Consent, to make or knowingly to sell or publish, or offer for Sale, such Work or any Copies of such Work so altered as aforesaid, or of any Part thereof, as or for the unaltered Work of such Author or Maker:

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 Offense may have been committed.

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 herein-before [*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, either by Action against the Party offending, or by summary Proceeding before any two Justices having jurisdiction where the Party offending resides:

Penalties.

Recovery of pecuniary penalties.

Words in brackets and italics repealed by Copyright Act, 1911.

In Scotland by Action before the Court of Session in ordinary Form, or by summary Action before the Sheriff of the County where the Offense may be committed or the Offender resides, * * * and any Judgment so to be pronounced by the Sheriff in such summary Application shall be final and conclusive, and not subject to Review by [*Advocation*,] Suspension, Reduction, or otherwise.

[*Secs. 9-12 repealed by the Copyright Act, 1911.*]

[From "The Statutes of the United Kingdom of Great Britain and Ireland." Vol. 25, 4°. By G: Kettlby Rickards. London, G: E: Eyre and W: Spottiswoode, 1862, pp. 750-752.]

THE CUSTOMS CONSOLIDATION ACT, 1876.

29 AND 40 VICTORIA, CHAPTER 36.

Act 39 and 40
Vict., c. 36, 1876.

AN ACT to consolidate the Customs Laws. [24th July 1876.]

* * * * *

Prohibitions
and restric-
tions.

AS TO THE IMPORTATION, PROHIBITION, ENTRY, EXAMINATION,
LANDING, AND WAREHOUSING OF GOODS.

* * * * *

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

A TABLE OF PROHIBITIONS AND RESTRICTIONS INWARDS.

Goods prohibited to be imported.

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

* * * * *

Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engravings, or any other indecent or obscene articles.

[Secs. 44 and 45 are repealed by the Copyright Act, 1911.]

* * * * *

151. The Customs Acts shall extend to and be of full force and effect in the several British possessions abroad, except where otherwise expressly provided for by the said Acts, or limited by express reference to the United Kingdom or the Channel Islands, and except also as to any such possession as shall by local Act or ordinance have provided, or may hereafter, with the sanction and approbation of Her Majesty and her successors, make entire provision for the management and regulation of the Customs of any such possession, or make in like manner express provisions in lieu or variation of any of the clauses of the said Act for the purposes of such possession.

Customs acts to extend to British possessions abroad, except where otherwise provided for.

[Sec. 152 repealed by the Copyright Act, 1911.]

[From "The Law Reports. The Public General Statutes, 1876." Vol. 11, 8°. London, William Clowes and Sons, 1876, pp. 171, 181-182, 210.]

THE MUSICAL (SUMMARY PROCEEDINGS) COPYRIGHT ACT, 1902.

2 EDWARD VII., CHAPTER 15.

AN ACT to amend the Law relating to Musical Copyright. [22nd July, 1902.] Act 2 Edw. 7, c. 15, 1902.

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

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

Seizure, &c., of pirated copies.

Power to seize
copies on
hawkers.

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

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

Definitions.

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

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

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

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

Short title and
commencement.

4. This Act may be cited as The Musical (Summary Proceedings) Copyright Act, 1902, and shall come into operation on the first day of October, one thousand nine hundred and two, and shall apply only to the United Kingdom.

[From "The Law Reports. The Public General Statutes, 1902." Vol. 40, 8°. London, William Clowes & Sons, Ltd., 1903, p. 18.]

THE MUSICAL COPYRIGHT ACT, 1906.

6 EDWARD VII., CHAPTER 36.

AN ACT to amend the law relating to Musical Copyright. [4th August, 1906.] Act 6 Edw. 7.
c. 36, 1906.

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

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

Penalty for being in possession of pirated music.

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

Constable may take into custody without warrant.

(3) A copy of every written authority addressed to a chief officer of police under this section shall be open to

inspection at all reasonable hours by any person without payment of any fee, and any person may take copies of or make extracts from any such authority.

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

38 and 39
Vict. c. 62.

Right of entry
by police for
execution of
act.

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

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

3. In this Act—

Definitions :
"Pirated
copies."

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

"Musical
work."

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

Words in
brackets and
italics repealed
by copyright
act, 1911.

"Plates."

The expression "plates" includes any stereotype or other plates, stones, matrices, transfers, or negatives used or intended to be used for printing or reproducing copies of any musical work: Provided that the expressions "pirated copies" and "plates" shall not, for the

purposes of this Act, be deemed to include perforated music rolls used for playing mechanical instruments, or records used for the reproduction of sound waves, or the matrices or other appliances by which such rolls or records respectively are made:

The expression "chief officer of police"—

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

"Chief officer of police."

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

53 and 54
Vict., c. 45.

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

53 and 54
Vict., c. 67.

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

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

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

"Court of summary jurisdiction."

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

Short title.

[From "The Law Reports. The Public General Statutes, 1906." Vol. 44, 8°. London, Rowland Bailey, 1906, pp. 98-100.]

EXCERPT FROM ENGLISH STAGE LICENSING LAW

ACT OF REGULATING THEATRES.

(6 & 7 Vict. Chap. LXVIII) (22d August, 1843)

XII. And be it enacted, That One Copy of every new Stage Play, and of every new Act, Scene or any other Part added to any old Stage Play and of every new Prologue or Epilogue and of every new Part added to an old Prologue or Epilogue intended to be produced and acted for Hire at any Theatre in Great Britain, shall be sent to the Lord Chamberlain of Her Majesty's Household, for the Time being, Seven Days at least before the first acting or presenting thereof, with an Account of the Theatre where and the Time when the same is intended to be first acted or presented, signed by the Master or Manager or One of the Masters or Managers, of such Theatre; and during the said Seven Days no Person shall for Hire act or present the same, or cause the same to be acted or presented; and in case the Lord Chamberlain either before or after the Expiration of the said Period of Seven Days, shall disallow any Play or any Act, Scene or Part thereof, or any Prologue or Epilogue, or any Part thereof it shall not be lawful for any person to act or present the same or cause the same to be acted or presented, contrary to such Disallowance.

XIII. And be it enacted, That it shall be lawful for the Lord Chamberlain to charge such Fees for the Examination of the Plays, Prologues, and Epilogues or Parts thereof which shall be sent to him for Examination, as to him from Time to Time shall seem fit, according to a Scale which shall be fixed by him, such Fee not being in any Case more than Two Guineas and such fees shall be paid at the Time when such Play, Prologues and Epilogues or Parts thereof, shall be sent to the Lord Chamberlain; and the said Period of Seven Days shall not begin to run in any Case until the said Fee shall have been paid to the Lord Chamberlain, or to some officer, deputed by him to receive the same.

ORDER IN COUNCIL RESPECTING BRITISH
COPYRIGHT IN WORKS BELONGING TO
CITIZENS OF THE UNITED STATES

GREAT BRITAIN.

COPYRIGHT ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 3rd day of February, 1915.

PRESENT,

The King's Most Excellent Majesty

Lord President
Viscount Knollys
Lord Chamberlain

Mr. Secretary Harcourt
Mr. Arthur Henderson
Sir William Macgregor

Lord Justice Bankes.

Whereas by a Proclamation of the President of the United States of America, dated the 9th April, 1910, the benefits of the United States Act of 1909, entitled "An Act to Amend and Consolidate the Acts respecting Copyright," were extended to the subjects of Great Britain and her possessions, but no provision was made therein for the protection of the musical works of British subjects against reproduction by means of mechanical contrivances:

And whereas His Majesty is advised that the Government of the United States of America has undertaken, upon the issue of this Order, to grant such protection to the musical works of British subjects:

And whereas by reason of these premises His Majesty is satisfied that the Government of the United States of America has made, or has undertaken to make, such provisions as it is expedient to require for the protection of works entitled to copyright under the provisions of Part I of the Copyright Act, 1911:

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

And whereas it is desirable to provide protection within the said dominions for the unpublished works of citizens of the United States of America:

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

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

(a) to literary, dramatic, musical and artistic works the authors whereof were at the time of the making of the works Citizens of the United States of America, in like manner as if the authors had been British Subjects:

(b) in respect of residence in the United States of America, in like manner as if such residence had been residence in the parts of His Majesty's dominions to which the said Act extends.

Provided that—

(i) The term of copyright within the parts of His Majesty's dominions to which this order applies shall not exceed that conferred by the law of the United States of America:

(ii) the enjoyment of the rights conferred by this Order shall be subject to the accomplishment of the conditions and formalities prescribed by the law of the United States of America:

(iii) in the application to existing works of the provisions of Section 24 of the Copyright Act, 1911, the commencement of this Order shall be substituted for the 26th July, 1910, in subsection 1 (b).

2. This Order shall apply to all His Majesty's Dominions, Colonies and Possessions, with the exception of those hereinafter named, that is to say:—

The Dominion of Canada.

The Commonwealth of Australia.

The Dominion of New Zealand.

The Union of South Africa.

Newfoundland.

3. This Order shall come into operation on the 1st day of January, 1915, which day is in this Order referred to as the commencement of this Order.

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

ALMERIC FITZROY.

RULES AND ORDERS, ETC., MADE UNDER THE BRITISH COPYRIGHT ACT

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

The Board of Trade, in pursuance of the powers conferred by section 3 of the Copyright Act, 1911, hereby makes the following regulations:—

PRELIMINARY.

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

NOTICE.

(2) The notice required by section 3 of the Copyright Act, 1911, shall contain the following particulars:—

- (a) The name and address of the person intending to reproduce the work;
- (b) The name of the work which it is intended to reproduce and (if necessary) a description sufficient to identify it;
- (c) The manner in which it is intended to reproduce the work (*e. g.*, whether by printing, lithography, photography, &c.);
- (d) The price or prices at which it is intended to publish the work;
- (e) The earliest date at which any of the copies will be delivered to a purchaser.

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

- (a) If the name and an address within the United Kingdom of the owner of the copyright, or his agent for the receipt of notice, are known or can with reasonable diligence be ascertained, the notice shall be sent to such owner or agent at such address;
- (b) If such name and address are not known and cannot with reasonable diligence be ascertained, the notice shall be advertised in the *London Gazette*; the advertisement in the *London Gazette* shall give the particulars required by paragraphs (a) and (b) of Regulation (2), and shall also state an address from which a copy of the notice described in Regulation (2) may be obtained.

PAYMENT OF ROYALTIES.

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

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

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

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

- (i) after the expiration of 14 days from the date of the prescribed notice the owner of the copyright has not duly sent to the person reproducing the work an intimation of some reasonably convenient place within the United Kingdom from which such labels can be obtained; or
- (ii) the owner of the copyright refuses or neglects to supply such labels within 14 days after demand duly made, copies of the work may be delivered to purchasers without having labels affixed thereto; and the amount of royalties shall be a debt due from the person reproducing the work to the owner of the copyright, and the person reproducing the work shall keep an account of all such copies sold by him.

(c) For the purposes of this Regulation, “the date of the prescribed notice” means—

- (i) in cases when the notice is required to be sent by registered post, the date when the notice would in ordinary course of post be delivered;
- (ii) in cases when the notice is required to be advertised in the *London Gazette*, the date of such advertisement.

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

(e) The adhesive label supplied as aforesaid shall be an adhesive paper label, square in shape, the design to be entirely enclosed within

a circle and the side of the label not to be greater than $\frac{3}{4}$ inch in length. The label shall not bear the effigy of the Sovereign or any other person, nor any word, mark or design such as to suggest that the label is issued by or under the authority of the Government for the purpose of denoting any duty payable to the Government.

INTERPRETATION.

(6) In these Regulations the expression "owner of the copyright" has the same meaning as in section 3 of the Copyright Act, 1911.

Dated this 7th day of June, 1912.

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

**THE COPYRIGHT ROYALTY SYSTEM (MECHANICAL
MUSICAL INSTRUMENTS) REGULATIONS, 1912.**

Dated June 7, 1912.

The Board of Trade, in pursuance of the powers conferred by section 19 (6) of the Copyright Act, 1911, hereby make the following regulations:—

PRELIMINARY.

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

NOTICE.

(2) The notice required by section 19 (2) of the Copyright Act, 1911, shall contain the following particulars:—

- (a) The name and address of the person intending to make the contrivances;
- (b) The name of the musical work which it is intended to reproduce and of the author (if known); and (if necessary) a description sufficient to identify the musical work;
- (c) The class of contrivance on which it is intended to reproduce the musical work (*e. g.*, whether discs, cylinders or music rolls);
- (d) The ordinary retail selling prices of the contrivances, and the amount of the royalty payable on such contrivance in respect of the musical work;
- (e) The earliest date at which any of the contrivances will be delivered to a purchaser;

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

(3) The notice shall, not less than 10 days before any contrivances on which the musical work is reproduced are delivered to a purchaser, be sent by registered post or published by advertisement as follows:—

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

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

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

PAYMENT OF ROYALTIES.

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

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

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

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

(i) After the expiration of five days from the date of the prescribed notice of the intention of the person making the contrivance

to make or sell such contrivances the owner of the copyright has not duly sent to the person making the contrivances an intimation of some reasonably convenient place within the United Kingdom from which such labels can be obtained; or

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

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

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

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

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

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

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

(f) The adhesive label supplied as aforesaid shall be an adhesive paper label, square in shape, the design to be entirely enclosed within a circle and the size of the label not to be greater than $\frac{3}{4}$ inch in length. This label shall not bear the effigy of the Sovereign or any other person, nor any word, mark, or design such as to suggest that the label is issued by or under the authority of the Government for the purpose of denoting any duty payable to the Government.

ORDINARY RETAIL SELLING PRICE.

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

INQUIRIES.

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

- (a) a statement of the name of the musical work in respect of which the inquiries are made and of the author (if known), and (if necessary) a description sufficient to identify it;
- (b) a statement of the name, address and occupation of the person making the inquiries;
- (c) an allegation that a contrivance has previously been made by means of which the musical work may be mechanically performed, with the trade name (if known) and a description of such contrivance;
- (d) an inquiry whether the contrivance so described was made with the consent or acquiescence of the owner of the copyright.

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

- (a) if an address within the United Kingdom of the owner of the copyright is known or can with reasonable diligence be ascertained, the inquiries shall be sent to such address; or
- (b) if such address is not known and cannot with reasonable diligence be ascertained, the inquiries shall be advertised in the *London Gazette*.

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

- (a) In cases where the inquiries are required to be sent by registered post 7 days after the date when the inquiries would in ordinary course of post be delivered;
- (b) in cases where the inquiries are required to be advertised in the *London Gazette* 7 days after the date of such advertisement.

INTERPRETATION.

(9) In these Regulations the expression "owner of the copyright" has the same meaning as in section 19 (2) of the Copyright Act, 1911.

Dated this 7th day of June, 1912.

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

THE DESIGNS RULES, 1912. DATED JUNE 26, 1912.

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

PRELIMINARY.

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

DESIGNS EXCLUDED FROM PROTECTION UNDER COPYRIGHT ACT, 1911.

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

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

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

Dated this 26th day of June, 1912.

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

REGULATIONS DATED JUNE 19, 1912, MADE BY THE COMMISSIONERS OF CUSTOMS AND EXCISE UNDER SECTION 14 OF THE COPYRIGHT ACT, 1911 (1 & 2 GEO. 5, c. 46) AS TO THE DETENTION AND FORFEITURE OF COPIES INFRINGING COPYRIGHT.

The Commissioners of Customs and Excise in pursuance of the powers vested in them by section fourteen of the Copyright Act, 1911, hereby prescribe the following Regulations which are to be observed on and after the first day of July, nineteen hundred and twelve.

1. The notice in writing to be given to the Commissioners of Customs and Excise (hereinafter referred to as the said Commissioners) under section fourteen of the Copyright Act, 1911, by the owner of the copyright in any book or other printed work in which copyright subsists under the said Act, or his agent who is desirous that copies thereof printed or reprinted out of the United Kingdom shall not be imported

into the United Kingdom shall be in the Form No. 1 in the Schedule hereto or as near thereto as circumstances permit.

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

3. The notice in writing to be given to the said Commissioners under section fourteen of the Copyright Act, 1911, by the owner of the copyright in any work (other than a book or other printed work) in which copyright subsists under the said Act or his agent who is desirous that copies thereof made out of the United Kingdom shall not be imported into the United Kingdom may be either a general notice in the Form No. 2, in the Schedule hereto or as near thereto as circumstances permit or a special notice in the Form No. 3, in the same schedule relating to a particular importation.

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

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

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

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

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

9. In these Regulations—

“Owner of the copyright” has the same meaning as in section fourteen of the Copyright Act, 1911.

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

Dated this 19th day of June, 1912.

Signed by Order of the Commissioners of Customs and Excise.

J. P. BYRNE,

E. C. CUNNINGHAM,

Secretaries.

THE SCHEDULE.

FORM No. 1.

NOTICE.

Relating to Copyright Books and other printed works.

To the Commissioners of Customs and Excise:

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

Dated this day of, 19....

(Signature)

(4)

SCHEDULE.

Title of Book (5).

Description of printed work, if not a book.

Full name of Author or Authors.

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

When and where (6) book or printed work first published.

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

- 1—or works.
 2—If notice is given by the owner insert "I am"; if given by an agent insert name of owner and the word "is."
 3—"I am" or "he is."
 4—If an agent insert "Agent of owner."
 5—The notice may apply to a number of books or printed works, in which case the particulars in the Schedule must be given as respects each book or printed work.
 6—It is sufficient to state the *country* of first publication.

FORM NO. 2.

NOTICE.

Relating to Copyright Works, other than Books or other printed Works.

To the Commissioners of Customs and Excise:

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

Dated this day of, 19....

(Signature)

(c)

SCHEDULE.

Title of Work (if any).

Full description of Work.

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

Full name of Author or Authors.

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

When and where (d) work first published.

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

If work not published:

Whether Author British subject or not.

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

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

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

(b)—"I am" or "he is."

(c)—If an agent, insert "Agent of owner."

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

FORM NO. 3.

NOTICE.

Relating to a particular importation.

To the Commissioners of Customs and Excise:

I,, of, hereby give you notice that I am the owner (a) of the copyright in a certain original work as to which copyright now subsists under the Copyright Act, 1911, and

that the undermentioned goods, that is to say, (b) are about to be imported into the (c) Port of on or about the day of next in the (d) from

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

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

Dated this day of, 19....

(Signature).....

(f).....

(a)—or agent for the owner.

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

(c)—or Sub-Port.

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

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

(f)—If an agent, insert "Agent of owner."

FORM NO. 4.

STATUTORY DECLARATION.

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

Declared by the above-named, at, this day of, 19...., before me, a Commissioner for Oaths.

CANADIAN COPYRIGHT LAW
EXCERPT FROM CIRCULAR NO. 4A.
—OF THE—
CANADIAN DEPARTMENT OF AGRICULTURE.
Copyright and Trade Mark Branch.

“Canadian Copyright of a work will be registered in favor of a citizen of the United States upon the applicant showing that he has subsisting British copyright of such work and otherwise complying with the requirements of the Act, Rules and Forms.”

CANADIAN COPYRIGHT ACT

(R. S. 1906, Ch. 70, as amended.)

SHORT TITLE.

1. This Act may be cited as the Copyright Act. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires— Definitions.
- (a) "Minister" means the Minister of Agriculture;
 - (b) "Department" means the Department of Agriculture;
 - (c) "legal representatives" includes heirs, executors, administrators and assigns, or other legal representatives.

PART I.

REGISTERS OF COPYRIGHTS.

3. The Minister shall cause to be kept, at the Department, 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. Minister shall cause to be kept.

SUBJECTS AND CONDITIONS OF COPYRIGHTS.

4. Any person domiciled in Canada or in any part of the British possessions, or any citizen of any country which has 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, cut, or engraving, and the legal representatives of such person or citizen, shall for the term of twenty-eight years, from the time of recording the copyright thereof in the manner hereinafter directed, have the sole and exclusive right and liberty of printing, reprinting, publishing, reproducing and vending such Who may have copyright.

For twenty-eight years.

- Translations. literary, scientific or artistic work or composition, in whole or in part, and of allowing translations of such work from one language into other languages to be printed or reprinted and sold.
- Duration. 5. In no case shall the said sole and exclusive right and liberty in Canada continue to exist after it has expired elsewhere.
- Conditions for obtaining copyright. 6. The condition for obtaining such copyright shall be that the said literary, scientific or artistic works shall be printed and published or reprinted and republished in Canada, or in the case of works of art that they shall be produced or reproduced in Canada, whether they are so published or produced for the first time, or contemporaneously with or subsequently to publication or production elsewhere.
- Exception as to immoral works. 7. No literary, scientific or artistic work which is immoral, licentious, irreligious, or treasonable or seditious, shall be the legitimate subject of such registration or copyright.
- Copyright in Canada of British copyright works. 8. Every work 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 Act of the Parliament of Canada, or of the Legislature of the late province of Canada, or of the legislature of any of the provinces forming part of Canada, shall, when printed and published, or reprinted and republished in Canada, be entitled to copyright under this Act; but nothing in this Act shall, except as hereinafter provided, be held to prohibit the importation from the United Kingdom of copies of any such work lawfully printed there.
- Importation. 2. If any such copyright work is reprinted subsequently to its publication in the United Kingdom, any person who has, previously to the date of entry of such work upon the Registers of Copyright, imported any foreign reprints, may dispose of such reprints by sale or otherwise; but the burden of proof of establishing the extent and regularity of the transaction shall in such case be upon such person.
- Foreign reprints imported may be sold.
- Burden of proof. 9. Any 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 registered under this Act while it is so preliminarily published, if the title of the manuscript and a short analysis of the work are
- Registration of work first published in separate articles in periodical.

deposited at the Department, and if every separate article so published is preceded by the words, *Registered in accordance with the Copyright Act*: Provided that the work, when published in book or pamphlet form, shall be subject, also, to the other requirements of this Act.

10. If a book is published anonymously, it shall be sufficient to enter it in the name of the first publisher thereof, either on behalf of the un-named author or on behalf of such first publisher, as the case may be.

Books published anonymously.

11. No person shall be entitled to the benefit of this Act unless he has deposited at the Department three copies of the book, map, chart, musical composition, photograph, print, cut, or engraving, and in the case of paintings, drawings, statuary and sculpture, unless he has furnished a written description of such works of art; and the Minister 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 him, or prescribed by the rules and forms made, from time to time, as herein provided.

Deposit of copies in Department.

Record of copyright.

12. The Minister shall cause one of such three copies of such book, map, chart, musical composition, photograph, print, cut, or engraving, to be deposited in the Library of the Parliament of Canada and one in the British Museum.

One copy to Library of Parliament and British Museum.

13. It shall not be requisite to deliver any printed copy of the second or of any subsequent edition of any book unless the same contains very important alterations or additions.

As to second and subsequent editions.

14. No person shall be entitled to the benefit of this Act unless he gives information of the copyright being secured,—

Notice of copyright to appear on work.

(a) if the work is a book, by causing to be inserted in the several copies of every edition published during the term secured, on the title page, or on the page immediately following; or,

(b) if the work is a map, chart, musical composition, print, cut, engraving or photograph, by causing to be impressed on the face thereof; or,

(c) if the work is a volume of maps, charts, music, engravings or photographs, by causing to be impressed upon the title page or frontispiece thereof;

the words, "Copyright, Canada, 190 , by A. B."

Form.

- Exception.** 2. As regards paintings, drawings, statuary and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship.
- Interim copyright, how obtainable.** 15. The author of any literary, scientific or artistic work, or his legal representatives, may, pending the publication or republication thereof in Canada, obtain an interim copyright therefor by depositing at the Department a copy of the title or a designation of such work, intended for publication or republication in Canada.
- Registration.** 2. Such title or designation shall be registered in an interim copyright register at the Department to secure to such author aforesaid or his legal representatives, the exclusive rights recognized by this Act, previous to publication or republication in Canada.
- Duration.** 3. Such interim registration shall not 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.
- Notice.** 4. In every case of interim registration under this Act, the author or his legal representatives shall cause notice of such registration to be inserted once in the *Canada Gazette*.
- Application for registration.** 16. The application for the registration of a copyright, or of a temporary or of an interim copyright may be made in the name of the author or of his legal representatives, by any person purporting to be agent of such author or legal representatives.
- Unauthorized assumption of agency.** 2. Any damage caused by a fraudulent or an erroneous assumption of such authority shall be recoverable in any court of competent jurisdiction.

ASSIGNMENTS AND RENEWALS.

- Copyright and right to obtain it assignable.** 17. 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 which shall be registered at the Department on production of both duplicates and payment of the fee hereinafter mentioned.
- In duplicate.**
- Duplicates disposal of.** 2. One of the duplicates shall be retained at the Department and the other shall be returned, with a certificate of registration, to the person depositing it.

18. 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, and such purchaser may avail himself of such privilege, unless a reserve of the privilege is specially made by the author or artist in a deed duly executed.

Copyright to assignee of author.

19. If, at the expiration of the said term of twenty-eight years, the author, or any of the authors when the work has been originally composed and made by more than one person, is still living, or if such author is dead and has left a widow or a child, or children living, the same sole and exclusive right and liberty shall be continued to such author, or to such authors still living, 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 such term of twenty-eight years, the title of the work secured shall be a second time registered, 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 term.

Title to be again registered.

20. 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 notice of the registration thereof to be published once in the *Canada Gazette*.

Notice of renewal to be published.

CONFLICTING CLAIMS TO COPYRIGHT.

21. In case of any person making application to register as his own, the copyright of a literary, scientific or artistic work already registered in the name of another person, or in case of simultaneous conflicting applications, or of an application made by any person other than the person entered as proprietor of a registered copyright, to cancel the said copyright, the person so applying shall be notified by the Minister that the question is one for the decision of a court of competent jurisdiction, and no further proceedings shall be had or taken by the Minister concerning the application until a judgment is produced maintaining, cancelling or otherwise deciding the matter.

How determined.

Court.

Duty of
Minister.

2. Such registration, cancellation or adjustment of the said right shall then be made by the Minister in accordance with such decision.

Exchequer
Court.

3. The Exchequer Court of Canada shall be a competent court within the meaning of this Act, and shall have jurisdiction to adjudicate upon any question arising under this section, upon information in the name of the Attorney General of Canada, or at the suit of any person interested.

UNAUTHORIZED PUBLICATION OF MANUSCRIPT.

Printing of
manuscript
without
authority.

22. Every person who, without the consent of the author or lawful proprietor thereof first obtained, prints or publishes or causes to be printed or published, any manuscript not previously printed in Canada or elsewhere, shall be liable to the author or proprietor for all damages occasioned by such publication, and the same shall be recoverable in any court of competent jurisdiction.

Damages.

LICENSES TO RE-PUBLISH.

Copyrighted
work out of
print.

23. If a work copyrighted in Canada becomes out of print, a complaint may be lodged by any person with the Minister, who, on the fact being ascertained to his satisfaction, shall notify the owner of the copyright of the complainant and of the fact; and if, within a reasonable time, no remedy is applied by such owner, the Minister 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 owner of the copyright.

License.

FEES.

Registration
fees.

24. The following fees shall be paid to the Minister before an application for any of the following purposes is received, that is to say:—

Registering a copyright.....	\$1.00
Registering an interim copyright.....	0.50
Registering a temporary copyright.....	0.50
Registering an assignment.....	1.00
Certified copy of registration.....	0.50
Registering any decision of a court of justice, for every folio.....	0.50

For office
copies.

For office copies of documents not above mentioned, the following charges shall be made:—

Every single or first folio of one hundred words, certified copy.....\$0.50

Every such subsequent folio (fractions of or under one-half not being counted, and of one-half or more being counted)..... 0.25

2. The said fees shall be in full of all services performed under this Act by the Minister or by any person employed by him. Fees in full of all services.

3. All fees received under this Act shall be paid over to the Minister of Finance and shall form part of the Consolidated Revenue Fund of Canada. Application.

4. No person shall be exempt from the payment of any fee or charge payable in respect of any services performed under this Act for such person, and no fee paid shall be returned to the person who paid it. No exemption from payment of fees.

RIGHT TO REPRESENT SCENE OR OBJECT.

25. 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. Saved.

FOREIGN NEWSPAPERS AND MAGAZINES.

26. Newspapers and magazines published in foreign countries, and which contain together with foreign original matter, portions of British copyright works republished with the consent of the author or his legal representatives, or under the law of the country where such copyright exists, may be imported into Canada. May be imported.

CLERICAL ERRORS NOT TO INVALIDATE.

27. Clerical errors which occur in the framing or copying of any instrument drawn by any officer or employee in or of the Department, shall not be construed as invalidating such instrument, but when discovered they may be corrected under the authority of the Minister. Corrected by Minister.

IMPORTATION.

28. If a book as to which there is subsisting copyright under this Act has been first lawfully published in any part of His Majesty's dominions, other than Canada, and If copyright owner licenses reproduction in Canada.

Minister may prohibit importation.

Proviso.

Suspension or revocation of prohibition.

Licensee if required to furnish copy of any edition.

if it is proved, to the satisfaction of the Minister that the owner of the copyright so subsisting and of the copyright acquired by such publication has lawfully granted a license to reproduce in Canada, from movable or other types, or from stereotype plates, or from electroplates, or from lithograph stones, or by any process for facsimile reproduction, an edition or editions of such book designed for sale only in Canada, the Minister may, notwithstanding anything in this Act, by order under his hand, prohibit the importation into Canada, except with the written consent of the licensee, or any copies of such book printed elsewhere: Provided that two such copies may be especially imported for the *bona fide* use of any public free library or any university or college library, or for the library of any duly incorporated institution or society for the use of the members of such institution or society.

29. The Minister may at any time in like manner, by order under his hand, suspend or revoke such prohibition upon importation if it is proved to his satisfaction that,—

- (a) the license to reproduce in Canada has terminated or expired; or,
- (b) the reasonable demand for the book in Canada is not sufficiently met without importation; or,
- (c) the book is not, having regard to the demand therefor in Canada, being suitably printed or published; or,
- (d) any other state of things exists on account of which it is not in the public interest to further prohibit importation.

30. At any time after the importation of a book has been so prohibited, any person resident or being in Canada may apply, either directly or through a book-seller or other agent, to the person so licensed to reproduce such book, for a copy of any edition of such book then on sale and reasonably obtainable in the United Kingdom or any other part of His Majesty's dominions, and it shall thereupon be the duty of the person so licensed, as soon as reasonably may be, to import and sell such copy to the person so applying therefor, at the ordinary selling price of such copy in the United Kingdom, or such other part of His Majesty's dominions, with the duty and reasonable forwarding charges added.

2. The failure or neglect, without lawful excuse, of the person so licensed to supply such copy within a reasonable time shall be a reason for which the Minister may, if he sees fit, suspend or revoke the prohibition upon importation.

Otherwise prohibition may be revoked.

31. The Minister shall forthwith inform the Department of Customs of any order made by him under this Act.

Prohibition to be notified to Customs.

EVIDENCE.

32. All copies or extracts certified from the Department shall be received in evidence without further proof and without production of the originals.

Certified copies.

33. All documents, executed and accepted by the Minister shall be held valid, so far as relates to official proceedings under this Act.

Validity of documents.

RULES AND REGULATIONS.

34. The Minister may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms as appear to him necessary and expedient for the purposes of this Act; and such regulations and forms, circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act.

Minister to make rules and forms.

OFFENCES AND PENALTIES.

35. Every person who wilfully makes or causes to be made any false entry in any of the registry books, hereinbefore mentioned, or who wilfully produces or causes to be tendered in evidence, any paper which falsely purports to be a copy of an entry in any of the said books, is guilty of an indictable offence, and shall be punished accordingly.

Making false entries.

Indictable offense.

36. Every person who fraudulently assumes authority to act as agent of the author, or of his legal representative, for the registration of a copyright, or of a temporary or of an interim copyright, is guilty of an indictable offence and shall be punished accordingly.

Fraudulent assumption of authority.

Indictable offense.

37. Every person who,—

(a) after the interim registration of the title of any book according to this Act, and within the term herein limited, or after the copyright is secured and during the term or terms of its duration,

Infringement of copyright of a book.

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 having first obtained the right so to do by assignment from the person lawfully entitled to the copyright thereof; or,

(b) 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;

Forfeiture.

shall forfeit every copy of such book to the person then lawfully entitled to the copyright thereof; and shall forfeit and pay for every such copy which is found in his possession, either printed or being printed, published, imported or exposed for sale, contrary to the provisions of this Act, such sum, not exceeding one dollar, and not less than ten cents, as the court determines, which forfeiture shall be enforceable or recoverable in any court of competent jurisdiction.

Recovery.

Application.

2. A moiety of such sum shall belong to His Majesty for the public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright.

**Infringement
of copyright
of painting,
etc.**

38. Every person who, after the registering of any painting, drawing, statue or other work of art, and 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, any copy of any such work of art, without the consent of the proprietor shall forfeit the plate or plates on which such reproduction has been made, and every sheet thereof so reproduced to the proprietor of the copyright thereof; and shall also forfeit for every sheet of such reproduction published or exposed for sale, contrary to this Act, such sum, not exceeding one dollar and not less than ten cents, as the court determines, which forfeiture shall be enforceable or recoverable in any court of competent jurisdiction.

Forfeiture.

Application.

2. A moiety of such sum shall belong to His Majesty for the public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright.

39. Every person who, without the consent of the proprietor of the copyright first obtained—

(a) after the registering of any print, cut or engraving,

map, chart, musical composition or photograph, according to the provisions of this Act, and 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 any such print, cut or engraving, map, chart, musical composition or photograph, or any part thereof, either as a whole or by varying, adding to or diminishing the main design with intent to evade the law; or,

Infringement
of copyright
of print,
chart, music,
etc.

(b) prints or reprints or imports for sale, or causes to be so printed or reprinted or imported for sale, any such map, chart, musical composition, print, cut or engraving, or any part thereof; or,

(c) knowing the same to be so reprinted, 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;

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 of the copyright thereof; and shall also forfeit, for every sheet of such map, musical composition, print, cut or engraving found in his possession, printed or published or exposed for sale, contrary to this Act, such sum, not exceeding one dollar and not less than ten cents, as the court determines, which forfeiture shall be enforceable or recoverable in any court of competent jurisdiction.

Forfeiture.

Recovery.

2. A moiety of such sum shall belong to His Majesty for the public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright.

Application.

40. Every person who has not lawfully acquired the copyright of a literary, scientific or artistic work, and who inserts in any copy thereof printed, produced, reproduced or imported, or who impresses on any such copy, that the same has been entered according to this Act, or words purporting to assert the existence of a Canadian copyright in relation thereto, shall incur a penalty not exceeding three hundred dollars.

Falsely pre-
tending to
have copy-
right.

Penalty.

Registering
interim copy-
right without
publishing.
Penalty.

41. Every person who causes any work to be registered in the register of interim copyright and fails to print and publish, or reprint and republish the same within the time prescribed shall incur a penalty not exceeding one hundred dollars.

Procedure.

42. Every penalty incurred under either of the last two preceding sections shall be recoverable in any court of competent jurisdiction.

Application.

2. A moiety of any such penalty shall belong to His Majesty for the public uses of Canada, and the other moiety shall belong to the person who sues for the same.

Unlawful
importation
of books.

43. All books imported in contravention of any order, prohibiting such importation, made under the hand of the Minister, by the authority of this Act, may be seized by any officer of Customs, and shall be forfeited to the Crown and destroyed; and any person importing, or causing or permitting the importation of any book in contravention of such order shall, for each offence, be liable, upon summary conviction, to a penalty not exceeding one hundred dollars.

Limitation
of actions.

44. No action or prosecution for the recovery of any penalty under this Act, shall be commenced more than two years after the cause of action arises.

PART II.

APPLICATION.

When to come
into force.

45. This Part shall come into force on a day to be named by proclamation of the Governor General.

Works
excepted.

46. Nothing in this Part contained shall be deemed to—
(a) prohibit the importation from the United Kingdom of copies of works of which the copyright is there existing and which are lawfully printed and published there; or,
(b) except as in this Part otherwise expressly provided, apply to any work for which, before the coming into force of this Part, copyright had been obtained in the United Kingdom, or in any country which has an international copyright treaty with the United Kingdom, in which Canada is included.

2. The law in force at the time at the coming into effect of this Part shall be deemed to continue in force as respects such works. Subject to former law.

REPEAL.

47. Sections four, five, six and eight of Part I, of this Act are repealed. Sections 4, 5, 6 and 8.

SUBJECTS AND CONDITIONS OF COPYRIGHT.

48. Any person domiciled in Canada or in any part of the British possessions, or any citizen of any country which has an international copyright treaty with the United Kingdom, in which Canada is included, who is the author of any book, map, chart or musical or literary 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 or citizen, shall, for the term of twenty-eight years from the time of recording the copyright thereof, have the sole and exclusive right and liberty of printing, reprinting, publishing, reproducing and vending such literary, scientific, musical or artistic work or composition, in whole or in part, and of allowing translations of such literary work, from one language into other languages, to be printed or reprinted and sold in the manner and on the conditions, and subject to the restrictions hereinafter set forth. Who may have copyright.

For twenty-eight years.

Translations.

49. The conditions for obtaining such copyright shall be that the said literary, scientific, musical or artistic work shall, before publication or production elsewhere, be registered in the office of the Minister, by the author or his legal representative, and further that such work shall be printed and published or produced in Canada, or reprinted and republished or reproduced in Canada, within one month after publication or production elsewhere. Conditions for obtaining copyright.

50. In no case shall the sole and exclusive right and privilege in Canada continue to exist after it has expired in the country of origin. Duration.

LICENSES.

51. If any person entitled to copyright of a work under this Act— Minister may grant licenses to print and

publish in
Canada.

(a) neglects or fails to take advantage of its provisions;
or,

(b) having obtained copyright thereunder, at any time after the first publication in Canada of the work for which copyright has been so obtained, fails to print and publish the work in Canada in sufficient numbers and in such manner as to meet the demand in Canada for such work;

the Minister may grant a license or licenses to any person or persons domiciled in Canada to print and publish or to reproduce such work in Canada, but no such license shall convey any exclusive right to print and publish and reproduce any work.

No exclusive
right.

Royalty of
10 p. c.

2. A license shall be granted to any applicant agreeing to pay the author or his legal representatives a royalty of ten per centum on the retail price of each copy or reproduction issued of the work which is the subject of the license, and giving security for such payment to the satisfaction of the Minister.

Governor in
Council may
revoke such
licenses.

52. As to any work for which copyright has been obtained in Canada, the Governor in Council may, upon its being established to his satisfaction that the holder of such copyright is prepared and *bona fide* intends, during the remaining period of his term of copyright, to print and publish such work in Canada in sufficient numbers and in such manner as to supply the demand for such work in Canada, revoke all licenses for the printing and publication of such work then in force.

Saving.

2. Such revocation shall not render unlawful the subsequent sale and disposal in Canada of all or any of the copies of such work then printed under the authority of the license so revoked.

How royalty
collected
and paid.

53. The royalty in this part provided for shall be collected by the officers of the Department of Inland Revenue, and paid over to the persons entitled thereto, under regulations approved by the Governor in Council; but the Government shall not be liable to account for any such royalty not actually collected.

Governor in
Council may
prohibit im-
portation.

54. Whenever, under the foregoing provisions of this Part, a license has been issued permitting the printing and publishing or the producing of any work, and evidence has been adduced to the satisfaction of the Governor in Coun-

cil that such work is in course of being printed and published or produced in such manner as to meet the demand therefor in Canada, the Governor General may, by proclamation published in the *Canada Gazette*, prohibit the importation, while the author's copyright or that of his assigns is in force, or would have been in force had copyright for the work been obtained in Canada under the foregoing provisions of this Part, of any copies or reproductions of the work to which such license relates.

2. If, at any time thereafter, it is made to appear to the Governor in Council that such work is not, under such license, printed and published or produced in such manner as to meet such demand, the Governor General may, by proclamation published as aforesaid, revoke such prohibition. And revoke prohibition.

5 GEO. V CH. 12 SEC. 4.

508a. Any person who, without the written consent of the owner of the copyright or of his legal representative, knowingly performs or causes to be performed in public and for private profit the whole or any part, constituting an infringement, of any dramatic or operatic work or musical composition in which copyright subsists in Canada, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars, or in the case of a second or subsequent offence, either to such fine or to imprisonment for a term not exceeding two months, or to both.

508b. Any person who makes or causes to be made any change in or suppression of the title, or the name of the author, of any dramatic or operatic work or musical composition in which copyright subsists in Canada, or who makes or causes to be made any change in such work or composition itself, without the written consent of the author or of his legal representative, in order that the same may be performed in whole or in part in public for private profit, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred dollars, or in the case of a second or subsequent offence, either to such fine or to imprisonment for a term not exceeding four months, or to both.

RULES AND FORMS OF THE DEPARTMENT OF AGRICULTURE.

UNDER

THE COPYRIGHT ACT.

Approved by the Governor in Council, on the 3rd day of December, 1907.

RULES.

I.

There is no necessity for any personal appearance at the Department of Agriculture, unless specially called for by order of the Minister or the Deputy, every transaction being carried on by writing.

II.

In every case the applicant or depositor of any paper is responsible for the merits of his allegations and for the validity of the instruments furnished by him or his agent.

III.

The correspondence is carried on with the applicant or his agent, but with one person only, and will be conveyed through the Canadian mails free of charge.

IV.

All papers are to be clearly and neatly written on foolscap paper, and every word of them is to be distinctly legible.

All copies of books deposited shall be bound in boards, and all copies of maps and photographs shall be mounted.

V.

An application for registration shall be signed by the applicant or by an agent duly authorized.

A partner may sign for a firm. A director or secretary or other principal officer of a company may sign for the company.

VI.

All communications to be addressed in the following words:—To the Minister of Agriculture, (Trade-Mark and Copyright Branch), Ottawa.

VII.

As regards proceedings not specially provided for in the following forms, any form being conformable to the letter and spirit of the law will be accepted, and if not so conformable will be returned for correction.

VIII.

A copy of the Act and the Rules with a particular section marked, sent to any person making an inquiry, is intended as a respectful answer by the office.

IX.

Information as to subsisting registrations will not be furnished by the office, the registers and indexes being open for inspection free of charge.

FORMS

FORM A.

DOMINION OF CANADA.

The Copyright Act.

Application for registration of Copyright. (Except copyright of Original Artistic Work.)

(By the Proprietor.)

I, of the
of in the of
hereby declare that I am lawfully entitled to the Copyright of the (1)
.....entitled “.....” and that
the said (1) has been printed in Canada; and I
heraby request you to register the Copyright of the said (1)
..... in my name in accordance with the provisions of the Copy-
right Act.

I herewith forward three copies of the said (1)

Signed at the day of
....., 19...., in the presence of the two undersigned witnesses.

Witnesses:

..... }
..... }
..... }

To the Minister of Agriculture,
Ottawa.

1.—Book, map, chart, musical composition, photograph, print, cut or engraving.

FORM A1.

DOMINION OF CANADA

The Copyright Act.

Application for registration of Copyright. (Except Copyright of original artistic work.)

(By the Agent of the Proprietor)

I, of the
of in the of
hereby declare that I am the duly authorized agent of
of the of in the
..... of
that the said is lawfully entitled to the Copyright of
the (1) entitled "....." and that
the said (1) has been printed in Canada and I
hereby request you to register the Copyright of the said (1).....
..... in the name of the said in
accordance with the provisions of the Copyright Act.

I herewith forward three copies of the said (1)

Signed at the day of
....., 19...., in the presence of the two undersigned witnesses.

Witnesses:

..... }
..... }
..... }

To the Minister of Agriculture.

Ottawa.

1.—Book, map, chart, musical composition, photograph, print, cut or engraving.

FORM B.

DOMINION OF CANADA.

The Copyright Act.

Application for registration of Copyright of Original Artistic Work.
(By the Proprietor.)

I, of the
of in the of
hereby declare that I am lawfully entitled to the Copyright of the (1).....
..... entitled that the said (1)
..... has been produced in Canada and I hereby
request you to register the Copyright of the said (1)
in accordance with the terms of the Copyright Act in my name. The following is a
description of the said (1)

Signed at the day of
....., 19...., in the presence of the two undersigned witnesses.

Witnesses:

..... }
..... }
..... }

To the Minister of Agriculture,
Ottawa.

1.—Original painting, drawing, statue or sculpture.

FORM B1.

DOMINION OF CANADA.

The Copyright Act.

Application for registration of Copyright of original artistic work.
(By the Agent of the Proprietor.)

I, of the
of in the of
hereby declare that I am the duly authorized agent of.....
of the of in the
of that the said is lawfully
entitled to the Copyright of the (1) entitled "
....." and that the said (1) has been
produced in Canada and I hereby request you to register the Copyright of the said
(1) in the name of the said
in accordance with the provisions of the Copyright Act.

The following is a description of the said (1)

Signed at the day of
....., 19...., in the presence of the two undersigned witnesses.

Witnesses:

..... }
..... }
..... }

To the Minister of Agriculture,
Ottawa.

1.—Original painting, drawing, statue or sculpture.

FORM C.

DOMINION OF CANADA.

The Copyright Act.

Application for registration of Interim Copyright.

(By the Proprietor.)

I, of the
of in the of
hereby declare that I am lawfully entitled to the Copyright of the (1)
..... entitled and I hereby request you
to register the Interim Copyright of the said (1)
under the Copyright Act in my name
A copy of the title or a designation of the said (1) is
hereunto annexed.

Signed at the day of
....., 19...., in the presence of the two undersigned witnesses.

Witnesses:

..... }
..... }
..... }

To the Minister of Agriculture,
Ottawa.

1.—Literary, scientific or artistic work.

FORM C1.

DOMINION OF CANADA.

The Copyright Act.

Application for registration of Interim Copyright.

(By the Agent of the Proprietor.)

I, of the
of in the of
hereby declare that I am the duly authorized agent of
of the of in the
of that the said is
lawfully entitled to the Copyright of the (1)
entitled "....." and I hereby request you to register
the Interim Copyright of the said (1) under the
Copyright Act in the name of the said.....
A copy of the title or a designation of the said (1)
is hereunto annexed.

Signed at the day of
....., 19...., in the presence of the two undersigned witnesses.

Witnesses:

..... }
..... }
..... }

To the Minister of Agriculture,
Ottawa.

1.—Literary, scientific or artistic work.

FORM D.

DOMINION OF CANADA.

The Copyright Act.

Application for registration of Temporary Copyright.

(By the Proprietor.)

I, of the
of in the of
hereby declare that I am lawfully entitled to the Copyright of the literary work
entitled "....." which is being preliminarily
published in separate articles in a newspaper or periodical and I hereby request you
to register the Temporary Copyright of the said literary work under the Copyright
Act in my name.

A copy of the title of the said literary work and a short analysis thereof are
hereunto annexed.

Signed at the day of
....., 19...., in the presence of the two undersigned witnesses.

Witnesses:

..... }
..... }
..... }

To the Minister of Agriculture,
Ottawa.

FORM D1.

DOMINION OF CANADA.

The Copyright Act.

Application for registration of Temporary Copyright.

(By the Agent of the Proprietor.)

I, of the
of in the of
hereby declare that I am the duly authorized agent of
of the of in
of that the said is
lawfully entitled to the Copyright of the literary work entitled ".....
....." which is being preliminarily published in separate
articles in a newspaper or periodical and I hereby request you to register the
Temporary Copyright of the said literary work under the Copyright Act in the
name of the said

A copy of the title of the said literary work and a short analysis thereof are
hereunto annexed.

Signed at the day of
....., 19...., in the presence of the two undersigned witnesses.

Witnesses:

..... }
..... }
..... }

To the Minister of Agriculture,
Ottawa.

AUSTRALIAN COPYRIGHT ACT OF 1912

AN ACT RELATING TO COPYRIGHT.

Be it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the Copyright Act, 1912. Short title.
2. This Act is divided into Parts as follows:—

Part I.—Preliminary. Division of Act.
Part II.—Copyright.
Part III.—Summary Remedies.
Part IV.—The Copyright Office.
Part V.—Miscellaneous.

3. In this Act, unless the context otherwise requires— Definitions.
(a) “the British Copyright Act” means the Copyright Act, 1911, of the United Kingdom (1 & 2 Geo. 5, c. 46);
(b) words and expressions defined in the British Copyright Act have the same meanings as in that Act;
(c) “Territory” means a Territory of the Commonwealth which is part thereof.

4. The Copyright Act, 1905, is repealed.

Repealing
Clause.
Copyright
Office.

5. The Copyright Office established under the Copyright Act, 1905, and any officers appointed under that Act, shall continue as if established or appointed under this Act.

6. Where, in pursuance of any proclamation issued under the Copyright Act, 1905, the administration of any State Copyright Act has become transferred to the Commonwealth, such administration shall continue to be so transferred to the same extent and subject to the same terms and conditions as if the Copyright Act, 1905, still remained in force. Existing administrative provisions continued.

Registers of
copyright.

7. All Registers of Copyrights established under the Copyright Act, 1905, shall continue as if established under this Act.

PART II.—COPYRIGHT.

British Copy-
right Act
adopted.

8. The British Copyright Act, a copy of which is set out in the Schedule to this Act, shall, subject to any modifications provided by this Act, be in force in the Commonwealth, and shall be deemed to have been in force therein as from the first day of July, One thousand nine hundred and twelve.

Adoption of
various pro-
visions to
Australian
conditions.

9. In the application of the British Copyright Act to the Commonwealth—

- (a) any powers of the Board of Trade under sections three may be exercised by the Governor-General;
- (b) the reference in sub-section (4) of section nineteen to arbitration shall be read as a reference to arbitration under the law of the State or Territory in which the dispute occurs, and the reference in sub-section (6) of that section to the Board of Trade shall be read as a reference to the Governor-General;
- (c) the reference in section twenty-two to the Patents and Designs Act, 1907, shall be read as a reference to the Designs Act, 1906, and the reference in that section to section eighty-six of the Patents and Designs Act, 1907, shall be read as a reference to section forty-one of the Designs Act, 1906; and
- (d) the reference in section twenty-four to the *London Gazette* and two London newspapers shall be read as a reference to the *Commonwealth Gazette* and one newspaper published in each of the capital cities of the Australian States.

Importation of
infringing
copies pro-
hibited.

10.—(1) Copies made out of the Commonwealth of any work in which copyright subsists which if made in the Commonwealth would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agents to the Comptroller-General of Customs, that he is desirous that such copies should not be imported into the Commonwealth, shall not be so imported and shall, subject to the provisions of this section, be deemed to be

prohibited imports within the meaning of the Customs Acts, 1901-1910.

(2) Before detaining any such copies, or taking any further proceedings with a view to the forfeiture thereof, the Comptroller-General of Customs or the Collector of Customs for the State may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy himself in accordance with those regulations that the copies are such as are prohibited by this section to be imported.

(3) The Governor-General may make regulations, either general or special, respecting the detention and forfeiture of copies, the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

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

(5) The regulations may provide for the informant reimbursing the Comptroller-General of Customs or the Collector of Customs for the State all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under the Copyright Act, 1905, being treated as notices given under this section, and also that notices given to the Commissioner of Customs and Excise of the United Kingdom and communicated by them to the Comptroller-General of Customs shall be deemed to have been given by the owner to the Comptroller-General.

(6) This section shall have effect as the necessary modification of section fourteen of the British Copyright Act.

11.—(1) Subject to this section, the Governor-General in Council may, by Order, direct that the British Copyright Act and this Act shall extend to literary, musical, dramatic, and artistic works first produced or published in any part of the King's dominions to which the British

Reciprocal
Imperial Eng-
lish Copyright.

Copyright Act does not extend, in like manner as if the works had been first published or produced in the Commonwealth.

Provisos as to foregoing.

(2) Any order made in pursuance of this section may provide—

(a) that the term of copyright shall not exceed that conferred by the law of the part of the King's dominions to which the Order relates;

(b) that the enjoyment of the rights conferred by virtue of the Order shall extend to the Commonwealth only, and shall be subject to the accomplishment of such conditions and formalities as are prescribed by the Order;

(c) for the modification of any provision of the British Copyright Act or this Act as to ownership of copyright or otherwise, having regard to the law of the part of the King's dominions to which the Order relates; and

(d) that the British Copyright Act and this Act may extend to existing works in which copyright subsists in the part of the King's dominions to which the Order relates, but subject to such modifications restrictions and provisions as are set out in the Order.

(3) An Order in pursuance of this section shall only be made in case the Governor-General in Council is satisfied that the part of the King's dominions in relation to which the Order is proposed to be made has made, or has undertaken to make, such provisions, if any, as he thinks sufficient for the protection of works first produced or published in the Commonwealth and entitled to copyright therein.

Orders in Council.

12.—(1) The Governor-General in Council may make Orders for altering, revoking, or varying any Order in Council made by him in pursuance of any power conferred upon him by the British Copyright Act or this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made by the Governor-General in pursuance of any power conferred upon him by the

British Copyright Act or this Act shall be published in the *Gazette*, and shall be laid before both Houses of the Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

13.—(1) Where copyright subsisted in the United Kingdom in respect of any musical, dramatic, or artistic work at or after the commencement of the Copyright Act, 1905, and before the first day of July, One thousand nine hundred and twelve, the copyright shall, subject to this section, be deemed to have subsisted in the Commonwealth as from the commencement of the Copyright Act, 1905, or from the date of the commencement of the copyright in the work, as the case requires, to the same extent as if copyright therein had subsisted in the Commonwealth under the law of the United Kingdom.

Saving clause
as to certain
British copy-
rights.

(2) Where a person has before the commencement of this Act taken any action whereby he has incurred any expenditure or liability in connection with the reproduction of any musical, dramatic or artistic work in a manner which at the time was lawful, or for the purpose of or with a view to the production of any such work at a time when such reproduction would, but for this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connection with such action which were subsisting and valuable at the first day of July, One thousand nine hundred and twelve, unless the person, who, by virtue of this section, becomes entitled to restrain such reproduction, agrees to pay such compensation as, failing agreement, may be determined by arbitration.

Saving clause
as to acts
lawful before
passage of Act.

PART III.—SUMMARY REMEDIES.

14.—(1) If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) sells or lets for hire or by way of trade exposes or offers for sale or hire, any infringing copy of any such work; or
- (c) distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or

Criminal
infringement.

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

(e) imports for sale or hire into the Commonwealth any infringing copy of any such work,

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

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

Disposal of
infringing
copies or plates.

(3) The Court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in possession of the alleged offender which appear to it to be infringing copies or plates for the purpose of making infringing copies, to be destroyed or delivered up to the owner of the copyright or otherwise dealt with as the Court may think fit.

Liability for
use of theaters,
etc., for in-
fringing per-
formance.

15. Any person who, for his private profit, permits any theatre or other place of entertainment to be used for the performance in public of any musical or dramatic work, without the consent of the registered owner of the sole right to perform or authorise the performance of the work in the State or part of the Commonwealth where the theatre or place is situated shall be guilty of an offence, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of the right to perform or authorise the performance of the work.

Penalty: Ten pounds.

16.—(1) A justice of the peace may, upon the application of the registered owner of the copyright in any literary, dramatic, musical or artistic work or of the agent of such owner appointed in writing—

Issuance
of search
warrants for
and seizure of
piratical copies.

(a) if satisfied by evidence that there is reasonable ground for believing that infringing copies of the work are being sold, or offered for sale—issue a warrant, in accordance with the form prescribed, authorising any constable to seize the infringing copies and to bring them before a Court of summary jurisdiction;

(b) if satisfied by evidence that there is reasonable ground for believing that infringing copies of the work are to be found in any house, shop, or other place—issue a warrant, in accordance with the form prescribed, authorising any constable to search, between sunrise and sunset, the place where the infringing copies are supposed to be, and to seize and bring them or any copies reasonably suspected to be infringing copies of the work before a Court of summary jurisdiction.

(2) A court of summary jurisdiction may, on proof that any copies brought before it in pursuance of this section are infringing copies of the work, order them to be destroyed or to be delivered up, subject to such conditions, if any, as the Court thinks fit, to the owner of the copyright in the work.

17.—(1) The registered owner of the sole right to perform, or authorise the performance, of a musical or dramatic work in the Commonwealth or any part thereof, or the agent of such owner appointed in writing, may, by notice in writing in accordance with the prescribed form, forbid the performance in public of the work in infringement of his right, and require any person to refrain from performing or taking part in the performance in public of the work, in infringement of his right, and every person to whom a notice has been given in accordance with this section shall refrain from performing or taking part in the performance in public of the work in infringement of the right of such owner.

Wrongful
performance.
Penalty.

Penalty: Ten pounds.

(2) A person shall not give any notice in pursuance of this section without just cause.

Penalty: Twenty pounds.

(3) In any prosecution under sub-section (2) of this section, the defendant shall be deemed to have given the notice without just cause unless he proves to the satisfaction of the Court that, at the time of giving the notice, he was the registered owner of the sole right to perform, or authorise the performance, of the work in the Commonwealth or any part thereof, or the agent of such owner appointed in writing, and had reasonable ground for believing that the person to whom the notice was given was about to perform or take part in the performance of the work in infringement of the right of such owner.

Distribution
of penalties.

18. Where proceedings are instituted in any Court of summary jurisdiction, by or on behalf of the owner of the copyright in any work or the owner of the sole right to perform, or authorise the performance, of any work, in respect of any offence in infringement of his right, any penalty imposed shall be paid to him by way of compensation for the injury sustained by him, but in any other case any penalty imposed in respect of any offence against this Act shall be paid to the Commonwealth.

Limitation
of proceeding.

19. No proceedings shall be instituted in a Court of summary jurisdiction in respect of any offence against this Act after the expiration of six months from the date of the offence.

Appeals in
summary
proceedings.

20. An appeal shall lie from any conviction or order (including any dismissal of any information, complaint, or application) of a Court of summary jurisdiction in respect of any offence or matter under this Act, and such appeal shall be to the Court, and shall be made within the time and in the manner, provided by the law of the State or Territory in which the conviction or order was made in case of appeals from Courts of summary jurisdiction in that State or Territory.

Works of archi-
tecture ex-
cepted from
part of Act.

21. This Part of this Act shall not apply to any case to which section nine of the British Copyright Act, relating to infringement of copyright in the case of a work of architecture, applies.

PART IV.—THE COPYRIGHT OFFICE.

Division 1.—General.

22. There shall be, for the purposes of this Act, an office called the Copyright Office. Copyright Office.

23. The Copyright Office shall be in charge of an officer called the Registrar of Copyrights. Registrar.

24. The Registrar of Copyrights shall have such powers and functions as are conferred upon him by this Act and the regulations. Powers of Registrar.

25.—(1) There shall be a seal of the Copyright Office, and impressions thereof shall be judicially noticed. Seal of Copyright Office.

(2) The seal of the Copyright Office in use at the commencement of this Act shall, until altered, be the seal of the Copyright Office.

Division 2.—Registration.

26. Registration of copyright shall be optional, but the special remedies provided for by sections fifteen, sixteen, and seventeen of this Act can only be taken advantage of by registered owners. Registration.

27. The following Registers of Copyrights shall be kept by the Registrar at the Copyright Office:— Copyright Registers.

The Register of Literary (including Dramatic and Musical) Copyrights.

The Register of Fine Arts Copyrights.

The Register of International and State Copyrights.

28. The owner of any copyright under this Act, or of the sole right to perform, or authorise the performance, of any musical or dramatic work in the Commonwealth or any part thereof, may obtain registration of his right in the manner prescribed.

29. When any person becomes entitled to any registered copyright or other right under this Act by virtue of any assignment or transmission, or to any interest therein by licence, he may obtain registration of the assignment, transmission, or licence in the manner prescribed. Registration of assignments, licenses, etc.

30. The registration of any copyright or other right under this Act, or of any assignment or transmission thereof or of any interest therein by licence, shall be effected by entering in the proper register the prescribed particulars relating to the right, assignment, transmission, or licence. Method of registration.

Registration
of works in
more than one
part.

31. In the case of an encyclopaedia, newspaper, review, magazine, or other periodical work, or a work published in a series of books, or parts, a single registration for the whole work may be made.

Trusts not to
be registered.

32.—(1) No notice of any trust express, implied, or constructive shall be entered in any Register of Copyrights under this Act or be receivable by the Registrar.

Equitable
rights saved.

(2) Subject to this section, equities in respect of any copyright under this Act may be enforced in the same manner as equities in respect of other personal property.

Registers or
extracts there-
from, evidence.

33. Every Register of Copyrights under this Act shall be *prima facie* evidence of the particulars entered therein, and documents purporting to be copies of any entry therein or extracts therefrom certified by the Registrar and sealed with the seal of the Copyright Office, shall be admissible in evidence in all Federal or State Courts, or the Courts of any Territory, without further proof or production of the originals.

Certified
copies.

34. Certified copies of entries in any register under this Act or of extracts therefrom shall on payment of the prescribed fee be given to any person applying for them.

Inspection
of register.

35. Each register under this Act shall be open to public inspection at all convenient times on payment of the prescribed fee.

Correction of
register.

36. The Registrar may, in prescribed cases and subject to the prescribed conditions, amend or alter any register under this Act by—

(a) correcting any error in any name, address, or particular; and

(b) entering any prescribed memorandum or particular relating to copyright or other right under this Act.

37.—(1) Subject to this Act the Supreme Court of any State or a judge thereof may, on the application of the Registrar or of any person aggrieved, order the rectification of any register under this Act by—

(a) the making of any entry wrongly omitted to be made in the register; or

(b) the expunging of any entry wrongly made in or remaining on the register; or

(c) the correction of any error or defect in the register.

(2) An appeal shall lie to the High Court from any

order for the rectification of any register made by a Supreme Court or a judge under this section.

38.—(1) Every person who makes application for the registration of the copyright in a book shall deliver to the Registrar one copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and bound, sewed, or stitched together and on the best paper on which the book is printed.

Deposit of copies.

(2) Every person who makes application for the registration of the copyright in a work of art shall deliver to the Registrar one copy of the work of art or a representation of it.

(3) The Registrar shall refuse to register the copyright in any book until sub-section (1) of this section has been complied with, or the copyright in a work of art until sub-section (2) of this section has been complied with.

(4) Each copy or representation delivered to the Registrar in pursuance of this section shall be retained at the Copyright Office.

39. A person who wilfully makes any false statement or representation to deceive the Registrar or any officer in the execution of this Part of this Act, or to procure or influence the doing or omission of any thing in relation to this Part of this Act or any matter thereunder shall be guilty of an indictable offence.

False representations on registration, etc.

Penalty: Imprisonment for three years.

PART V.—MISCELLANEOUS.

40.—(1) The publisher of every book which is first published in the Commonwealth after the commencement of this section, and in which copyright subsists under this Act, shall within one month after the publication deliver, at his own expense, a copy of the book to the Librarian of the Parliament, who shall give a written receipt for it.

Delivery of copies of books to Librarian of Parliament.

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

(3) If a publisher fails to comply with this section, he

shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book.

(4) For the purposes of this section the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, map, plan, chart, or table, but shall not include any second or subsequent edition of a book unless that edition contains additions or alterations either in the letterpress or in the maps, prints, or other engravings belonging thereto or any book published by any State or any authority of a State.

41. Nothing in this Act shall be deemed to affect the existing provisions of any Act of the Parliament of a State which require or relate to the delivery to any specified Public or other Library of the State of copies of books published in the State or to affect the power of the Parliament of a State to make laws requiring or relating to such delivery.

Provision of
administrative
regulations.

42. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Copyright Office.

(A schedule is annexed to the act containing the British Copyright Act of 1911.)

NOTE.—A French translation of the Rules adopted pursuant to the foregoing Act, will be found in *Le Droit d'Auteur* of May 15, 1914.

NEW ZEALAND

1913. No. 4.

AN ACT RELATING TO COPYRIGHT.

(22nd November, 1913.)

Be it enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Copyright Act, 1913, and shall commence on the first day of April, nineteen hundred and fourteen. Short title
and commence-
ment.

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

“Literary work” includes maps, charts, plans, tables, and compilations:

“Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting-form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting-form or the combination of incidents represented gives the work an original character:

“Artistic work” includes works of painting, drawing, sculpture, and artistic craftsmanship, and architectural works of art, and engravings and photographs:

“Work of sculpture” includes casts and models:

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

“Engravings” include etchings, lithographs, woodcuts, prints, and other similar works not being photographs:

“Photograph” includes photo-lithograph and any work produced by any process analogous to photography:

“Cinematograph” includes any work produced by any process analogous to cinematography:

“Collective work” means—

(a) An encyclopaedia, dictionary, year-book, or similar work;

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

(c) Any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated:

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

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

“Delivery” in relation to a lecture, includes delivery by means of any mechanical instrument:

“Plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work and any matrix or other appliance by which records, perforated rolls, or other contrivances for the acoustic representation of the work are or are intended to be made:

“Lecture” includes address, speech, and sermon:

“Court of summary jurisdiction” means a magistrate or two or more justices exercising jurisdiction under the Justices of the Peace Act, 1908.

(2) Except for the purposes of infringement of copyright, a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public without the consent or acquiescence of the author, his executors, administrators, or assigns.

(3) For the purposes of this Act a work shall be deemed to be first published in New Zealand notwithstanding that it has been published simultaneously in some other place,

unless the publication in New Zealand is colourable only and is not intended to satisfy the reasonable requirements of the public; and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may for the time being, be fixed by the Governor in Council.

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period the conditions of this Act conferring copyright shall be deemed to have been complied with if the author was during any substantial part of that period a British subject or resident in New Zealand.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in New Zealand if he is domiciled therein.

PART I.—COPYRIGHT.

Rights.

3.—(1) Subject to the provisions of this Act, copyright shall subsist in New Zealand for the term hereinafter mentioned in every original literary, dramatic, musical and artistic work if—

(a) In the case of a published work, the work was first published in New Zealand; and

(b) In the case of an unpublished work, the author was at the date of the making of the work a British subject or resident in New Zealand;

but in no other works, except so far as the protection conferred by this Act is extended by the Governor in Council pursuant to this Act.

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

(a) To produce, reproduce, perform, or publish any translation of the work;

- (b) In the case of a dramatic work, to convert it into a novel or other non-dramatic work;
- (c) In the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work by way of performance in public or otherwise;
- (d) In the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered;

and to authorise any such acts as aforesaid.

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

4. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act or of any other statutory enactment for the time being in force; but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

5.—(1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright:

Provided that the following acts shall not constitute an infringement of copyright:—

- (a) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary;
- (b) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or

No copyright
except as
provided by
this Act.

Infringement
of copyright.

study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work:

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

(d) The publication in a collection, mainly composed of non-copyrighted matter, *bona fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists:

Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged:

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

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

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

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

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

- (c) By way of trade exhibits in public; or
 (d) Imports for sale or hire into New Zealand, any work which to his knowledge infringes copyright or would infringe copyright if it had been made in New Zealand.

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

Term of
copyright.

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

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

Compulsory
licenses.

7. If at any time after the death of the author of a literary, dramatic, or musical work which has been published or performed in public a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work, or has refused to allow the performance in public of the work, and that by reason

of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a license to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the said Court may think fit.

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

Ownership of
copyright, etc.

Provided that—

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

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

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by license; but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent:

Provided that where the author of a work is the first owner of the copyright therein no assignment of the copyright, and no grant of any interest therein made by him (otherwise than by will) after the commencement of this

Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period, shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him, as to the disposition of such reversionary interest shall be null and void; but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work, or a license to publish a work or part of a work as part of a collective work.

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

CIVIL REMEDIES.

Civil remedies
for infringement
of copyright.

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

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

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

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

proved, be presumed to be the author of the work:

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

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

Rights of owner against persons possessing or dealing with infringing copies, etc.

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

Exemption of innocent infringer from liability to pay damages, etc.

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

Restriction on remedies in the case of architecture.

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

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

Limitation of actions.

SUMMARY REMEDIES.

14.—(1) Every person who knowingly—

- (a) Makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) Sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work; or
- (c) Distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) By way of trade exhibits in public any infringing copy of any such work; or
- (e) Imports for sale or hire into New Zealand any infringing copy of any such work,

is liable on summary conviction to a fine not exceeding two pounds for every copy dealt with in contravention of this section, but not exceeding fifty pounds in respect of the same transaction, or, in the case of a second or subsequent offence, either to such fine or to two months' imprisonment.

(2) Every person who knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or who knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, is liable on summary conviction to a fine of fifty pounds, or, in the case of a second or subsequent offence, either to such fine or to two months' imprisonment.

(3) The Court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work, or all plates in possession of the alleged offender which appear to it to be infringing copies or plates for the purpose of making infringing copies, be destroyed, or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit.

Permitting
unauthorized
performances.

15. Every person who for his private profit permits any theatre or other place of entertainment to be used for the performance in public of any musical or dramatic work without the consent of the registered owner of the sole right to perform or authorise the performance of the work

in New Zealand, or any part of New Zealand where the theatre or place is situated, is liable on summary conviction to a fine of ten pounds, unless he was not aware and had no reasonable ground for suspecting that the performance would be an infringement of the right to perform or authorise the performance of the work.

16.—(1) Any justice may, on the application of the registered owner of the copyright in any literary, dramatic, musical, or artistic work, or of the agent of such owner appointed in writing,—

Search
warrant.

(a) If satisfied by evidence that there is reasonable ground for believing that infringing copies of the work are being sold or offered for sale, issue a warrant in accordance with the form prescribed authorising any constable to seize the infringing copies and to bring them before a Court of summary jurisdiction:

(b) If satisfied by evidence that there is reasonable ground for believing that infringing copies of the work are to be found in any house, shop, or other place, issue a warrant in accordance with the form prescribed authorising any constable to search, between sunrise and sunset the place where the infringing copies are supposed to be, and to seize and bring them or any copies reasonably suspected to be infringing copies of the work before a Court of summary jurisdiction.

(2) A Court of summary jurisdiction may, on proof that any copies brought before it in pursuance of this section are infringing copies of the work, order them to be destroyed, or to be delivered up, subject to such conditions, if any, as the Court thinks fit, to the owner of the copyright in the work.

17.—(1) The registered owner of the sole right to perform or authorise the performance of a musical or dramatic work in New Zealand or any part thereof, or the agent of such owner appointed in writing, may, by notice in writing in the prescribed form, forbid the performance in public of the work in infringement of his right, and require any person to refrain from performing or taking part in the performance in public of the work in infringement of his right; and every person to whom a notice has

Owner of
performing
right may
forbid per-
formance in
infringement
of right.

been given in accordance with this section who performs or takes part in the performance in public of the work in infringement of the right of such owner is liable on summary conviction to a fine not exceeding ten pounds.

(2) Every person who gives notice in pursuance of this section without just cause is liable on summary conviction to a fine of twenty pounds.

(3) In any prosecution under the last preceding subsection the defendant shall be deemed to have given the notice without just cause unless he proves to the satisfaction of the Court that at the time of giving the notice he was the registered owner of the sole right to perform or authorise the performance of the work in New Zealand, or any part thereof, or the agent of such owner appointed in writing, and had reasonable ground for believing that the person to whom the notice was given was about to perform or take part in the performance of the work in infringement of the right of such owner.

Application
of fines.

18. Where proceedings are instituted in any Court of summary jurisdiction, by or on behalf of the owner of the copyright in any work or the owner of the sole right to perform or authorise the performance of any work, in respect of any offence in infringement of his right, any fine imposed shall be paid to him by way of compensation for the injury sustained by him, but in any other case any fine imposed in respect of any offence against this Act shall be paid into the Consolidated Fund.

Limitation
of summary
proceedings.

19.—(1) No proceedings shall be instituted in a Court of summary jurisdiction in respect of any offence against this Act after the expiration of six months from the date of the offence.

(2) An appeal to the Supreme Court shall lie from any conviction or order (including any dismissal of any information, complaint, or application) of a Court of summary jurisdiction in respect of any offence or matter under this Act, and such appeal shall be made within the time and in the manner provided by regulations.

Certain pro-
visions not to
apply to work
of architecture.

20. Sections fourteen to eighteen hereof shall not apply to any case to which section twelve hereof, relating to infringement of copyright in the case of a work of architecture, applies.

IMPORTATION OF COPIES.

21.—(1) Copies made out of New Zealand of any work in which copyright subsists which if made in New Zealand would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Minister of Customs that he is desirous that such copies should not be imported into New Zealand, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of the Customs Law Act, 1908. For the purposes of this section notices given to the Commissioners of Customs and Excise of the United Kingdom, and communicated by them to the Minister of Customs, shall be deemed to have been given by the owner to the Minister of Customs.

Importation
of infringing
copies.

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

(3) There shall be publicly exposed in the office of the Collector of Customs at every port in New Zealand lists of all works in which copyright subsists and as to which the owner of the copyright, by himself or his agent, has duly given a notice to the Minister of Customs pursuant to sub-section one hereof.

(4) The Governor may, by Order in Council gazetted, make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section; and may by such regulations determine the information, notices, and security to be given, and the evidence requisite, for any of the purposes of this section, and the mode of verification of such evidence.

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

(6) The regulations may provide for the informant reimbursing the Minister of Customs all expenses and dam-

ages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

Repeal.

(7) Section ninety-two of the Customs Law Act, 1908, and the first paragraph of the Third Schedule to the said Act (relating to the importation of prohibited books) are hereby repealed.

SPECIAL PROVISIONS AS TO CERTAIN WORKS.

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

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

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

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

(4) Where a married woman and her husband are joint

authors of a work the interest of such married woman therein shall be her separate property.

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

Posthumous
works.

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

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

Provisions
as to Govern-
ment publica-
tions.

25.—(1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works; but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for

Provisions as
to mechanical
instruments.

the purposes of this Act to reside in New Zealand if it has established a place of business in New Zealand.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make in New Zealand records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

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

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

Provided that—

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

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

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

(a) In the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per centum; and

(b) In the case of contrivances sold as aforesaid after the expiration of that period, five per centum, on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so, however, that the

royalty payable in respect of a contrivance shall in no case be less than a halfpenny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing:

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

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

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

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

(7) In the case of musical works published before the commencement of this Act the foregoing provisions shall

have effect, subject to the following modifications and additions:—

- (a) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, shall not apply.
- (b) The rate of two and one-half per centum shall be substituted for the rate of five per centum as the rate at which royalties are to be calculated; but no royalties shall be payable in respect of contrivances sold before the first day of April, nineteen hundred and fifteen, if contrivances reproducing the same work had been lawfully made or placed on sale in New Zealand before the commencement of this Act.
- (c) Notwithstanding any assignment made before the commencement of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorising the making of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives, and not to the assignee, and the royalties aforesaid shall be payable to and for the benefit of the author of the work or his legal personal representatives.
- (d) The saving contained in this Act of the rights and interests arising from or in connection with action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the commencement of this Act, except on the terms and subject to the conditions laid down in this section.
- (e) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the

making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed.

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

Provided that—

- (a) The person who at the commencement of this Act is the owner of such original plate shall be the first owner of such copyright; and
- (b) Nothing herein shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance if this provision had been in force at the time of the making of the first-mentioned contrivance.

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

Provision as to political speeches.

27. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived; and the person who was the owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside in New Zealand if it has established a place of business in New Zealand.

Provisions as to photographs.

28.—(1) The Governor may by Order in Council direct that this Act shall extend—

Reciprocal protection of copyright.

- (a) To works first published in any part of the British dominions to which the Order relates in like manner as if such works were first published in New Zealand; and
- (b) In respect of residence in any part of the British

dominions to which the Order relates, in like manner as if such residence were residence in New Zealand;

and thereupon, subject to the provisions of this section and of the Order, this Act shall apply accordingly.

(2) Any Order made in pursuance of this section may provide—

(a) That the term of copyright shall not exceed that conferred by the law of the part of the British dominions to which the Order relates;

(b) That the enjoyment of the rights conferred by virtue of the Order shall extend to New Zealand only, and shall be subject to the accomplishment of such conditions and formalities as are prescribed by the Order;

(c) For the modification of any provision of this Act as to ownership of copyright or otherwise, having regard to the law of the part of the British dominions to which the Order relates; and

(d) That this Act may extend to existing works in which copyright subsists in the part of the British dominions to which the Order relates, but subject to such modifications, restrictions, and provisions as are set out in the Order.

(3) An Order in pursuance of this section shall be made only if the Governor in Council is satisfied that the part of the British dominions in relation to which the Order is proposed to be made has made, or has undertaken to make, such provisions, if any, as he thinks sufficient for the protection of works first produced or published in New Zealand, and entitled to copyright therein.

Provisions as
to Orders in
Council.

29.—(1) The Governor may by Order in Council alter, revoke, or vary any Order in Council made by him in pursuance of any power conferred upon him by this Act; but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made by the Governor in Council in pursuance of any power conferred upon him by this Act shall be published in the *Gazette*, and shall be laid before Parliament as soon as may be after it is made.

30.—(1) This Act shall not apply to designs capable of being registered under the Patents, Designs, and Trade Marks Act, 1911, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.

Provisions as to designs registrable under the Patents, Designs, and Trade Marks Act.

(2) Regulations may be made under section one hundred and twenty-three of the Patents, Designs, and Trade Marks Act, 1911, for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

31. If it appears to the Governor in Council that a foreign country does not give or has not undertaken to give adequate protection to the works of New Zealand authors, he may by Order in Council direct that such of the provisions of this Act as confer copyright on works first published in New Zealand shall not apply to works published after the date specified in the Order the authors whereof are subjects or citizens of such foreign country and are not resident in New Zealand, and thereupon those provisions shall not apply to such works.

Works of foreign authors first published in New Zealand.

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

Existing works.

Provided that—

(a) If the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has before that date assigned the right, or granted any interest therein for the whole term of the right, then at the date when but for the passing of this Act the right would have expired the substituted right conferred by this section

shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled, at his option, either—

- (i) On giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or
- (ii) Without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore, subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author, as, failing agreement, may be determined by arbitration; or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment.

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, must be advertised in the *Gazette* and in the *Patent Office Journal*, and in one newspaper published in each of the Cities of Wellington, Auckland, Christchurch, and Dunedin.

- (b) Where any person has, before the first day of July, nineteen hundred and thirteen, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a

work at a time when such reproduction or performance would but for the passing of this Act have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

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

(3) Subject to the provisions of sub-sections seven and eight of section twenty-five hereof, copyright shall not subsist in any work made before the commencement of this Act otherwise than under and in accordance with the provisions of this section.

PART II.—INTERNATIONAL COPYRIGHT.

33.—(1) The Governor may by Order in Council direct that this Act (except such of the provisions thereof, if any, as may be specified in the Order) shall extend—

Power to
extend Act
to foreign
works.

(a) To works first published in a foreign country to which the Order relates, in like manner as if they were first published in New Zealand;

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

(c) In respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in New Zealand;

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

Provided that—

(a) Before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered

into a convention relating to copyright), the Governor shall be satisfied that, that foreign country has made or has undertaken to make such provisions, if any, as it appears to the Governor expedient to require for the protection of works entitled to copyright under the provisions of Part I, of this Act:

- (b) The Order in Council may provide that the term of copyright in New Zealand shall not exceed that conferred by the law of the country to which the Order relates:
- (c) The provisions of section fifty hereof (relating to the delivery of copies of books to the Registrar) shall not apply to works first published in such country, except so far as is provided by the Order:
- (d) The Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities, if any, as may be prescribed by the Order:
- (e) In applying the provisions of this Act to the ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country:
- (f) In applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased.

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

FART III.—COPYRIGHT OFFICE.

Registrar of
copyright.

34.—(1) The Governor may from time to time appoint such person as he thinks fit to be Registrar of Copyright, and in like manner may appoint a place to be the Copyright Office.

(2) The person who at the commencement of this Act

holds the office of Registrar under the Copyright Act, 1908, shall be and act as Registrar under this Act.

(3) The place at the commencement of this Act used as the Copyright Office shall be deemed to have been appointed under this Act. Copyright office.

35.—(1) The Governor may at any time appoint a fit and proper person to be Deputy Registrar to act in the case of the illness, incapacity, or absence of the Registrar, or in the case of any vacancy in the office of Registrar; and while so acting such Deputy shall have all the powers and privileges, and shall perform all the duties and be subject to the responsibilities, of the Registrar. Deputy registrar.

(2) The fact of the Deputy Registrar acting as aforesaid shall be conclusive evidence of his authority so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorising him so to act.

36. There shall be a seal of the Copyright Office, and impressions thereof shall be judicially noticed and admitted in evidence. Seal.

37. There shall be paid in respect of application for the registration of copyrights and in respect of other matters with relation to copyrights such fees as may from time to time be prescribed by the Governor in Council, and those fees shall be paid into the Public Account and form part of the Consolidated Fund. Fees.

38. Registration of copyright shall be optional, but the special remedies provided for by sections fifteen, sixteen, and seventeen of this Act may be taken advantage of only by registered owners. Registration optional.

39. The following Registers of Copyright shall be kept by the Registrar at the Copyright Office:— Copyright registers.

(a) The Register of Literary (including Dramatic and Musical) Copyright.

(b) The Register of Fine Arts Copyrights.

40. The owner of any copyright under this Act, or of the sole right to perform or authorise the performance of any musical or dramatic work in New Zealand or any part thereof may obtain registration of his right in the manner prescribed. Mode of registration.

41. When any person becomes entitled to any registered copyright or any other right under this Act by virtue of any assignment or transmission, or to any interest therein Registration of assignments, etc.

by license, he may obtain registration of the assignment, transmission, or license in the manner prescribed.

How registration is to be effected.

42. The registration of any copyright or other right under this Act, or of any assignment or transmission thereof, or of any interest therein by license, shall be effected by entering in the proper register the prescribed particulars relating to the right, assignment, transmission, or license.

Registration of work published in a series.

43. In the case of an encyclopædia, newspaper, review, magazine, or other periodical work, or a work published in a series of books or parts, a single registration for the whole work may be made.

Trusts not registered.

44.—(1) No notice of any trust (expressed, implied or constructive) shall be entered in any Register of Copyrights under this Act or be receivable by the Registrar.

(2) Subject to this section, equities in respect of any copyright under this Act may be enforced in the same manner as equities in respect of other personal property.

Register to be evidence.

45. Every Register of Copyrights under this Act shall be *prima facie* evidence of the particulars entered therein; and documents purporting to be copies of an entry therein or extracts therefrom certified by the Registrar and sealed with the seal of the Copyright Office shall be judicially noticed and admitted in evidence without further proof or production of the originals.

Certified copies.

46. Certified copies of entries in any register under this Act or of extracts therefrom shall, on payment of the prescribed fee, be given to any person applying for them.

Public inspection of registers.

47. Each register under this Act shall be open to public inspection at all convenient times on payment of the prescribed fee.

Correction of register.

48. The Registrar may, in prescribed cases and subject to the prescribed conditions, amend or alter any register under this Act by—

(a) Correcting any error in any name, address, or particular; and

(b) Entering any prescribed memorandum or particular relating to copyright or other right under this Act.

Rectification of register by the Court.

49.—(1) Subject to this Act the Supreme Court may, on the application of the Registrar or of any person ag-

grieved, order the rectification of any register under this Act by—

- (a) The making of any entry wrongly omitted to be made in the register; or
- (b) The expunging of any entry wrongly made in or remaining on the register; or
- (c) The correction of any error or defect in the register.

(2) An appeal shall lie to the Court of Appeal from any order for the rectification of any register made by the Supreme Court or a judge thereof under this section.

50.—(1) Every person who makes application for the registration of a copyright in a book shall deliver to the Registrar one copy of the whole book, with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and bound, sewed, or stitched together, and on the best paper on which the book is printed.

Copies to be delivered on registration.

(2) Every person who makes an application for the registration of the copyright in a work of art shall deliver to the Registrar one copy of the work of art or a representation of it.

(3) The Registrar shall refuse to register the copyright in any book until sub-section one of this section has been complied with, or the copyright in a work of art until sub-section two of this section has been complied with.

(4) Each copy or representation delivered to the Registrar in pursuance of this section shall be retained at the Copyright Office.

51. Every person who wilfully makes any false statement or representation to deceive the Registrar or any officer in the execution of this Act, or to procure or influence the doing or omission of anything in relation to this Act or any matter thereunder, is liable on summary conviction to imprisonment for a term not exceeding two years.

False representation to registrar.

52.—(1) The publisher of every book which is first published in New Zealand after the commencement of this Act, and in which copyright subsists under this Act, shall within one month after the publication deliver at his own expense two copies of the book to the Librarian of the General Assembly Library, who shall give a written receipt for them.

Copies to be delivered to General Assembly Library.

(2) The copies delivered to the Librarian of the General Assembly Library shall be copies of the whole book, with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and bound, sewed, or stitched together, and on the best paper on which the book is printed.

(3) If a publisher fails to comply with this section he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the copies.

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

Power to
make regula-
tions.

53. The Governor in Council may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act or for the conduct of any business relating to the Copyright Office.

Repeals.

54.—(1) The Copyright Act, 1908, and section one hundred and thirty-two of the Patents, Designs, and Trade Marks Act, 1911, are hereby repealed.

(2) The Imperial enactments referred to in the Second Schedule hereto shall, as from the commencement of this Act, cease to have any force or effect in New Zealand.

NOTE.—A French translation of the Rules adopted pursuant to the foregoing Act will be found in *Le Droit d'Auteur* of July 15, 1914.

SCHEDULES.

FIRST SCHEDULE.

EXISTING RIGHTS.

Existing Right.

Substituted Right.

(a) *In the case of Works other than Dramatic and Musical Works.*

Copyright Copyright as defined by this Act (a).

(b) *In the case of Musical and Dramatic Works.*

Both copyright and performing right....	Copyright as defined by this Act (a).
Copyright, but not performing right....	Copyright as defined by this Act, except the sole right to perform or authorise the performance of the work or any substantial part thereof in public.
Performing right, but not copyright.....	The sole right to perform or authorise the performance of the work in public, but none of the other rights comprised in copyright as defined by this Act.

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

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

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

SECOND SCHEDULE.

IMPERIAL ENACTMENTS.

- 8 Geo. II. c. 13—The Engraving Copyright Act, 1734.
- 7 Geo. III. c. 38—The Engraving Copyright Act, 1767.
- 17 Geo. III. c. 57—The Prints Copyright Act, 1777.
- 54 Geo. III. c. 56—The Sculpture Copyright Act, 1814.
- 3 & 4 Will. IV. c. 15—The Dramatic Copyright Act, 1833.

5 & 6 Will. IV. c. 65—The Lectures Copyright Act, 1835.

6 & 7 Will. IV. c. 59—The Prints and Engravings Copyright Act, 1836.

5 & 6 Vict. c. 45—The Copyright Act, 1842.

7 & 8 Vict. c. 12—The International Copyright Act, 1844.

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

10 & 11 Vict. c. 95—Colonial Copyright Act, 1847.

15 & 16 Vict. c. 12—The International Copyright Act, 1852.

25 & 26 Vict. c. 68—The Fine Arts Copyright Act, 1862.

38 & 39 Vict. c. 12—The International Copyright Act, 1875.

39 & 40 Vict. c. 36—The Customs Consolidation Act, 1876; Section 152 (prohibiting the importation of foreign reprints of books under copyright).

45 & 46 Vict. c. 40—The Copyright (Musical Compositions) Act, 1882.

49 & 50 Vict. c. 33—The International Copyright Act, 1886.

51 & 52 Vict. c. 17—The Copyright (Musical Compositions) Act, 1888.

NEWFOUNDLAND.

The British Copyright Act, 1911, was put into force in this colony, as of July 1, 1912, by a statute passed April 18, 1912.

BRITISH INDIA.

The British Copyright Act, 1911, was proclaimed law in this country on October 30, 1912.

GERMAN COPYRIGHT ACTS

LAW RESPECTING COPYRIGHT IN WORKS OF LITERATURE AND MUSIC, OF JUNE 19, 1901, AS AMENDED BY THE LAW OF MAY 22, 1910.

We, William, German Emperor, King of Prussia, etc., by God's grace, do hereby decree in the name of the Empire, after consent of the Bundesrath and the Reichstag, as follows:

PART I.

CONDITIONS OF THE PROTECTION.

SEC. 1. In accordance with the provisions of this Law protection is accorded—

- (1) the author of writings (Schriftwerken) and such lectures (Vortragen) or speeches as serve to promote edification, education or amusement.
- (2) the author of musical works.
- (3) the author of such scientific or technical illustrations as are not to be deemed works of art in view of their principal object. Plastic representations are to be deemed included in such illustrations.

*Choreographic works and pantomimes are protected to the same extent as writings even though their stage action is fixed in some way other than by writing.**

SEC. 2. The creator of a work is its author. In the case of a translation, the translator and in the case of any other alteration of a work, he who so alters it is to be deemed its author.

If a literary or musical work is reproduced through a personal performance on devices for instruments serving to reproduce it mechanically for hearing, the device thus made stands upon the same basis as an alteration of the work. This result also follows when such adaptation, takes place as a result of perforations, raised figures (Stanzten) or arrangement of points (Stiften) or as a result of any similar labour and such labour must be considered as an artistic achievement. In the case

* The italicized portions represent changes made in the law of 1901 by the Law of 1910.

contemplated by the first sentence the performer and in the case contemplated by the second, the executant of the record, is to be deemed its adapter.

SEC. 3. Persons or corporations having an official juridical status who publish a work in that capacity, whose creator, is not named on the title page, dedication, preface or at the end, will be deemed the author thereof in the absence of agreement to the contrary.

SEC. 4. If a work consists of the separate contributions of several persons (compilation) the publisher (Herausgeber) is to be deemed the author of the work as an entirety. If no publisher is named, the printer (Verleger) is to be deemed the publisher (Herausgeber).

SEC. 5. If a writing is bound with a musical work or illustrations, the creator of each is to be deemed its author, after they have been bound together.

SEC. 6. If several persons have formulated a work in common in such a way that their work is not separable they have ownership in common (Gemeinschaft nach Bruchteilen) therein as authors, in accordance with the Civil Code covering such ownership.

SEC. 7. If a published work contains the name of its creator on the title page, in the preface or at its end, it will be presumed that he is the author of the work. If the work is formed through the contribution of several, it suffices if the name is placed at the beginning or end of the contribution.

In the case of works which are published under a pseudonym or anonymously, the publisher or printer if the publisher's name is not given, is entitled to exercise the rights of an author with respect thereto.

In the case of works which are publicly performed or represented, before or after publication, the author is to be deemed the person who is designated as the creator of the work, in the announcement of such performance or representation.

SEC. 8. The rights of an author pass to his heirs. If the Fiskus or any other person having an official juridical status is made heir by law, the right is extinguished as respects the decedent, on his death. Copyright may be assigned, conditionally or unconditionally, to others; and assignments may be limited territorially.

SEC. 9. In cases of the transfer of copyright, the assignee has not the right in the absence of agreement to make additions, omissions or other changes in the work itself, in its title or designation of the author.

Changes are permitted which the person otherwise entitled to forbid could not in good faith refuse to sanction.

SEC. 10. Neither copyright nor an author's work may be seized by legal process for the payment of his debts, without his consent. The

consent cannot be given by a receiver of his property. As against an author's heirs, such seizure is only permissible without their consent, if the work has been published.

PART II.

RIGHTS OF THE AUTHOR.

SEC. 11. The author has the exclusive right to multiply copies of the work and to distribute them commercially. The exclusive right does not extend to lending. The author has further the exclusive right to make a work public where its physical embodiment has not theretofore been made public.

The copyright in a dramatic or musical work also embodies the exclusive right to the public performance of the work.

The author of a writing or lecture has the exclusive right to its public presentation as long as it is unpublished.

SEC. 12. The exclusive rights which belong to the author of a work itself as outlined in Sec. 11 extend also to alterations made upon the work.

The rights of the author extend in especial to:—

- (1) translation into another language or another dialect of the same language even though the translation is written in verse;
- (2) retranslation into the language of the original;
- (3) rendition of a narrative (*Erzählung*) into dramatic form or of a dramatic work into narrative form;
- (4) production of excerpts out of musical works as well as arrangements of such works for single or several voices or instruments;
- (5) *to adaptation of the work upon devices for instruments serving for the mechanical reproduction of sound, in especial upon interchangeable discs, plates, cylinders, rolls or other articles accessory to such instruments;*
- (6) *to use a writing for a pictorial representation reproducing the subject matter of the original work, by means of cinematography or some similar process.*

SEC. 13. Saving the exclusive rights belonging to an author under Sec. 12, subd. 2, the free use of his work is permissible if as a result thereof an original work is produced.

In the case of a musical work, no use is permissible, through which a melody is taken from the work so that it can be recognized and made the basis of a new work.

SEC. 14. In cases of the transfer of copyright in the absence of contrary agreement, an author retains his exclusive rights:—

- (1) to the translation of the work into another language or into another dialect;
- (2) to the rendition of a narrative into dramatic form or of a dramatic composition into narrative form;
- (3) to the alteration of a musical work in so far as this does not involve the taking of an excerpt or transposition into another key or register;
- (4) *to the use of the work for the purpose of mechanical reproduction of sound;*
- (5) *to the use of a writing for reproduction in motion pictures.*

SEC. 15. Any copying without the consent of the person entitled to that right is unlawful irrespective of the method in which it is done. It is also immaterial whether the work is reproduced into one or more copies.

A copy for personal use may be made when not made for the purpose of profit.

SEC. 16. Reproduction of law books, laws, decrees, official edicts and decisions as well as of other official writings designed for official purposes is lawful.

SEC. 17. It is lawful:—

- (1) to reproduce a lecture or speech in newspapers or periodicals insofar as the lecture or speech was a matter of public delivery;
- (2) to multiply copies of lectures or speeches which were made before the Courts or in political, municipal or ecclesiastical meetings.

Such reproduction is however, not permitted when it occurs in a collection containing chiefly speeches by the same author.

SEC. 18. The reproduction of single articles out of newspapers, *into other newspapers*, is lawful, if the articles were not accompanied by a notice of reservation of rights therein, but the only reproduction which is lawful is one which does not pervert the sense of the original. The source must be plainly indicated in connection with such reproduction.

The reproduction of articles of a scientific, technical or entertaining nature is not lawful, even though there is no reservation of rights.

Miscellaneous accounts of facts and news may always be copied by newspapers or periodicals.

SEC. 19. Copying is lawful:—

- (1) when single passages or smaller parts of a writing, lecture or speech, after it has been made public, are inserted in an original literary work;
- (2) when single compositions of small size or single poems, after publication, are included in an individual work of learning;
- (3) when single poems, after publication, are included in a collection

which includes the works of a larger number of authors and is designed for use in vocal performances;

- (4) when single compositions of small size, single poems or smaller parts of a writing are included, after publication, in a compilation, which includes the works of a larger number of writers and is intended for church, school or educational purposes or for a particular literary purpose. The personal consent of the author is necessary, as long as he lives, to a compilation for a particular literary purpose.

The consent is deemed given if the author does not make objection within a month after he is informed of the intention of the compiler.

SEC. 20. Multiplication of copies is permissible when small parts of a poem or verses of small size, are reproduced, after publication, combined as text with a new musical work.

For the performance of such work, the poetry may be reproduced alone, in so far as the copies are exclusively intended for the use of the audience.

The copying of poetry of a kind intended for use in connection with musical compositions is not permitted.

The provisions of the first subdivision do not apply in so far as the text is to be multiplied in copies in combination with the mechanical reproduction of a musical work (Sec. 12, subd. 2 No. 5).

SEC. 21. Copying is permitted:—

- (1) when single passages of a previously published musical work are reproduced in an individual literary work;
- (2) when small compositions are included, after publication, in an individual scientific work;
- (3) when small compositions are, after publication, included in a compilation which includes the works of a larger number of composers and is intended for instruction purposes in schools other than music schools.

SEC. 22. *If the author of a musical work authorizes another person to multiply copies of a musical work commercially, for purposes of mechanical reproduction (Sec. 12, subd. 2 No. 5) any other third person, having a principal industrial establishment or domicile in the country, may, after the work has been published, demand that the author give him a similar authorization, for a fair compensation. This demand may be made whether or not the author has conferred the right to such reproduction with or without the exclusive right to use of the work. The authorization is only effective as to circulation within the country and as to export into such States as where the author is not protected against mechanical reproduction of his work. The Chancellor of the Empire*

may decide with respect to relations with a State where he deems reciprocity in such matters guaranteed, by a proclamation inserted in the "Reichs-Gesetzblatt", how far a third person who has not an industrial establishment nor domicile in the Empire, may demand such authorization and decree that the authorization also apply to export to such State.

If a protected writing belongs to the musical work, as text thereto, and its author has permitted another to multiply it commercially for purposes of mechanical reproduction, the provisions of the preceding paragraph apply to the text. Provided nevertheless that the author of the musical work is entitled and bound to give such authorization in place of the author of the text but must, after he gives the authorization, pay to the author of the text a fair share of the compensation receivable for the authorization.

SEC. 22a. Mechanical devices made pursuant to an authorization under Section 22 may, subject to the limitation laid down in Sec. 22 par. 1, sentence 2, be used, for public performances, without the necessity for a further authorization. If the author before or after this provision takes effect, assigned the exclusive right of performance to another, he must pay him a fair part of the compensation received for the authorization.

The provisions of paragraph 1 also apply to a case where the author has voluntarily given another the right to multiply copies of the work for mechanical reproduction.

SEC. 22b. If the author has partially assigned the exclusive right to mechanical reproduction, he must, nevertheless, grant the authorization prescribed by Sec. 22. In case of an unlimited assignment, the authorization must be given by the assignee.

SEC. 22c. The Courts of the City of Leipzig are given jurisdiction of cases for enforcing demand for the granting of the authorization where the author has no domestic legal situs in Germany.

Temporary relief may be decreed even though the conditions laid down by Sections 935, 940 of the Code of Civil Procedure do not exist.

SEC. 23. Copying is permissible when single illustrations out of a published work are added to another solely for explanation of its text.

SEC. 24. The copying of a foreign work pursuant to Sections 19 to 23 is only lawful when no change is made in the parts reproduced. Nevertheless, in so far as the purpose of the reproduction requires, translations of a writing and such alteration of a musical work as only set forth extracts or transpositions in another key or part or arrangements for the instruments designated in Section 12 is permitted. If single extracts, single poems or small parts of a writing are comprised in a compilation for school use, the changes requisite for this use are lawful

provided that the author's personal consent must be obtained as long as he lives. The consent will be deemed given, if he does not raise objection within one month after notice is given him of the contemplated change.

SEC. 25. Anyone who uses the work of another pursuant to Sections 19 to 23 must clearly indicate the source.

SEC. 26. Where a work may be copied pursuant to Sections 16 to 21, 23 and 24, without permission of the proprietor, it may also be distributed, publicly represented and publicly performed.

SEC. 27. The consent of the proprietor of a published musical work is not necessary for its public performance, when this serves no commercial purpose and the audience may hear it gratuitously. In other cases such performances are permitted without the consent of the proprietor:

- (1) when they take place at popular festivals other than music festivals;
- (2) when the performance is solely for philanthropic purposes and the performers receive no compensation for their efforts;
- (3) when they are given by social organizations and any members and persons belonging to their households are permitted to attend them.

These provisions do not apply to scenic productions of an opera or other musical work, having a text.

SEC. 28. Where there are several having legal rights in the premises, the consent of each is requisite to organize a public performance.

In the case of an opera or another musical work having a text, the organizer of a performance only requires the consent of the owner of the copyright in the musical portion of the work.

PART III.

DURATION OF PROTECTION.

SEC. 29. The protection of copyright terminates 30 years after the death of the author and in every case lasts at least ten years after first publication of the work. If the publication has not taken place within 30 years after the author's death, it will be presumed that the copyright passed to the owner of the work.

SEC. 30. If the copyright belongs to several in common, the death of the last survivor furnishes the time for calculation of the copyright term, in so far as time of death determines the period of protection.

SEC. 31. If the true name of the author is not given on publication,

pursuant to Section 7, subdiv. 1, 3, the protection ends on the passing of 30 years after publication.

If the true name of the author is given during the 30 year period, pursuant to Section 7, subdiv. 1, 3, or is furnished by the person having the legal right to do so, for entry in the Register (Sec. 56), the provisions of Section 29 apply. This is also the rule where the work is first published after the author's death.

SEC. 32. If copyright belongs to a juridical person pursuant to Secs. 3, 4, the protection ends on the passage of 30 years after publication. Nevertheless, the protection ends on the expiration of the periods stated in Section 29 if the work is first published after the death of the author.

SEC. 33. In the case of works consisting of several volumes, published at intervals, as well as in the case of continued reports or works in parts, each volume, report or part is to be deemed an individual work in calculating the periods of protection.

In the case of works published in installments, the period of protection is calculated from the last installment.

SEC. 34. The periods of protection begin with the expiration of the calendar year in which the author died or the work was published.

SEC. 35. In so far as the period of protection given by this law is dependent upon the time when a work was published or otherwise made public or its essential contents were communicated publicly, reference is only had to a publication or communication, made by or through the proprietor.

PART IV.

VIOLATIONS OF RIGHTS.

SEC. 36. Anyone who intentionally or negligently, in violation of the exclusive right of the author, copies a work, or distributes it commercially, or communicates its essential contents to the public, is bound to make good the resultant damage to the person whose rights are violated.

SEC. 37. Anyone who intentionally or negligently publicly performs or presents a work in violation of the exclusive right of the author, is bound to make good the resultant damage to the person whose rights are violated. The same obligation is imposed upon one who, intentionally or negligently, publicly performs a dramatic adaptation forbidden by Section 12 or *exhibits publicly a pictorial representation, unlawful under the provisions of Section 12.*

SEC. 38. A fine up to 3,000 marks is imposed on:

- (1) anyone who intentionally, save in cases permitted by law, copies a work or distributes it commercially, without the consent of the person whose legal rights are violated;

(2) anyone who intentionally, save in cases permitted by law, publicly performs a dramatic composition, a musical composition or a dramatic adaptation forbidden by Section 12, or *exhibits publicly a pictorial representation forbidden by the terms of Section 12*, or publicly presents an unpublished work without the consent of the person whose legal rights are violated.

If the consent of such person was only necessary because there have been changes in the work itself, in its title, or designation of the author, the fine is up to 300 marks.

If an uncollectable fine is changed to imprisonment, it is not to exceed, 6 months in cases specified in subdiv. 1 or 1 month in cases specified in subdiv. 2.

SEC. 39. Anyone who intentionally and without authority of the person whose rights he violates, communicates the essential portion of a work to the public, before it has been made public, is subject to a fine up to 1,500 marks. If an uncollectable fine is changed to imprisonment, it is not to exceed 3 months.

SEC. 40. On demand of the person whose rights have been violated there may be decreed, in addition to the fine, a payment to him up to 6,000 marks by way of penalty. Persons adjudged to pay this penalty pay as joint debtors.

If a penalty is awarded, it precludes any further claim for damages.

SEC. 41. The acts designated in Sections 36 to 39 are also in violation of the law if a work has only been partially copied, distributed, publicly communicated, represented, exhibited or performed.

SEC. 42. Unlawfully manufactured or distributed copies as well as apparatus exclusively designed for unlawful copying, such as forms, plates, stones and stereotype, shall be destroyed. If only part of a work is manufactured or distributed unlawfully, that part and the apparatus designed to manufacture it, are to be destroyed.

This destruction shall extend to all copies and apparatus which are found belonging to persons who took part in the manufacture or circulation of such infringing copies as well as of their heirs.

The destruction shall also be decreed if the manufacture and distribution was neither intentional nor negligent. The same rule applies where the manufacture is incomplete.

The destruction shall take place as soon as judgment has been legally rendered against the owner.

As far as the copies or apparatus may be made harmless by some method other than by destruction this must be done, if the owner bears the expense thereof.

SEC. 43. The person whose rights have been violated may demand that

instead of being destroyed, the copies and apparatus be turned over to him, either in whole or part, on payment of a fair compensation not exceeding, at most, the cost of manufacture.

SEC. 44. Anyone who omits to mention the source of matter used by him in violation of Section 18 subdiv. 1 or Section 1 is subject to a fine not exceeding 150 marks.

SEC. 45. A prosecution in the cases specified in Sections 38, 39, 44 will only take place if a complaint is made. The complaint may be withdrawn.

SEC. 46. The destruction of copies, unlawfully manufactured or distributed, as well as of apparatus exclusively designed for purposes of unlawful reproduction may be demanded in civil or criminal proceedings.

SEC. 47. The destruction of copies or apparatus may be decreed in criminal proceedings only if especially demanded by the person whose rights have been violated. The demand may be withdrawn before destruction has taken place.

The person whose rights have been violated may demand the destruction of copies or apparatus in an independent action. In such cases, Sections 477 to 479 of the Code of Criminal Procedure are applicable, with the provision that the person whose rights have been violated may act as private plaintiff.

SEC. 48. Where the rights given by Section 43 are asserted, Sections 46 and 47 have a corresponding application.

SEC. 49. Boards of experts shall be constituted in all the confederated States who shall be bound on demand of the courts and public prosecutors to give their opinions on such questions as may be addressed to them.

The boards of experts are authorized, on demand of the parties, to try and decide as arbitrators, questions of damages, of the destruction of copies or apparatus, as well as those arising under the right designated in Section 43, *and in addition in the cases of authorizations contemplated by Section 22.*

The Chancellor of the Empire shall decree the regulations for the organization and duties of the boards of experts.

Individual members of the boards shall not be required to be heard as expert witnesses by the Courts without their consent and the authorization of the Chairman.

SEC. 50. Actions for damages and criminal proceedings for illegal copying are barred by time after the expiration of three years.

This time begins to run on the day on which infringing copies were first put into circulation.

SEC. 51. An action for damages and a criminal proceeding for unlawful distribution, or representation as well as for unlawful performance, is barred by time after the expiration of three years. This is also the rule in cases arising under Sections 36, 39. The time begins to run on the day when the unlawful act took place for the last time.

SEC. 52. Complaint for the destruction of illegally manufactured or distributed copies, as well as apparatus exclusively designed for illegal copying, may be made as long as such copies or apparatus are in existence.

SEC. 53. The statute of limitations begins to run on the day when the work was first made public, in cases punishable under Section 44.

PART V.

FINAL RULES.

SEC. 54. All persons who are residents of the Empire (Reichsangehörigen) have the benefit of the protection prescribed by this law for all their works, whether published or not.

SEC. 55. A non-resident enjoys the protection for each of his works published in Germany unless he has permitted the work or a translation thereof to be published at an earlier date outside of Germany. *In cases involving the protection prescribed by Section 2, subdiv. 2, the multiplication of devices takes the place of publication for the purposes of this paragraph.*

Subject to the same conditions he (i. e., a non-resident) enjoys the same protection for each of his works which he publishes in Germany in the form of a translation. The translation in such case is considered the original work.

SEC. 56. The Register for the entries provided for in Section 31 subd. 2 will be kept by the municipal authorities (Stadträthe) at Leipzig. They will make the entries without examining into the rights of the person requesting registration or the correctness of the facts furnished for registration.

When registration is refused, the interested party may complain to the Chancellor of the Empire.

SEC. 57. The Chancellor of the Empire will issue regulations for the management of the Register. Inspection of the Register is open to everyone. Extracts may be required to be furnished and must be furnished on demand.

Entries will be published in the "Borsenblatt für den deutschen Buchhandel" or if this paper ceases, by publication in another newspaper to be designated by the Chancellor.

SEC. 58. Applications, agreements, declarations and other documents involving entry in the Register do not require to be stamped.

For every entry, for every certificate of entry, and for every other extract from the register, a fee of 1½ marks will be required. The person requesting registration will also be required to defray the cost of publishing notice of the registration.

SEC. 59. In civil actions in which a claim is based on the provisions of this law, either by way of complaint or counterclaim, the trial and decision of the matter is, in the final instance, referred to the Supreme Court of the Empire, pursuant to Section 8 of the Introductory Law of the Judicial Law.

SEC. 60. The period of protection provided for by Sec. 29 also applies to a posthumous work, unpublished at the time when this law goes into effect, although the previously existing period of protection has expired.

SEC. 61. Where the right to perform a musical work was not reserved, the protection against performance provided by this law may, after it takes effect, be secured for it, if the work thereafter bear this reservation. Nevertheless the future performance of such a work remains lawful though without the author's consent, provided that music which does not bear the reservation is not used in the performance.

The exclusive right of public performance of a work protected in accordance with these provisions belongs to the author.

SEC. 62. The exclusive rights of the author of a protected work shall be in accordance with the provisions of this law, even though it was created before the law went into effect. If however, a translation or other alteration or a compilation consisting of the works of various authors made for school purposes, has been lawfully made before this law goes into effect, the right of the person who made it, to multiply, distribute, or publicly perform it remains unaffected by the foregoing provision.

SEC. 63. In so far as a case of copying would be unlawful after this law takes effect but was lawful prior to its passage, if the printing of copies had begun it may be completed. Devices then on hand such as forms, plates, stones, and stereotype may be used until six months have expired. Copies made pursuant to these provisions or completed prior to the passage of this law, may be put into circulation.

SEC. 63a. *The provisions of Sec. 12, subdiv. 2, No. 5, have no application to musical works which were used in Germany, by permission prior to May 1, 1909, for devices for mechanical reproduction. Moreover, the provisions of Sec. 63 have a corresponding application. Copies, whose circulation is permissible pursuant hereto, may be used for public performances.*

The provisions of Section 22 apply to literary and musical works composed before that section came into effect to the extent that such works previously enjoyed protection against mechanical reproduction. To the extent, however, that the author, previously had an exclusive right to use the work for mechanical reproduction and transferred this to a third person, the latter remains entitled to such use as against the author and other third persons, to the extent prescribed by prior law. In such cases also, if the author, pursuant to prior law, licenced another to use the protected work for mechanical reproduction, without assigning the exclusive right thereto, this furnishes no ground for third persons to demand that a similar licence shall also be given to them.

SEC. 64. This law shall go into effect January 1, 1902. Secs. 1 to 56, 61 and 62 of the law respecting copyright in writings, etc., of June 11, 1870, are repealed as of the same day, except that they remain unrepealed in so far as they are declared by statute to be applicable to the protection of works of plastic art,* photographs,* designs and models.

NOTE.—The relations between publishers and authors are regulated by an elaborate statute. (Law of June 19, 1901, as amended May 22, 1910.)

LAW RESPECTING COPYRIGHT IN WORKS OF PLASTIC (BILDENDEN) ART AND PHOTOGRAPHY, OF JANUARY 9, 1907, AS AMENDED MAY 22, 1910.†

We, William, by grace of God, Emperor of Germany, King of Prussia, etc., decree, in the name of the Empire, the Bundesrat and Reichstag, having consented thereto, as follows:

PART I.

CONDITIONS OF THE PROTECTION.

SEC. 1. The authors of works of plastic art and photography are protected to the extent and as provided in this law.

SEC. 2. Works of industrial art (Kunstgewerbe) are included in works of plastic art, as are also architectural works in so far as these serve artistic purposes.

Designs for works of industrial art, as well as for architectural works of the kind specified in the previous sentence, are also to be deemed works of plastic art.

* See Law of 1907 (*post*).

†—The italicized portions represent changes made in the Law of 1907 by the Law of 1910.

SEC. 3. Works which are produced by a process similar to photography are to be deemed photographs.

SEC. 4. The law respecting copyright in works of literature and music of June 19, 1901, has no application to designs in so far as these are to be deemed works of plastic art.

SEC. 5. Official juridical persons who have a work published which does not bear the author's name are deemed its author, in the absence of agreement to the contrary.

SEC. 6. If a work consists of the separable contributions of several (compilation), the publisher (Herausgeber) is deemed the author of the work as an entirety. If he is not named, the manufacturer (Verleger) is deemed the publisher.

SEC. 7. If a work of plastic art is combined with a photographic work, the author of each is to be deemed the author of his work even after they are combined. The same result follows if a work of figurative art or a photographic work is combined with a literary or musical work or a protected design.

SEC. 8. If several have collaborated in the creation of their work so that their work is not separable, they have, as authors, a property in common in the work, in accordance with the Civil Code.

SEC. 9. If the name of an author is given or indicated by distinctive marks upon a work, he will be presumed to be the author of the work.

In cases of works which are published under a name other than the author's true name or without an author's name, the publisher (Herausgeber) or if he is not named, the manufacturer (Verleger) is authorized to protect the author's rights.

SEC. 10. The rights of the author pass to his heirs. If the Fiskus or any other person having an official judicial status is made heir by law, the right is extinguished, as respects the decedent, on his death.

Copyright may be assigned conditionally or unconditionally to others. The assignment may be limited territorially.

The transfer of the ownership in a work does not, in the absence of agreement to the contrary, include an assignment of copyright therein.

SEC. 11. The author, may, unless the surrounding circumstances indicate that the publisher was to receive the exclusive right to multiply copies and distribute them, make such other disposition as he see fit of a contribution accepted for publication in a newspaper, magazine or other periodical composite work.

With respect to a contribution in connection with which the publisher received the exclusive right to multiply copies and distribute them, the author may, in the absence of agreement to the contrary, make such other

disposition thereof as he deem fit, after a year has passed after expiration of the calendar year in which the contribution was published.

These provisions apply to contributions to a non-periodical compilation, where the author has no right to payment for his contribution.

SEC. 12. In cases of the transfer of copyright, the assignee has not the right in the exercise of his rights, in the absence of agreement to the contrary, to make changes in the work itself, in its title or indication of the author.

Changes are permitted which the person otherwise entitled to forbid could not in good faith refuse to sanction.

SEC. 13. The name or mark of an author cannot be placed upon a work as its author, by a third person, without the author's consent.

SEC. 14. Copyright may not be seized by legal process for the payment of an author's debts without his consent. The consent cannot be given by a receiver of his property. Such seizure is only permissible as against an author's heirs without their consent, if the work or a copy thereof has been published.

The same provisions apply with respect to seizure of forms, plates, stones or other similar apparatus exclusively destined for multiplying the work in copies.

PART II.

RIGHTS OF THE AUTHOR.

SEC. 15. The author has the exclusive right to multiply copies of the work, to distribute them commercially and to exhibit them commercially by means of mechanical or optical devices. The exclusive right does not extend to lending. Mere imitation (*nachbilden*) also is deemed copying as is, in the case of architectural works and plans therefore, duplication by building.

One who produces another work of the plastic arts or of photography through reproduction of another has the rights prescribed by the preceding paragraph but he can only exercise these rights in so far as the author of the original work also enjoys protection for his work by consent of the latter.

SEC. 15a. *If a work reproduced by cinematography or any similar process is to be regarded as an original creation because of its stage action or the method of combination of the incidents portrayed, copyright extends to the pictorial representation of the action thus presented, in such other form. The author has the exclusive right to exhibit the work publicly.*

SEC. 16. The free use of a work which brings forth an original creation is lawful.

SEC. 17. Copying without the consent of the person having the right to forbid it is unlawful no matter what the method is by which it is done. It is also immaterial whether the work is reproduced into one or more copies.

SEC. 18. The making of a copy for personal use, except as to reproduction by way of building, is lawful provided it is not done for pecuniary gain.

In the case of portraits, the person ordering them and his legal representative, may multiply them in copies, in the absence of agreement to the contrary. If the portrait is a work of plastic art, it shall be unlawful to multiply it in copies except by means of photography as long as the artist lives, except as permitted in the preceding paragraph.

It is forbidden to place the name or any other designation of the author upon the copies in such a way that it may lead to deception.

SEC. 19. Copying and distribution of copies is lawful in cases where single works are inserted in an original scientific work or in one destined for school or educational use solely for purposes of explanation of the text. This provision does not apply to works which have not been published or publicly exhibited in a permanent way.

Any person using the work of another in this way must plainly indicate the source of the work as far as this is stated upon the work.

SEC. 20. The multiplication of copies of works which are permanently situated in public ways, streets or places, by means of painting, drawing or photography is lawful. Such copying may not be made by means of an architectural work.

The right to multiply copies of architectural works only extends to their exterior view.

To the extent that a work may be copied pursuant to this law, the copies may also be distributed and exhibited.

SEC. 21. Copying pursuant to Sections 19 and 20 is only lawful when no changes are made in the work so reproduced, in making the copies. Nevertheless such changes of size and other alterations are permissible as are involved in the process used for making the copies.

SEC. 22. Portraits may only be reproduced or publicly exhibited with the consent of the person portrayed. In doubtful cases the consent is deemed given if the person portrayed received pay for being portrayed. The consent of the next of kin of the person portrayed is essential for ten years, after his death. Next of kin for the purposes of this law mean the surviving husband or wife or children of the person portrayed or in the absence of these, his parents.

SEC. 23. There may, however, be distributed and exhibited without the consents provided for by Section 22:

- (1) portraits from the field of current history;
- (2) pictures, in which the persons only appear as accessories, to a landscape or some similar scene;
- (3) pictures of meetings, processions or other similar events in which the persons portrayed took part;
- (4) portraits, not made to order, in so far as their distribution or exhibition serves a high artistic purpose.

However, this right does not extend to a circulation or exhibition of a portrait which would injure a legitimate interest of the person portrayed or, if dead, of his next of kin.

SEC. 24. For purposes of the administration of justice and public security, the authorities may copy portraits without the consent of the person portrayed and the person having the right to the portrait and may circulate and publicly exhibit them.

PART III.

DURATION OF COPYRIGHT.

SEC. 25. The protection of copyright in a work of plastic art expires 30 years after the death of the author.

If the copyright belongs to a juridical person, pursuant to Sections 5 and 6, the protection ends 30 years after publication of the work. Nevertheless the protection ceases with the expiration of the period prescribed in the first sentence, if the work is first published after the death of its creator.

SEC. 26. The protection of copyright in a photographic work expires ten years after publication of the work. Nevertheless the protection ends ten years after its author's death if the work had not been published at that time.

SEC. 27. If the copyright belongs to several in common, the death of the last survivor furnishes the time for calculation of the copyright term, in so far as time of death determines the period of protection.

SEC. 28. In the case of works consisting of several parts, made public at intervals, as well as in the case of continued sheets or volumes, every part, sheet or volume, is deemed an individual work in calculating the period of protection.

In the case of works published in installments the period of protection is calculated from the publication of the last installment.

SEC. 29. The periods of protection begin with the expiration of the calendar year in which the author died or the work was published.

SEC. 30. In so far as the period of protection given by this law is dependent on the time when a work was published, reference is only had to a publication made by or through the proprietor.

PART IV.

VIOLATIONS OF COPYRIGHT.

SEC. 31. Anyone who intentionally or negligently, in violation of the exclusive rights of the author, multiplies copies of a work, distributes it commercially, or performs it commercially by means of mechanical or optical devices, is bound to make good the resultant damage to the person whose right has been violated. *A public performance is deemed a commercial performance in case of cinematography or similar devices.*

SEC. 32. Anyone who, save in cases where permitted by this law, intentionally, without the consent of the person having the right to forbid it, multiplies copies of a work, distributes it commercially or performs it commercially by means of mechanical or optical devices is subject to a fine not exceeding 3000 marks. *A public performance is deemed a commercial performance in case of cinematography or similar devices.*

If an uncollectable fine is changed into imprisonment, its duration shall not exceed six months in the cases specified in the first paragraph nor one month in the cases specified in the second paragraph.

SEC. 33. He is punished with a fine not exceeding 1000 marks:

- (1) who in violation of the provisions of Secs. 18, subdiv. 3, intentionally places the name or some other designation of the author of the work on a copy;
- (2) who in violation of the provisions of Sections 22, 23, intentionally distributes a portrait or publicly exhibits it.

If an uncollectable fine is changed into imprisonment, its duration may not exceed one month.

SEC. 35. On demand of the person whose rights have been violated, a penalty not exceeding 6000 marks may be awarded to him by the court, in addition to the foregoing punishment. Persons adjudged to pay this penalty do so as joint debtors.

The judicial award of a penalty prevents a further suit for damages.

SEC. 36. The acts designated in Sections 31-32 are also illegal if the work is only partially copied, distributed or exhibited.

SEC. 37. Illegally manufactured, distributed or exhibited copies and such apparatus as is exclusively designed for illegal copying or exhibition, such as forms, plates and stones, are subject to destruction. The same rule applies to illegally distributed or publicly exhibited portraits and the apparatus exclusively designed for their multiplication in copies.

If only a part of a work is illegally manufactured, distributed or exhibited the destruction of such part and the corresponding apparatus must be adjudged.

This destruction shall extend to all copies and apparatus which are found belonging to persons who took part in the manufacture or circulation of such infringing copies as well as of their heirs.

The destruction shall also be decreed if the manufacture and distribution was neither intentional nor negligent. The same rule applies where the manufacture is incomplete.

The destruction shall take place as soon as judgment has been legally rendered against the owner.

As far as the copies or apparatus may be made harmless by some method other than by destruction this must be done, if the owner bears the expense thereof.

The foregoing provisions do not apply to works of architecture.

SEC. 38. The person whose rights have been violated may demand that instead of being destroyed, the copies and apparatus be turned over to him, either in whole or part, on payment of a fair compensation not exceeding, at most, the cost of manufacture.

SEC. 39. If a compilation or any other collection consisting of several works combined together, is subject to partial destruction under Sec. 37, paragraph 1, the owner of copies which would be subject to destruction may demand that he be decreed to have the right to prevent such destruction and to distribute the copies commercially, on payment of compensation to the person whose rights have been violated. Such demand shall not be granted when such owner has intentionally or negligently violated the author's exclusive rights.

The Court shall grant the demand where the destruction would cause the owner an excessive loss. The Court shall fix the compensation to be paid fairly, according to the facts.

These provisions have no application to the destruction of a portrait distributed or publicly exhibited in violation of Sections 22 and 23.

SEC. 40. Anyone who omits in violation of Section 19, sentence 2, to indicate the source used by him shall be punished by a fine not exceeding 150 marks.

SEC. 41. Prosecution in cases specified in Sections 32, 33 and 40 will only take place if a complaint is made. The complaint may be withdrawn.

SEC. 42. The destruction of copies, unlawfully manufactured or distributed, as well as of apparatus exclusively designed for purposes of unlawful reproduction, may be demanded in civil or criminal proceedings.

SEC. 43. The destruction of copies or apparatus may be decreed in

criminal proceedings only if especially demanded by the person whose rights have been violated. The demand may be withdrawn before destruction has taken place.

The person whose rights have been violated may demand the destruction of copies or apparatus in an independent action. In such cases Sections 477 to 479 of the Code of Criminal Procedure are applicable, with the provision that the person whose rights have been violated may act as private plaintiff.

SEC. 44. Where the rights given in Section 38 are asserted, Sections 42 and 43 have a corresponding application.

SEC. 45. The demand designated in Sec. 39 is to be made in a proceeding to procure destruction of copies, if this is pending. If such a proceeding is not pending, the demand can only be made to a Court competent, pursuant to the provisions of the Code of Civil Procedure, to decree the destruction of copies.

The owner may be permitted to obtain a temporary order, by giving security, to prevent the destruction and to permit the commercial distribution of copies. When this relief is granted during the course of a civil action, the general rules of law governing provisional relief apply.

If the owner is not granted the right by the Court to prevent destruction of the articles and to be allowed to distribute them commercially on payment of suitable compensation, he must pay the person whose rights have been violated compensation for any copies distributed by him under the protection of such temporary order. The Court shall fix the amount of such compensation fairly, according to the facts.

SEC. 46. Boards of experts shall be constituted in all the confederated States who shall be bound on demand of the Courts and public prosecutors to give their opinions on such questions as may be addressed to them.

The boards of experts are authorized, on demand of the parties, to try and decide, as arbitrators, questions of damages, of the destruction of copies or apparatus as well as those arising in connection with the granting of the right designated in Sec. 38.

The Chancellor of the Empire shall decree the regulations for the organization and procedure of the Boards of Experts.

Individual members of the boards shall not be required to be heard as expert witnesses by the Courts without their consent and the authority of the Chairman.

SEC. 47. Actions for damages and criminal proceedings for illegal copying are barred by time after the expiration of three years.

This time begins to run on the day on which the copying is completed.

If the copying was done for the purpose of distribution the time only begins to run on the day on which a distribution took place.

SEC. 48. An action for damages and criminal proceedings for unlawful distribution or exhibition of a work, as well as criminal proceedings for illegal distribution or exhibition of a portrait, are barred by time after the expiration of 3 years.

The time begins to run on the last day on which the illegal act took place.

SEC. 49. The time in which acts punishable under Sec. 40 are barred by lapse of time begins to run on the day on which the first distribution took place.

SEC. 50. Complaint for the destruction of copies and apparatus may be made as long as such copies or apparatus are in existence.

PART V.

FINAL RULES.

SEC. 51. All persons who are residents of the Empire (Reichsangehörigen) have the protection given an author for all their works, whether published or not.

SEC. 52. In civil actions in which a claim is based on the provisions of this law, either by way of complaint or counterclaim, the trial and decision of the matter is, in the last instance, referred to the Supreme Court of the Empire, pursuant to Sec. 8 of the Introductory Law of the Judicial Law.

SEC. 53. The exclusive rights of the author of a work which was protected at the time this law went into effect are in accordance with the provisions of this law. Its provisions apply to a photographic work, unpublished when this law takes effect, even though the previously existing period of protection thereof had expired.

Anyone who lawfully used a work in the course of his business before this law went into effect for the purpose of designating, ornamenting or advertising goods, may continue to use the work for this purpose.

If a published work has been exhibited commercially, by means of mechanical or optical devices, before this law went into effect, it does not enjoy protection against unauthorized exhibition.

SEC. 54. In so far as a multiplication of copies unlawful after this law takes effect was lawful previously, existing apparatus therefor such as forms, plates and stones may continue to be used for a period of three years. Apparatus whose manufacture was begun may be completed and used during the same period of time. The distribution of copies manu-

factured pursuant to these provisions, as well as those completed before this law goes into effect, is lawful.

SEC. 55. This law goes into effect July 1, 1907. Secs. 1 to 16, 20 and 21 of the Law respecting copyright in works of plastic art, dated January 9, 1876, as well as the Law respecting the protection of photographs against unlawful copying, dated January 10, 1876, are repealed as of the same date.

FRENCH COPYRIGHT LAWS

(Introductory Note. There is not in France, as in most great States, a single law dealing with literary and artistic property. The provisions which deal with the subject are scattered. The original French text of the pertinent laws and decrees up to 1896 will be found in "*Lois de la propriete litteraire et artistique*" by M. M. Ch. Lyon-Caen & Paul Delalain and in "*Le Droit d'Auteur*" after that time. Various explanatory footnotes appended to the translations which follow have been taken from the work cited. The laws and decrees are arranged chronologically.)

LAW RELATING TO THEATRES AND THE RIGHT TO PRESENT AND PERFORM DRAMATIC AND MUSICAL WORKS.

(January 13-19, 1791.)

ART. 1. Any citizen may open a public theatre and give performances of pieces of every kind provided that he has, previous to the establishment of his theatre, made a declaration to the local municipality.

ART. 2. The works of authors dead five years or more, before the passage of this law, are public property and may notwithstanding all former privileges which are hereby abolished, be performed in all theatres without distinction.

ART. 3. The works of living authors may not be represented in any public theatre throughout France without the formal written consent of the author under penalty of the confiscation of the gross receipts of the performances for the benefit of the author.

ART. 4. The provisions of Art. 3 apply to works previously performed, whatever the former regulations may have been. Nevertheless agreements which may have been made between actors and living or dead authors must be performed.

ART. 5. The heirs and assigns of authors shall be the proprietors of their works for five years after the death of the author.*

* The duration of such rights has been successively increased. See Law of July 14, 1866 (*post*).

LAW RELATING TO THEATRES AND TO THE RIGHT TO PRESENT AND PERFORM DRAMATIC AND MUSICAL WORKS.

(July 19-August 7, 1791.)

ART. 1. Pursuant to the provisions of articles 3 and 4 of the law of January 13th, last, concerning theatrical performances (*spectacles*), the works of living authors may not be performed in any public theatre throughout France, even though performed before that date and whether or not they were engraved or printed, without the formal written consent of the author, or without that of their heirs or assigns in the case of authors dead more than five years, under penalty of confiscation of the gross receipts of the performances for the benefit of the author or his heirs or assigns.

ART. 2. Agreements between authors of theatrical works and managers shall be perfectly free and neither the municipal authorities nor any other public officers shall have any right to tax said works nor to decrease or increase the agreed price, and the compensation of authors or their legal representatives to be paid them, by agreement, by managers may neither be seized on execution nor attached by creditors of the managers.

LAW RELATING TO THE PROPERTY RIGHTS OF AUTHORS OF WRITINGS OF ALL KINDS, COMPOSERS OF MUSIC, PAINTERS AND DRAUGHTSMEN.¹

(July 19, 1793.)

ART. 1. The authors of writings of all kinds, the composers of music², painters and draughtsmen, who engrave pictures or drawings (*dessins*) shall enjoy for life, the exclusive right to sell, permit to be sold and distribute their works within the territory of the Republic and to assign the property therein in whole or in part.³ Sculptors and ornamental designers shall have the same rights whatever the merit or purpose of the work may be.⁴

1—This law, as amended, is the fundamental French Copyright Act.

2—The words "architects, sculptors" were inserted at this place by the law of March 11, 1902, (*post*).

3—The enumeration of works in this article is held non-exclusive. Thus it has been held to apply to works of architecture and photographs, as far as copyrightable. The rule as to the latter appears much the same as that outlined in *Burrow Giles Lithographic Co. v. Sarony*, 111 U. S. 53. Non-artistic drawings, and models are not included in the law. (See *Lyon-Caen & Delalain (op. cit.)* p. 15-16.)

4—This sentence was added by the law of March 11, 1902, (*post*).

ART. 2. Their heirs or assigns shall enjoy the same right for a period of ten years after the death of the author.⁵

ART. 3. The magistrates⁶ shall be bound to have all copies printed or engraved without the formal written consent of authors, composers, painters, draughtsmen or others, their heirs or assigns, confiscated for their benefit, on their demand.

ART. 4. Every infringer shall be bound to pay to the true proprietor a sum equivalent to the price of 3000 copies of the original edition.⁷

ART. 5. Every seller of an infringing edition, if not convicted of piracy, shall be bound to pay to the true proprietor a sum equal to the price of 500 copies of the original edition.

ART. 6. Every citizen who produces a work whether of literature or engraving of whatever kind, must deposit two copies in the National Library or in the Stamp Office of the Republic, for which he will receive a receipt signed by the Librarian, failing which he shall have no right to sue infringers.⁸

ART. 7. The heirs of the author of a work of literature or engraving or of any other production of intellect or genius belonging to the fine arts shall have the exclusive property therein for ten years.⁹

LAW RELATING TO THEATRES AND TO THE RIGHT OF PERFORMANCE OF MUSICAL AND DRAMATIC WORKS.

(September 1, 1793.)

The National Convention being desirous of securing to the authors of dramatic works the property in their works, and to guarantee to them the means of disposing of the same with equal freedom whether by way of printing or performance and to terminate a difference existing between theatres in Paris and the provinces which is both an abuse and unjust,

Decrees as follows:

ART. 1. The National Convention repeals the law of August 30th, 1792, relating to dramatic works.

ART. 2. The laws of January 13, 1791, and July 19, 1793, shall apply, in all their provisions, to such works.

ART. 3. The supervision of theatrical performances shall continue to

5—Increased to 50 years by the law of July 14, 1866 (*post*).

6—Now superintendents of police or in their absence police magistrates (Decree of Feb. 5, 1810; Law of June 25, 1795).

7—See also Penal Code, 1910, Sec. 425 (*post*), which permits judges to vary a penalty as to amount.

8—Now regulated by Law of July 29, 1881 (*post*).

9—Now fifty years (Law of July 14, 1866, *post*).

belong exclusively to the municipal authorities. Managers or their partners shall be bound to have a register in which they shall inscribe and have countersigned by the police officer on duty, after each performance, the pieces played to show the number of performances of each.

LAW RELATING TO THE AUTHORITIES CHARGED WITH DETERMINING CRIMES OF INFRINGEMENT.

(June 13, 1795.)

ART. 1. The duties assigned to magistrates by Article 3 of the law of July 19, 1793, will be, in future, performed by the police superintendents and by the police magistrates in places where there are no superintendents of police.

DECREE CONCERNING THE RIGHTS OF PROPRIETORS OF POSTHUMOUS WORKS.

(March 22, 1805.)

Napoleon, French Emperor, with respect to the laws dealing with literary property, considering that they declare the works of authors dead for more than 10 years public property, that the depositaries, purchasers, heirs or proprietors of the posthumous works of authors dead more than 10 years, hesitate to publish the works for fear of having their exclusive property disputed and because of the uncertainty of the duration of the property; that an unpublished work is like a non-existent work and that he who publishes it has the rights of the deceased author and should enjoy them for life; that however, if there were reprinted at the same time and in a single publication with posthumous works, works by the same author previously published, there would result in his favor a kind of privilege for the sale of works which had become public property: the Council of the State having been heard, decrees as follows:

ART. 1. The proprietors by inheritance, or any other title, of a posthumous work have the same rights as the author and the provisions of law with respect to the exclusive rights of authors and of their duration are applicable thereto, always provided, that posthumous works must be printed separately and without joining thereto a new edition of works heretofore published and become public property.

ART. 2. The Chief Justice, Minister of Justice and the Ministers of the Interior and General Police are charged, each as far as applicable, with the execution of this decree.

DECREE CONCERNING THE PRINTING OF CHURCH, DEVOTIONAL AND PRAYER BOOKS.

(March 29, 1805.)

ART. 1. Church, devotional and prayer books may not be printed or reprinted without the permission of the diocesan bishops. This permission must be quoted and printed at the beginning of each copy.

ART. 2. The printers and booksellers who shall print or reprint church, devotional or prayer books without having obtained this permission will be prosecuted in accordance with the law of July 19, 1793.

ART. 3. The Chief Justice, Minister of Justice and the Ministers of General Police and of Worship are charged, each as far as applicable, with the execution of this decree.

DECREE RELATING TO THEATRES AND THE RIGHT OF PERFORMANCE OF POSTHUMOUS DRAMATIC AND MUSICAL WORKS.

(June 8, 1806.)

(Unrepealed part.)

CHAPTER III.

ART. 10. Authors and managers shall be free to determine between them by mutual agreement the recompense to be paid for first performances either in a fixed amount or otherwise.

ART. 11. The local authorities shall watch over the execution of these agreements rigorously.

ART. 12. The proprietors of posthumous dramatic works have the same rights as the author and the provisions respecting the property of authors and its duration, as provided by the law of March 22, 1805, apply to such works.

DECREE RESPECTING THE PUBLICATION OF MANUSCRIPTS BELONGING TO LIBRARIES AND OTHER PUBLIC INSTITUTIONS.

(February 20, 1809.)

ART. 1. Manuscripts in the archives of our Ministry of Foreign Relations and those of the national,¹⁰ departmental or municipal libraries or other governmental public institutions, whether they are manuscripts remaining in the places to which they pertain, whether they have been

¹⁰—Literally, "imperial."