

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

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

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

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

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

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

“ Lecture ” includes address, speech, and sermon ;

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

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

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

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with,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.

Short title  
and com-  
mencement.

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

(2) This Act shall come into operation—

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

Sect. 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. <sup>1</sup>
<i>(b) In the case of Musical and Dramatic Works.</i>	
Both copyright and performing right.	Copyright as defined by this Act. <sup>1</sup>
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.

<sup>1</sup> 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 Copyright Act, 1842.

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  
ENACTMENTS REPEALED

Sect. 36.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Geo. II. c. 13.	The Engraving Copyright Act, 1734.	The whole Act.
7 Geo. III. c. 38.	The Engraving Copyright Act, 1767.	The whole Act.
15 Geo. III. c. 53	The Copyright Act, 1775.	The whole Act.
17 Geo. III. c. 57.	The Prints Copyright Act, 1777.	The whole Act.
54 Geo. III. c. 56.	The Sculpture Copyright Act, 1814.	The whole Act.
3 & 4 Will. IV. c. 15.	The Dramatic Copyright Act, 1833.	The whole Act.
5 & 6 Will. IV. c. 65.	The Lectures Copyright Act, 1835.	The whole Act.
6 & 7 Will. IV. c. 59.	The Prints and Engravings Copyright (Ireland) Act, 1836.	The whole Act.
6 & 7 Will. IV. c. 110.	The Copyright Act, 1836.	The whole Act.
5 & 6 Vict. c. 45.	The Copyright Act, 1842.	The whole Act.
7 & 8 Vict. c. 12.	The International Copyright Act, 1844.	The whole Act.
10 & 11 Vict. c. 95.	The Colonial Copyright Act, 1847.	The whole Act.
15 & 16 Vict. c. 12.	The International Copyright Act, 1852.	The whole Act.
25 & 26 Vict. c. 68.	The Fine Arts Copyright Act, 1862.	Sects. 1 to 6. In sect. 8 the words "and pursuant to any Act for the protection of copyright engravings," and "in any such Act as aforesaid." Sects. 9 to 12.
38 & 39 Vict. c. 12.	The International Copyright Act, 1875.	The whole Act.
39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876.	Sect. 42, from "Books wherein" to "such copyright will expire." Sects. 44, 45, and 152.
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.

SECOND SCHEDULE—*Continued.*

Session and Chapter.	Short Title.	Extent of Repeal.
52 & 53 Vict. c. 42.	The Revenue Act, 1889.	Sect. 1, from "Books first published" to "as provided in that section."
6 Edw. VII. c. 36.	The Musical Copyright Act, 1906.	In sect. 3 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."

**REGULATIONS UNDER THE ACT**

**(1) COMPULSORY LICENSES**

**(2) MECHANICAL MUSICAL INSTRUMENTS**

**(3) LIBRARY BOOKS (WALES)**

## NOTE

REGULATIONS (I) relate to the publication on a 10 per cent. royalty of a copyright work after the expiration of 25 years; or, in the case of a work in which copyright subsists on December 16, 1911, 30 years, from the death of the author of a published work.

Regulations (II) relate to mechanical musical contrivances. No royalty is payable up to July 1, 1913, if contrivances reproducing published musical works have been lawfully made, or placed on sale, prior to July 1, 1910, within the British area of the Act. The royalty afterwards on such works is  $2\frac{1}{2}$  per cent.

There is a royalty of  $2\frac{1}{2}$  per cent. on other contrivances made from musical works published before July 1, 1912, within the same area.

With regard to musical works not adapted to mechanical instruments prior to July 1, 1912, mechanical reproduction is forbidden until such time as the owner of the copyright in a musical work has made or acquiesced in any such reproduction. The royalties are—*(a)* for contrivances sold up to July 1, 1914,  $2\frac{1}{2}$  per cent.; *(b)* for contrivances sold after July 1, 1914, 5 per cent.

Regulations (III) relate to delivery of books (Wales).



(I)

THE COPYRIGHT ROYALTY SYSTEM (GENERAL) REGULATIONS,  
1912. DATED JUNE 7, 1912.<sup>1</sup>

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

*Preliminary*

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

*Notice*

(2) The notice required by sect. 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, etc.) ;
- (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 ;

<sup>1</sup> Statutory Rules and Orders, 1912, No. 532.

- (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 fourteen days from the date of the prescribed notice the owner of the copyright has not duly sent to the person reproducing the work an intimation of some reasonably convenient place within the United Kingdom from which such labels can be obtained; or
- (ii) the owner of the copyright refuses or neglects to supply such labels within fourteen days after demand duly made,

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

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

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

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

(e) The adhesive label supplied as aforesaid shall be an adhesive paper label, square in shape, the design to be entirely enclosed within a circle and the side of the label not to be greater than  $\frac{3}{4}$  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 sect. 3 of the Copyright Act, 1911.

(II)

THE COPYRIGHT ROYALTY SYSTEM (MECHANICAL MUSICAL INSTRUMENTS) REGULATIONS, 1912. DATED JUNE 7, 1912.<sup>1</sup>

THE Board of Trade, in pursuance of the powers conferred by sect. 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 first day of July, 1912.

*Notice*

(2) The notice required by sect. 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 each contrivance in respect of the musical work ;
- (e) the earliest date at which any of the contrivances will be delivered to a purchaser ;
- (f) whether any other work is to be reproduced on the same contrivance with the musical work specified in accordance with paragraph (b).

(3) The notice shall, not less than ten days before any contrivances on which the musical work is reproduced are delivered to a

<sup>1</sup> Statutory Rules and Orders, 1912, No. 533.



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 first day of July 1912.

#### *Payment of Royalties*

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

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

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

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

- (i) after the expiration of five days from the date of the prescribed notice of the intention of the person making the contrivances to make or sell such contrivances the owner of the copyright has not duly sent to the person making the contrivances an intimation of some reasonably convenient place within the United Kingdom from which such labels can be obtained ; or



(ii) the owner of the copyright refuses or neglects to supply such labels within three days after demand duly made, contrivances may be delivered to purchasers without having labels affixed thereto or to the carton or box enclosing the same ; and the amount of royalties shall be a debt due from the person making the contrivances to the owner of the copyright, and the person making the contrivances shall keep an account of all such contrivances sold by him.

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

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

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

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

#### *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 sect. 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, seven days after the date when the inquiries would in ordinary course of post be delivered ;
  - (b) in cases where the inquiries are required to be advertised in the *London Gazette*, seven days after the date of such advertisement.

#### *Interpretation*

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

(III)

THE NATIONAL LIBRARY OF WALES (DELIVERY OF BOOKS)  
REGULATIONS, 1912. DATED JUNE 25, 1912.<sup>1</sup>

THE Board of Trade in pursuance of sect. 15 (5) of the Copyright Act, 1911, hereby make the following regulations:—

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

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

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

- (i) The number of copies in the published edition does not exceed 300 ; or
- (ii) The number of copies in the published edition does not exceed 400 and the published price of each volume exceeds £5 ; or
- (iii) The number of copies in the published edition does not exceed 600 and the published price of each volume exceeds £10.

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

<sup>1</sup> Statutory Rules and Orders, 1912, No. 635.



ORDERS IN COUNCIL  
EXTENDING THE ACT

I

ORDER IN COUNCIL

RELATING TO

BRITISH PROTECTORATES

At the Court at *Buckingham Palace*, June 24, 1912.

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

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

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

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

II  
ORDER IN COUNCIL  
RELATING TO  
(a) AUSTRIA-HUNGARY  
AND  
(b) BRITISH DOMINIONS  
(NOT SELF-GOVERNING)

At the Court at *Buckingham Palace*, June 24, 1912.

WHEREAS on April 24, 1893, a Convention, set out in the First Schedule<sup>1</sup> to this Order, with respect to the protection to be given by way of copyright to the authors of literary and artistic works, was concluded between Her late Majesty Queen Victoria and His Majesty the Emperor of Austria, King of Bohemia and Apostolic King of Hungary, and the ratifications of the said Convention were exchanged on April 14, 1894, between Her late Majesty Queen Victoria and His Majesty the Emperor :

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

And whereas by the Copyright Act, 1911, the said International Copyrights Act, 1844 to 1868, are repealed, as from the date of the commencement of the said Copyright Act, 1911, in the parts of His Majesty's dominions to which the said Act extends :

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

<sup>1</sup> See Austria-Hungary Convention, p. 177, *post*.



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

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

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

- (a) To works first published in the Austro-Hungarian Monarchy in like manner as if they had been first published within the parts of His Majesty's dominions to which the said Act extends ;
- (b) to literary, dramatic, musical, and artistic works, the authors whereof were at the time of the making of the work subjects of the Austro-Hungarian Monarchy in like manner as if the authors had been British subjects ;
- (c) in respect of residence in the Austro-Hungarian Monarchy in like manner as if such residence had been residence in the parts of His Majesty's dominions to which the said Act extends.

Provided that—

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

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

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

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

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

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

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

(4) The Orders mentioned in the Second Schedule to this Order are hereby revoked as from the date of the commencement of the Copyright Act, 1911, so far as regards the parts of His Majesty's dominions to which this Order applies.<sup>1</sup>

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

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

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

<sup>1</sup> Orders dated April 30, 1894; Feb. 2, 1895; and May 11, 1895.

III  
ORDER IN COUNCIL  
RELATING TO  
THE BERLIN CONVENTION

At the Court at *Buckingham Palace*, June 24, 1912.

WHEREAS, etc.

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

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

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

- (a) to works first published in a foreign country of the Copyright Union, in like manner as if they had been first published within the parts of His Majesty's dominions to which the said Act extends:
- (b) to literary, dramatic, musical, and artistic works, the authors whereof were at the time of the making of the works subjects or citizens of a foreign country of the Copyright Union, in like manner as if the authors had been British subjects:
- (c) in respect of residence in a foreign country of the Copyright Union, in like manner as if such residence had been residence in the parts of His Majesty's dominions to which the said Act extends.



Provided that—

- (i) Sects. 1 (2) (d) and 19 of the Copyright Act, 1911, and such other part or parts thereof as confer upon the owner of the copyright in a literary, dramatic, or musical work the exclusive right of making any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed, and such other part or parts thereof as confer copyright in any record or perforated roll shall not apply in the case of any work of which the country of origin is Denmark, Italy, or Sweden.
- (ii) The term of copyright within the parts of His Majesty's dominions to which this Order applies shall not exceed that conferred by the law of the country of origin of the work.
- (iii) The enjoyment of the rights conferred by the Copyright Act, 1911, shall be subject to the accomplishment of the following conditions and formalities; that is to say:—
  - (a) In the case of any newspaper article (not being a serial story or tale) of which the country of origin is one of the foreign countries following, namely, Belgium, France, Germany and the German Protectorates, Hayti, Liberia, Luxemburg, Monaco, Portugal, Spain, Switzerland and Tunis, the right to prevent the reproduction of such article (either in the original language or in a translation) in another newspaper with an indication of the source shall be conditional upon reproduction being forbidden by express declaration in some conspicuous part of the newspaper in which the article is published.
  - (b) In the case of any newspaper or magazine article (not being a serial story or tale) of which the country of origin is Denmark, Italy, Norway, or Sweden, the right to prevent the reproduction of such article (either in the original language or in a translation) with an indication of the source shall be conditional upon reproduction being forbidden by express declaration in some conspicuous part of the newspaper or magazine in which the article is published.
  - (c) In the case of any literary or dramatic work of which the country of origin is Denmark, Italy, Japan, or Sweden, the right, after the expiration of ten years from the end of the year in which the work, or, in the case of a book published in numbers, each number of the work was first published, to prevent the production, reproduction, performance in public or publication of any translation

of the work shall be conditional upon the publication before the expiration of the above-mentioned period and within the parts of His Majesty's dominions to which this Order applies or within any foreign country of the Copyright Union of an authorised translation in the language for which protection is claimed of the work or of each number of the work.

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

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

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

(3) Subject to the provisions of article (2) proviso (i) of this Order, where any musical work to which this Order applies has been published before the commencement of the Copyright Act, 1911, but no contrivances by means of which the work may be mechanically performed have before the commencement of this Order been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Order applies, copyright in the work shall include all rights conferred by the said Act with respect to the making of records, perforated rolls, and other contrivances by means of which the work may be mechanically performed.

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

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

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

(b) This Order shall also apply to Cyprus, and to the following



territories under His Majesty's protection, that is to say,—the Bechuanaland Protectorate, East Africa Protectorate, Gambia Protectorate, Gilbert and Ellice Islands Protectorate, Northern Nigeria Protectorate, Northern Territories of the Gold Coast, Nyasaland Protectorate, Northern Rhodesia, Southern Rhodesia, Sierra Leone Protectorate, Somaliland Protectorate, Southern Nigeria Protectorate, Solomon Islands Protectorate, Swaziland, Uganda Protectorate, and Wei-hai-wei.

(6) The Orders mentioned in the Fifth Schedule<sup>1</sup> to this Order are hereby revoked, as from the date of the commencement of this Order, so far as regards the parts of His Majesty's dominions to which this Order applies :

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

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

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

<sup>1</sup> Schedule of Orders relating to foreign countries, dated from November 28, 1897, to March 2, 1909. Schedule cited should be Fourth.

# MUSICAL COPYRIGHT ACTS

(SUMMARY PROCEEDINGS)

(1) 1902

(2) 1906

## NOTE

THE powers under these Acts are, as regards musical works, in addition to those of the Copyright Act, 1911 (sect. 11).

# MUSICAL COPYRIGHT ACTS

(I)

2 EDW. VII. CH. 15

*An Act to amend the Law relating to Musical  
Copyright, July 22, 1912.*

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

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

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

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

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

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

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

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

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

Short title  
and com-  
mencement.

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.

(II)

6 EDW. VII. CH. 36

*An Act to amend the Law relating to Musical  
Copyright, August 4, 1906.*

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

Penalty for  
being in  
possession  
of pirated  
music.

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

(2) Any constable may take into custody without warrant any person who in any street or public place sells or exposes, offers, or has in his possession for sale any pirated copies of any such musical work as may be specified in any general written authority addressed to the chief officer of police, and signed by



the apparent owner of the copyright in such work or his agent thereto authorised in writing, requesting the arrest, at the risk of such owner, of all persons found committing offences under this section in respect to such work, or who offers for sale any pirated copies of any such specified musical work by personal canvass or by personally delivering advertisements or circulars.

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

(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.

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.

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

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

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

38 & 39 Vict.  
c. 62.

Right of  
entry by  
police for  
execution of  
Act.

5 & 6 Vict.  
c. 45.

7 & 8 Vict.  
c. 12.

49 & 50 Vict.  
c. 33.

rolls used for playing mechanical instruments, or records used for the reproduction of sound waves, or the matrices or other appliances by which such rolls or records respectively are made :

The expression " chief officer of police "—

- (a) with respect to the City of London, means the Commissioner of City Police ;
- (b) elsewhere in England has the same meaning as in the Police Act, 1890 ;
- (c) in Scotland has the same meaning as in the Police (Scotland) Act, 1890 ;
- (d) in the police district of Dublin metropolis means either of the Commissioners of Police for the said district ;
- (e) elsewhere in Ireland means the District Inspector of the Royal Irish Constabulary :

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.

53 & 54 Vict.  
c. 45.

53 & 54 Vict.  
c. 67.

Short title.

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

THE FINE ARTS COPYRIGHT  
ACT, 1862

## NOTE

THE powers under this Act are in addition to those of the Copyright Act, 1911.

# THE FINE ARTS COPYRIGHT ACT, 1862

[25 & 26 VICT. CH. 68<sup>1</sup>]

*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, July 29, 1862.*

WHEREAS by law, as now established, the authors of paintings, drawings, and photographs have no copyright in such their works.<sup>2</sup>

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

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

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

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

Fourthly, where the author or maker of any painting, drawing, or photograph, or negative of a photograph,

<sup>1</sup> 59 & 60 Vict. c. 14, by Short Titles Act, 1896.

<sup>2</sup> Sects. 1 to 6 repealed by Copyright Act, 1911.



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

**Penalties.** Every offender under this section shall, upon conviction, forfeit to the person aggrieved a sum not exceeding ten pounds, or not exceeding double the full price, if any, at which all such copies, engravings, imitations, or altered works shall have been sold or offered for sale; and all such copies, engravings, imitations, or altered works shall be forfeited to the person, or the assigns or legal representatives of the person, whose name, initials, or monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid: Provided always, that the penalties imposed by this section shall not be incurred unless the person whose name, initials, or monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within twenty years next before the time when the offence may have been committed.

**Recovery of pecuniary penalties.** 8. All pecuniary penalties which shall be incurred, and all such unlawful copies, imitations, and all other effects and things as shall have been forfeited by offenders, pursuant to this Act \* \* \* <sup>1</sup> may be recovered by the person herein before \* \* \* empowered to recover the same respectively, and hereinafter called the complainant or the complainer, as follows:

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

**In Scotland.** In *Scotland* by action before the Court of Session in ordinary form, or by summary action before the Sheriff of the County where the offence may be committed or the offender resides.

<sup>1</sup> Passages marked by asterisks repealed by Copyright Act, 1911.

THE PATENTS AND DESIGNS  
ACT, 1907

## NOTE

THE following sections of the Act relate to designs other than those for which the 1911 Act provides. But the latter Act applies to designs capable of being registered under the present Act if they are not used or intended to be used as models or patterns to be multiplied by an industrial process.

# THE PATENTS AND DESIGNS ACT, 1907

[7 EDW. VII. CH. 29]

## PART II

### DESIGNS

#### *Registration of Designs*

49. The comptroller<sup>1</sup> may, on the application made in the prescribed form and manner of any person claiming to be the proprietor of any new or original design not previously published in the United Kingdom, register the design under this Part of this Act. Application for registration of designs.

2. The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the comptroller may decide the question.

(3) The comptroller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal to the Board of Trade, and the Board shall, after hearing the applicant and the comptroller, if so required, make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(4) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(5) A design when registered shall be registered as of the date of the application for registration.

50. Where a design has been registered in one or more classes of goods the application of the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated— Registration of designs in new classes.

<sup>1</sup> The Comptroller-General of Patents, Designs, and Trade Marks.



- (a) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or
- (b) on the ground of the design having been previously published in the United Kingdom, by reason only that it has been applied to goods of any class in which it was so previously registered.

**Certificate of registration.** 51.—(1) The comptroller shall grant a certificate of registration to the proprietor of the design when registered.

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

**Register of designs.** 52.—(1) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may be prescribed.

(2) The register of designs existing at the commencement of this Act shall be incorporated with and form part of the register of designs under this Act.

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

### *Copyright in Registered Designs*

**Copyright on registration.** 53.—(1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

(2) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller shall on payment of the prescribed fee extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

**Requirements before delivery on sale.** 54.—(1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

- (a) (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the prescribed number of exact representations or specimens of the design; and if he

fails to do so the comptroller may erase his name from the register, and thereupon the copyright in the design shall cease ; and

(b) cause each such article to be marked with the prescribed mark, or with the prescribed words or figures denoting that the design is registered ; and if he fails to do so the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Board of Trade by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Board may, if they think fit, by rule under this Act dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as they think fit.

55.—The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

Effect of disclosure on copyright.

56.—(1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorised in writing by him, or a person authorised by the comptroller or by the court, and furnishing such information as may enable the comptroller to identify the design, and shall not be open to the inspection of any person except in the presence of the comptroller, or of an officer acting under him, and on payment of the prescribed fee ; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof :

Inspection of registered designs.

Provided that where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

(2) After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.



(3) Different periods may be prescribed under this section for different classes of goods.

Information as to existence of copyright.

57. On the request of any person furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, the comptroller shall inform such person whether the registration still exists in respect of the design, and if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

Cancellation of registration of designs used wholly or mainly abroad.

58.—(1) At any time after the registration of a design any person may apply to the comptroller for the cancellation of the registration on the ground that the design is used for manufacture exclusively or mainly outside the United Kingdom, and where such an application is made the provisions of this Act with respect to the revocation of patents worked outside the United Kingdom (including those relating to costs) shall apply with the necessary modifications, except that there shall be no appeal from the decision of the comptroller.

(2) Such ground as aforesaid shall be available by way of a defence to an action for infringement of the copyright in the design.

#### *Legal Proceedings*

Piracy of registered design.

60.—(1) During the existence of copyright in any design it shall not be lawful for any person—

- (a) For the purposes of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or
- (b) Knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section he shall be liable for every contravention to pay to the registered proprietor of the design a sum not exceeding fifty pounds, recoverable as a simple contract debt, or if the proprietor elects to bring an action for the recovery of damages for such contravention, and for an injunction against the repetition thereof, he shall be liable to pay such damages as may be awarded and to be restrained by injunction accordingly:

Provided that the total sum recoverable as a simple contract debt in respect of any one design shall not exceed one hundred pounds.

61. The provisions of this Act with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

Application of certain provisions of the Act as to patents to designs.

### Offences

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

Offences.

(2) If any person falsely represents that any article sold by him is a patented article, or falsely describes any design applied to any article sold by him as registered, he shall be liable for every offence, on conviction under the Summary Jurisdiction Acts, to a fine not exceeding five pounds.

(3) If any person sells an article having stamped, engraved, or impressed thereon or otherwise applied thereto the word "patent," "patented," "registered," or any other word expressing or implying that the article is patented or that the design applied thereto is registered, he shall be deemed for the purposes of this section to represent that the article is a patented article or that the design applied thereto is a registered design.

(4) Any person who, after the copyright in a design has expired, puts or causes to be put on any article to which the design has been applied the word "registered," or any word or words implying that there is a subsisting copyright in the design, shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding five pounds.

(93) In this Act, unless the text otherwise requires—

"Design" means any design<sup>1</sup> . . . applicable to any article, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined :

<sup>1</sup> See sect. 22, Copyright Act, 1911, p. 124, *ante*.



“ Article ” means (as respects designs) any article of manufacture and any substance artificial or natural, or partly artificial and partly natural :

“ Copyright ” means the exclusive right to apply a design to any article in any class in which the design is registered :

“ Proprietor of a new and original design ”—

(a) Where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed ; and

(b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired ; and

(c) in any other case, means the author of the design ;

and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person. includes that other person.

# CONVENTIONS

I  
THE AUSTRIA-HUNGARY CONVENTION, 1893

II  
THE BERLIN CONVENTION, 1908  
RESERVATIONS MADE TO THE BERLIN CONVENTION

III  
THE BERNE CONVENTION, 1886

IV  
THE ADDITIONAL ACT OF PARIS, 1896

V  
THE DECLARATION OF PARIS, 1896

VI  
THE BUENOS AYRES CONVENTION, 1910

1

THE AUSTRIA-HUNGARY CONVENTION

[WITH GREAT BRITAIN]



## NOTE

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

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

# I

## THE AUSTRIA-HUNGARY CONVENTION <sup>1</sup>

### ARTICLE I

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

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

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

These advantages shall only be reciprocally guaranteed to authors and their legal representatives when the work in question is also protected by the laws of the State where the work was first published, and the duration of protection in the other country shall not exceed that which is granted to authors and their legal representatives in the country where the work was first published.<sup>2</sup>

### ARTICLE 2

The right of translation forming part of the copyright, the protection of the right of translation is assured under the conditions laid down by this Convention. If ten years after the

<sup>1</sup> Schedule I to Order in Council relating to Austria-Hungary, etc., p. 149, *ante*.  
Modified by Order in Council relating to Austria-Hungary, etc., p. 148, *ante*.

expiry of the year in which a work to be protected in Her Majesty's dominions on the basis of this Convention has appeared, no translation in English has been published, the right of translating the work into English shall no longer within those dominions exclusively belong to the author.

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

### ARTICLE 3

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

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

### ARTICLE 4

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

### ARTICLE 5

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

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

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



## ARTICLE 6

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

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

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

## ARTICLE 7

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

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

## ARTICLE 8

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

(a) In the Austro-Hungarian Monarchy—

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

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

The distribution of such copies, and the use of the said appliances are, however, only permitted if an inventory of the said copies and appliances is taken by the government in question, in con-



sequence of an application of the interested party, within three months from the coming into force of the present Convention, and if these copies and appliances are marked with a special stamp.

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

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

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

#### ARTICLE 9<sup>1</sup>

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

Provided always that the provisions of the present Convention shall apply to any of the above-named colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's representative at the Court of His Imperial and Royal Apostolic Majesty within two years from the date of the exchange of ratifications of the present Convention.<sup>1</sup>

#### ARTICLE 10

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

Her Britannic Majesty's Government shall also have the right to denounce the Convention in the same manner, on behalf of any of the colonies or foreign possessions mentioned in article 9 separately.

<sup>1</sup> Article 9 modified by Order in Council relating to Austria-Hungary, etc., p. 148, *ante*.

II

THE BERLIN CONVENTION

[REVISED CONVENTION OF BERNE]

## NOTE

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

The President of the Republic of Portugal subsequently adhered for that country.

The Convention was ratified by Great Britain for the British Empire, saving the self-governing dominions, on June 14, 1912.

The Convention has also been ratified by the foreign countries following:—Belgium, France, Germany, Hayti, Japan, Liberia, Luxembourg, Monaco, Norway, Portugal, Spain, Switzerland, and Tunis, subject to the reservations mentioned on p. 192.

The following is an English translation of the Convention, omitting the formal beginning and end.

## II

### THE BERLIN CONVENTION <sup>1</sup>

#### ARTICLE I

THE Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.

#### ARTICLE 2

The expression " literary and artistic works " shall include any production in the literary, scientific, or artistic domain, whatever may be the mode or form of its reproduction, such as books, pamphlets, and other writings ; dramatic or dramatico-musical works, choreographic works and entertainments in dumb show, the acting form of which is fixed in writing or otherwise ; musical compositions with or without words ; works of drawing, painting, architecture, sculpture, engraving and lithography ; illustrations, geographical charts ; plans, sketches, and plastic works relative to geography, topography, architecture, or science.

Translations, adaptations, arrangements of music and other reproductions in an altered form of a literary or artistic work, as well as collections of different works, shall be protected as original works without prejudice to the rights of the author of the original work.

The contracting countries shall be bound to make provision for the protection of the above-mentioned works.

Works of art applied to industrial purposes shall be protected so far as the domestic legislation of each country allows.

#### ARTICLE 3

The present Convention shall apply to photographic works and to works produced by a process analogous to photography. The contracting countries shall be bound to make provision for their protection.

<sup>1</sup> First Schedule to Order in Council relating to the Berlin Convention, p. 151, *ante*.



## ARTICLE 4

Authors who are subjects or citizens of any of the countries of the Union shall enjoy in countries other than the country of origin of the work, for their works, whether unpublished or first published in a country of the Union, the rights which the respective laws do now or may hereafter grant to natives as well as the rights specially granted by the present Convention.

The enjoyment and the exercise of these rights shall not be subject to the performance of any formality; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work. Consequently, apart from the express stipulations of the present Convention, the extent of protection, as well as the means of redress secured to the author to safeguard his rights, shall be governed exclusively by the laws of the country where protection is claimed.<sup>1</sup>

The country of origin of the work shall be considered to be: in the case of unpublished works, the country to which the author belongs; in the case of published works, the country of first publication; and in the case of works published simultaneously in several countries of the Union, the country the laws of which grant the shortest term of protection. In the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country shall be considered exclusively as the country of origin.

By published works must be understood, for the purposes of the present Convention, works copies of which have been issued to the public. The representation of a dramatic or dramatico-musical work, the performance of a musical work, the exhibition of a work of art, and the construction of a work of architecture shall not constitute a publication.

## ARTICLE 5

Authors being subjects or citizens of one of the countries of the Union who first publish their works in another country of the Union shall have in the latter country the same rights as native authors.

## ARTICLE 6

Authors not being subjects or citizens of one of the countries of the Union, who first publish their works in one of those countries, shall enjoy in that country the same rights as native authors, and in the other countries of the Union the rights granted by the present Convention.

## ARTICLE 7

The term of protection granted by the present Convention shall include the life of the author and fifty years after his death.

<sup>1</sup> Modified by Order in Council relating to the Berlin Convention in the case of works of which the country of origin is Denmark, Italy, or Sweden.

Nevertheless, in case such term of protection should not be uniformly adopted by all the countries of the Union, the term shall be regulated by the law of the country where protection is claimed, and must not exceed the term fixed in the country of origin of the work. Consequently the contracting countries shall only be bound to apply the provisions of the preceding paragraph in so far as such provisions are consistent with their domestic laws.

For photographic works and works produced by a process analogous to photography, for posthumous works, for anonymous or pseudonymous works, the term of protection shall be regulated by the law of the country where protection is claimed, provided that the said term shall not exceed the term fixed in the country of origin of the work.

#### ARTICLE 8

The authors of unpublished works, being subjects or citizens of one of the countries of the Union, and the authors of works first published in one of these countries, shall enjoy, in the other countries of the Union, during the whole term of the right in the original work, the exclusive right of making or authorising a translation of their works.

#### ARTICLE 9

Serial stories, tales, and all other works, whether literary, scientific, or artistic, whatever their object, published in the newspapers or periodicals of one of the countries of the Union, may not be reproduced in the other countries without the consent of the authors.

With the exception of serial stories and tales, any newspaper article may be reproduced by another newspaper unless the reproduction thereof is expressly forbidden. Nevertheless, the source must be indicated; the legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.

The protection of the present Convention shall not apply to news of the day or to miscellaneous information which is simply of the nature of items of news.

#### ARTICLE 10

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational purposes, or having a scientific character, or for chrestomathies,<sup>1</sup> the effect of the legislation of the countries of the Union and of special Arrangements existing or to be concluded between them is not affected by the present Convention.

<sup>1</sup>A book of useful selections.



## ARTICLE 11

The stipulations of the present Convention shall apply to the public representation of dramatic or dramatico-musical works, and to the public performance of musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works shall be protected during the existence of their right over the original work against the unauthorised public representation of translations of their works.<sup>1</sup>

In order to enjoy the protection of the present article, authors shall not be bound in publishing their works to forbid the public representation or performance thereof.<sup>2</sup>

## ARTICLE 12

The following shall be specially included among the unlawful reproductions to which the present Convention applies: Unauthorised indirect appropriations of a literary or artistic work, such as adaptations, musical arrangements, transformations of a novel, tale, or piece of poetry into a dramatic piece and *vice versa*, etc., when they are only the reproduction of that work, in the same form or in another form without essential alterations, additions, or abridgments, and do not present the character of a new original work.

ARTICLE 13<sup>3</sup>

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

Reservations and conditions relating to the application of this article may be determined by the domestic legislation of each country in so far as it is concerned; but the effect of any such reservations and conditions will be strictly limited to the country which has put them in force.

The provisions of paragraph 1 shall not be retroactive, and consequently shall not be applicable in any country of the Union to works which have been lawfully adapted in that country to mechanical instruments before the coming into force of the present Convention.

Adaptations made in virtue of paragraphs 2 and 3 of the present article, and imported without the authority of the interested

<sup>1</sup> Great Britain not bound by the second paragraph in the case of (a) translations of existing works of which the translating right has fallen into the common domain, and (b) translations for full term where the country of origin of the work is Denmark, Italy, Japan, or Sweden.

<sup>2</sup> In the case of a published musical work of which the country of origin is Denmark, Italy, Japan, or Sweden, notice of prohibition is necessary for the enjoyment of the rights conferred by the Copyright Act, 1911.

<sup>3</sup> Modified in the case of Denmark, Italy, and Sweden.

parties into a country where they would not be lawful, shall be liable to seizure in that country.

#### ARTICLE 14

Authors of literary, scientific, or artistic works shall have the exclusive right of authorising the reproduction and public representation of their works by cinematography.

Kinematograph productions shall be protected as literary or artistic works, if, by the arrangement of the acting form or the combinations of the incidents represented, the author has given the work a personal and original character.

Without prejudice to the rights of the author of the original work the reproduction by cinematography of a literary, scientific, or artistic work shall be protected as an original work.

The above provisions apply to reproduction or production effected by any other process analogous to cinematography.

#### ARTICLE 15

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

For anonymous or pseudonymous works the publisher, whose name is indicated on the work, shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the legal representative of the anonymous or pseudonymous author.

#### ARTICLE 16

Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.

In such a country the seizure may also apply to reproductions imported from a country where the work is not protected, or has ceased to be protected.

The seizure shall take place in accordance with the domestic legislation of each country.

#### ARTICLE 17

The provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.



ARTICLE 18<sup>1</sup>

*The present Convention shall apply to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin through the expiration of the term of protection.*

*If, however, through the expiration of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew in that country.*

*The application of this principle shall take effect according to the stipulations contained in special Conventions existing, or to be concluded, to that effect between countries of the Union. In the absence of such stipulations, the respective countries shall regulate, each in so far as it is concerned, the manner in which the said principle is to be applied.*

*The above provisions shall apply equally in case of new accessions to the Union, and also in the event of the term of protection being extended by the application of article 7.*

## ARTICLE 19

The provisions of the present Convention shall not prevent a claim being made for the application of any wider provisions which may be made by the legislation of a country of the Union in favour of foreigners in general.

## ARTICLE 20

The Governments of the countries of the Union reserve to themselves the right to enter into special arrangements between each other, provided always that such arrangements confer upon authors more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention. The provisions of existing arrangements which answer to the above-mentioned conditions shall remain applicable.

## ARTICLE 21

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

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

The official language of the Office shall be French.

<sup>1</sup> With regard to the retrospective effect of this article, Great Britain adopts article 14 and paragraph 4 of the Final Protocol of the Berne Convention as amended by the Additional Act of Paris.

## ARTICLE 22

The International Office collects every kind of information relative to the protection of the rights of authors over their literary and artistic works. It arranges and publishes such information. It undertakes the study of questions of general interest concerning the Union, and by the aid of documents placed at its disposal by the different Administrations, edits a periodical publication in the French language on the questions which concern the objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorise by common accord the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union with the view to furnish them with any special information which they may require relative to the protection of literary and artistic works.

The Director of the International Office shall make an annual Report on his Administration, which shall be communicated to all the members of the Union.

## ARTICLE 23

The expenses of the Office of the International Union shall be shared by the contracting States. Until a fresh arrangement be made they cannot exceed the sum of 60,000 francs a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in article 24.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which shall contribute in the proportion of a certain number of units, viz. :—1st class, 25 units; 2nd class, 20 units; 3rd class, 15 units; 4th class, 10 units; 5th class, 5 units; 6th class, 3 units.

These coefficients are multiplied by the number of countries of each class, and the total product thus obtained gives the number of units by which the total expense is to be divided. The quotient gives the amount of the unit of expense.

Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed.

The Swiss Administration prepares the Budget of the Office, superintends its expenditure, makes the necessary advances, and draws up the annual account which shall be communicated to all the other Administrations.

## ARTICLE 24

The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.



Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in Conferences to be held successively in the countries of the Union by delegates of the said countries. The Administration of the country where a Conference is to meet prepares, with the assistance of the International Office, the programme of the Conference. The Director of the Office shall attend at the sittings of the Conferences, and shall take part in the discussions without the right to vote.

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

#### ARTICLE 25

States outside the Union which make provision for the legal protection of the rights forming the object of the present Convention may accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adherence to all the clauses and admission to all the advantages provided by the present Convention. It may, nevertheless, contain an indication of the provisions of the Convention of September 9, 1886, or of the Additional Act of May 4, 1896, which they may judge necessary to substitute, provisionally at least, for the corresponding provisions of the present Convention.

#### ARTICLE 26

Contracting countries shall have the right to accede to the present Convention at any time for their colonies or foreign possessions.

They may do this either by a general Declaration comprising in the accession all their colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.

Such Declaration shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

#### ARTICLE 27

The present Convention shall replace, in regard to the relations between the Contracting States, the Convention of Berne of September 9, 1886, including the Additional Article and the Final Protocol of the same date, as well as the Additional Act and the Interpretative Declaration of May 4, 1896. These instruments shall remain in force in regard to relations with States which do not ratify the present Convention.

The Signatory States of the present Convention may declare at the exchange of ratifications that they desire to remain bound,

as regards any specific point, by the provisions of the Conventions which they have previously signed.

## ARTICLE 28

The present Convention shall be ratified, and the ratifications exchanged at Berlin not later than July 1, 1910.

Each contracting party shall, as regards the exchange of ratifications, deliver a single instrument, which shall be deposited with those of the other countries in the archives of the Government of the Swiss Confederation. Each party shall receive in return a copy of the *procès-verbal* of the exchange of ratifications signed by the Plenipotentiaries who took part.

## ARTICLE 29

The present Convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.

Such denunciation shall be made to the Government of the Swiss Confederation. It shall only take effect in regard to the country making it, the Convention remaining in full force and effect for the other countries of the Union.

## ARTICLE 30

The States which shall introduce in their legislation the duration of protection for fifty years contemplated by article 7, first paragraph, of the present Convention, shall give notice thereof in writing to the Government of the Swiss Confederation, who will communicate it at once to all the other States of the Union.

The same procedure shall be followed in the case of the States renouncing the reservations made by them in virtue of articles 25, 26, and 27.



## RESERVATIONS MADE TO THE BERLIN CONVENTION <sup>1</sup>

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

<sup>1</sup> Schedule 5 (erroneously called Schedule 4) in preamble to Order in Council relating to Berlin Convention.

### III

#### (1) THE BERNE CONVENTION

AND

#### (2) AMENDMENTS OF 1896

(a) THE ADDITIONAL ACT OF PARIS, 1896

(b) THE DECLARATION OF PARIS, 1896

## NOTE

CONVENTION signed on September 9, 1886, and ratified by Great Britain on September 5, 1887. Great Britain ratified the Additional Act of 1896, but not the Declaration of Paris.

The dates on which the foreign countries adhered to the Berne Convention were as follow: September 9, 1886, Belgium, Spain (and Colonies), France (with Algiers and Colonies), Germany (not for Protectorates), Hayti, Italy, Switzerland, Tunis; June 20, 1888, Luxembourg; May 30, 1889, Monaco; April 13, 1896, Norway; July 15, 1899, Japan; July 1, 1903, Denmark; August 1, 1904, Sweden; October 6, 1908, Liberia.

Denmark and Italy continue under the Berne Convention and Paris Amendments, and Sweden continues under the Berne Convention and the Declaration of Paris. Portugal is a party to the Berlin Convention.

The following is an English translation of the Convention, with the omission of the formal beginning and end and of certain articles.

### III

#### (1) THE BERNE CONVENTION

##### ARTICLE 1

THE Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.

##### ARTICLE 2

Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether published in one of those countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives.<sup>1</sup>

The enjoyment of these rights shall be subject to the accomplishment of the conditions and formalities prescribed by law in the country of origin of the work, and must not exceed in the other countries the term of protection granted in the said country of origin.

The country of origin of the work shall be considered to be that in which the work is first published, or if such publication takes place simultaneously in several countries of the Union, that one of them the laws of which grant the shortest term of protection.<sup>1</sup>

For unpublished works the country to which the author belongs shall be considered to be the country of origin of the work.

##### ARTICLE 3<sup>2</sup>

[Place taken by article 1, sect. 2, Additional Act of Paris, *q.v.*]

##### ARTICLE 4

The expression "literary and artistic works" shall include books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions with or without words; works of drawing, painting, sculpture, and engraving; litho-

<sup>1</sup> Modified by Additional Act of Paris, art. 1, p. 203 *post.*

<sup>2</sup> See p. 203 *post.*



graphs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

#### ARTICLE 5

Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorising the translation of their works until the expiration of ten years from the publication of the original work in one of the countries of the Union.<sup>1</sup>

For works published in incomplete parts ("livraisons") the period of ten years shall commence from the date of publication of the last part of the original work.

For works composed of several volumes published at intervals, as well as for bulletins or collections ("cahiers") published by literary or scientific societies, or by private persons, each volume, bulletin, or collection shall be, with regard to the period of ten years, considered as a separate work.

In the cases provided for by the present article, and for the calculation of the terms of protection, the 31st December of the year in which the work was published shall be regarded as the date of publication.

#### ARTICLE 6

Lawful translations shall be protected as original works. They shall consequently enjoy the protection stipulated in articles 2 and 3 as regards their unauthorised reproduction in the countries of the Union.

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

#### ARTICLE 7<sup>2</sup>

[Place taken by article 1, sect. 4, Additional Act of Paris, *q.v.*]

#### ARTICLE 8

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies, the effect of the legislation of the countries of the Union, and of special arrangements existing or to be concluded between them is not affected by the present Convention.

<sup>1</sup> Modified by Additional Act of Paris, art. 1, sect. 3.

<sup>2</sup> See p. 203 *et seq.*, *post.*

## ARTICLE 9

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

Authors of dramatic or dramatico-musical works, or their lawful representatives, shall be, during the existence of their exclusive rights of translation, equally protected against the unauthorised public representation of translations of their works.

The stipulations of article 2 shall apply equally to the public performance of unpublished musical works or of published works in which the author has expressly declared on the title page or commencement of the work that he forbids the public performance thereof.

## ARTICLE 10

The following shall be specially included amongst the illicit reproductions to which the present Convention applies: unauthorised indirect appropriations of a literary or artistic work, of various kinds, such as adaptations, musical arrangements, etc., when they are only the reproduction of a particular work, in the same form, or in another form, without essential alterations, additions, or abridgments, so as not to present the character of a new original work.

It is agreed that, in the application of the present article, the tribunals of the various countries of the Union will, if there is occasion, conform themselves to the provisions of their respective laws.

## ARTICLE 11

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the lawful representative of the anonymous or pseudonymous author.

It is, nevertheless, agreed that the tribunals may, if necessary, require the production of a certificate from the competent authority to the effect that the formalities prescribed by law in the country of origin have been accomplished, as contemplated in article 2.

ARTICLE 12<sup>1</sup>

[Place taken by article 1, sect. 5, Additional Act of Paris, *q.v.*]

<sup>1</sup> See p. 204 *post*.



## ARTICLE 13

It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

ARTICLE 14<sup>1</sup>

*Under the reserves and conditions to be determined by common agreement, the present Convention shall apply to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin.*

## ARTICLE 15

It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into separate and particular arrangements between each other, provided always that such arrangements confer upon authors or their lawful representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

## ARTICLE 16

An International Office shall be established, under the name of "Office of the International Union for the Protection of Literary and Artistic Works."

This office, of which the expenses will be borne by the Administrations of all the countries of the Union, shall be placed under the high authority of the Superior Administration of the Swiss Confederation, and shall work under its direction. The functions of this office shall be determined by common accord between the countries of the Union.

## ARTICLE 17

The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in Conferences to be held successively in the countries of the Union by delegates of the said countries.

It is understood that no alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

<sup>1</sup> This article, in conjunction with sect. 4 of the Final Protocol, remains in force for Great Britain.

## ARTICLE 18

Countries which have not become parties to the present Convention, and which make provision by their domestic law for the protection of the rights forming the object of the present Convention, shall be admitted to accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention.

## ARTICLE 19

Countries acceding to the present Convention shall also have the right to accede thereto at any time for their colonies or foreign possessions.

They may do this either by a general Declaration comprising in the accession all their colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.

## ARTICLE 20

The present Convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.

Such denunciation shall be made to the Government authorised to receive accessions. It shall only take effect in regard to the country making it, the Convention remaining in full force and effect for the other countries of the Union.

## ARTICLE 21

The present Convention shall be ratified, and the ratifications exchanged at Berne within the space of one year at the latest.

*Additional Article*

The Convention concluded this day shall in no wise affect the maintenance of existing Conventions between the Contracting States, provided always that such Conventions confer on authors, or their lawful representatives, rights more extended than those secured by the Union, or contain other stipulations which are not contrary to this Convention.

*Final Protocol*<sup>1</sup>

[Place of clause 1 taken by sect. 1 of article 2, Additional Act, *q.v.*]

<sup>1</sup> See p. 204 *et seq.*, *post.*



2. As regards article 9, it is agreed that those countries of the Union whose legislation implicitly includes choreographic works amongst dramatico-musical works expressly admit the former works to the benefits of the Convention concluded this day.

It is, however, understood that questions which may arise on the application of this clause shall rest within the competence of the respective tribunals to decide.

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs in which copyright subsists, shall not be considered as constituting an infringement of musical copyright.

[Place of clause 4 taken by sect. 4 of article 2, Additional Act, *q.v.*]<sup>1</sup>

[Sects. 5, 6, and 7 of the Final Protocol relate to administrative affairs of the Convention.]

<sup>1</sup> See p. 205 *post.*

(2) PARIS AMENDMENTS, 1896

## NOTE

THE Additional Act was signed on May 4, 1896, and ratified on September 9, 1897. The Declaration was ratified (not by Great Britain) on September 9, 1897. Norway and Sweden ratified the Declaration but not the Additional Act.

The following are English translations of the Additional Act and the Declaration of Paris, with the omission of the formal beginnings and ends.

## (a) THE ADDITIONAL ACT OF PARIS

### ARTICLE I

THE International Convention of September 9, 1886, is modified as follows :—

1. Article 2.—The first paragraph of Article 2 shall run as follows :—

Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether unpublished, or first published in one of those countries, the rights which the respective laws do now or may hereafter grant to natives.

A fifth paragraph is added in these terms :—

Posthumous works shall be included among those to be protected.

2. Article 3.—Article 3 shall run as follows :—

Authors not being subjects or citizens of one of the countries of the Union, who first publish or cause to be first published, their literary or artistic works in one of those countries, shall enjoy, in respect of such works, the protection granted by the Berne Convention, and by the present Additional Act.

3. Article 5.—The first paragraph of article 5 shall run as follows :—

Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorising the translation of their works during the entire term of their right over the original work. Nevertheless, the exclusive right of translation shall cease to exist if the author shall not have availed himself of it, during a term of ten years from the date of the first publication of the original work, by publishing or causing to be published in one of the countries of the Union, a translation in the language for which protection is to be claimed.

4. Article 7.—Article 7 shall run as follows :—

Serial stories, including tales, published in the newspapers or periodicals of one of the countries of the Union, may not be reproduced, in original or translation, in the other countries,



without the sanction of the authors or of their lawful representatives.

This stipulation shall apply equally to other articles in newspapers or periodicals, when the authors or editors shall have expressly declared in the newspaper or periodical itself in which they shall have been published that reproduction is forbidden. In the case of periodicals it shall be sufficient if such prohibition is indicated in general terms at the beginning of each number.

In the absence of prohibition, such articles may be reproduced on condition that the source is indicated.

The prohibition cannot in any case apply to articles of political discussion, to news of the day, or to miscellaneous information.

5. Article 12.—Article 12 shall run as follows :—

Pirated works may be seized by competent authorities of any country of the Union where the original work enjoys legal protection.

The seizure shall take place in accordance with the domestic legislation of each country.

6. Article 20.—The second paragraph of article 20 shall run as follows :—

Such denunciation shall be made to the Government of the Swiss Confederation. It shall only take effect in regard to the country making it, the Convention remaining in full force and effect for the other countries of the Union.

## ARTICLE 2

The Final Protocol annexed to the Convention of September 9, 1886, is modified as follows :—

I. No. 1.—This clause shall run as follows :—

As regards article 4, it is agreed as follows :—

(A) In countries of the Union where protection is accorded not only to architectural plans, but also to the architectural works themselves, these works shall be admitted to the benefits of the Berne Convention and of the present Additional Act.

(B) Photographic works and works produced by an analogous process shall be admitted to the benefits of these engagements in so far as the domestic laws of each State may permit, and to the extent of the protection accorded by such laws to similar national works.

It is understood that an authorised photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the Berne Convention and by the present Additional Act, for the same period as the principal right of reproduction of the work

itself subsists, and within the limits of private agreements between those who have legal rights.

2. No. 4.<sup>1</sup>—This clause shall run as follows :—

*The common agreement contemplated in article 14 of the Convention is established as follows :—*

*The application of the Berne Convention and of the present Additional Act to works which have not fallen into the public domain within the country of origin at the time when these engagements come into force, shall take effect according to the stipulations on this head contained in special Conventions existing, or to be concluded, to this effect.*

*In the absence of such stipulations between any of the countries of the Union, the respective countries shall regulate, each in so far as it is concerned, by its domestic legislation, the manner in which the principle contained in article 14 is to be applied.*

*The stipulations of article 14 of the Berne Convention and of the present clause of the Final Protocol shall apply equally to the exclusive right of translation in so far as such right is established by the present Additional Act.*

*The above-mentioned temporary stipulations shall apply in case of new accessions to the Union.*

### ARTICLE 3

The countries of the Union which are not parties to the present Additional Act, shall at any time be allowed to accede thereto on their request to that effect. This stipulation shall apply equally to countries which may hereafter accede to the Convention of September 9, 1886. It will suffice for this purpose that such accession should be notified in writing to the Swiss Federal Council, who shall in turn communicate it to the other Governments.

### ARTICLE 4

The present Additional Act shall have the same force and duration as the Convention of September 9, 1886.

It shall be ratified, and the ratifications shall be exchanged at Paris, in the manner adopted in the case of that Convention, as soon as possible, and within the space of one year at the latest.

It shall come into force as regards those countries which shall have ratified it three months after such exchange of ratifications.

<sup>1</sup> This clause, in conjunction with article 14 of the Berne Convention, remains in force for Great Britain.

(b) DECLARATION OF PARIS, 1896<sup>1</sup>

DECLARATIONS interpreting certain provisions of the Convention of Berne of September 9, 1886, and of the Additional Act, signed in Paris May 4, 1896, and ratified September 9, 1897.

1. By the terms of paragraph 2 of article 2 of the Convention, the protection granted by the afore-mentioned Acts depends solely on the accomplishment in the country of origin of the work of the conditions and formalities that may be prescribed by the legislation of that country. The same rule applies to the protection of the photographic works mentioned in No. 1 (b) of the modified *protocole de clôture*.

2. By *published* works must be understood works issued from the press to the public in one of the countries of the Union. Consequently, the representation of a dramatic or dramatico-musical work, the performance of a musical work, the exhibition of a work of art, do not constitute publication in the sense of the afore-mentioned Acts.

3. The adaptation of a novel into a play, or of a play into a novel, comes under the stipulations of article 10. The countries of the Union which are not parties to the present Declaration shall be allowed to accede thereto at any time on their request to that effect. The same rule shall apply to countries which may accede either to the Convention of September 9, 1886, or to this Convention, or to the Additional Act of May 4, 1896. It will be sufficient for this purpose if a notification be addressed in writing to the Swiss Federal Council, who will in turn notify this accession to the other Governments.

The present Declaration shall have the same force and duration as the Acts to which it refers.

It shall be ratified, and the ratifications shall be exchanged at Paris, in the form adopted for those Acts, as soon as possible, and within a year at the latest.

In witness whereof, etc.

<sup>1</sup> The Interpretative Clause, which was not ratified by Great Britain.

IV

THE BUENOS AYRES CONVENTION

[PAN-AMERICAN]



## NOTE

THE Buenos Ayres Convention, superseding the pan-American Conventions of Mexico (1902) and Rio de Janeiro (1906), was signed at Buenos Ayres on August 11, 1910. It was ratified by the United States on February 15, 1911. The signatory States are (with the exception of Bolivia) the twenty-one Republics of "the three Americas." They include Argentina, Brazil, Chili, Columbia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Hayti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay, Venezuela.

The Monte Video Convention, it would appear, also remains in force. The States belonging to the latter are Argentina, Bolivia, Paraguay, Peru, and Uruguay. The adherence of Belgium, France, Italy, and Spain to the Monte Video Convention has been accepted by Argentina and Paraguay.

## IV

### THE BUENOS AYRES CONVENTION

#### ARTICLE 1

The signatory States recognise and protect the rights of literary and artistic property in conformity with the stipulations of the present Convention.

#### ARTICLE 2

In the expression "literary and artistic works" are included books, writings, pamphlets of any kind, whatever may be the subject dealt with therein and the number of pages; dramatic or dramatico-musical works, choregraphic works, musical compositions, with or without words, drawings, paintings, sculpture, engravings, photographic, astronomical, or geographical works, maps, sketches, or plastic works relating to geography, geology or topography, architecture or any other science: in fact, any production which can be published by means of the press or by reproduction.

#### ARTICLE 3

The recognition of copyright obtained in a State, in conformity with its laws, shall carry with it protection in all the other countries, without the necessity of complying with other formalities, provided that the work bears an indication that the copyright has been reserved.

#### ARTICLE 4

The copyright of a literary or artistic work shall include, for its author or his legal representatives, the exclusive right to dispose of it, to publish, assign, translate or authorise a translation of it, and to reproduce it in any way whatsoever, in its entirety or in part.

#### ARTICLE 5

The author of a protected work shall be considered, saving proof to the contrary, to be the person whose name or known

pseudonym is indicated thereon ; consequently, the tribunals of the different signatory countries shall admit suits to be brought by the author or his representatives against pirates or infringers.

#### ARTICLE 6

Authors or their legal representatives, natives or domiciled foreigners, shall enjoy in the signatory countries the rights which the respective laws accord, but not to the extent of exceeding the term of protection granted in the country of origin.

For works comprised in several volumes, which may not have been published all at the same time, also for reports of proceedings, works in parts, or periodicals, the period of copyright for each volume, report, part, or periodical, shall commence from the respective date of publication.

#### ARTICLE 7

The country of origin shall be considered to be that in which the work was first published in America, and if publication has been effected simultaneously in several of the signatory countries, that one of them in which the law fixes the shortest period of protection.

#### ARTICLE 8

A work which does not obtain copyright on its first production shall not be able to acquire it for subsequent editions.

#### ARTICLE 9

Authorised translations are protected as original works. Translators of works in which copyright does not exist, or has expired by effluxion of time, shall be able to obtain, for their translations, the copyright referred to in article 3, but in no way shall they be entitled to oppose the publication of other translations of the same works.

#### ARTICLE 10

Speeches delivered or read in deliberative assemblies, before tribunals of justice, or at public meetings, may be published in the periodical press without requiring any form of authorisation, and without any limitations beyond the legal provisions existing within the limits of each State on this subject.

#### ARTICLE 11

Literary, scientific, or artistic works, whatever may be the subject dealt with therein, published in the journals or reviews



of any one country in the Union, may not be reproduced in any of the others without the consent of the authors.

With the exception of the works mentioned, any article appearing in a journal may be reproduced by other journals, if the first-named does not expressly prohibit it, and in every case, when producing an article, the source from which it is taken shall be mentioned.

News, the collection of various facts, which bear only the character of press information, shall not enjoy protection under this Convention.

#### ARTICLE 12

The reproduction of extracts from literary or artistic works in educational publications or in an anthology is not given any copyright, and may, consequently, be freely made in all the signatory countries.

#### ARTICLE 13

Indirect appropriations, unauthorised, from a literary or artistic work, and not bearing the stamp of original works, shall be considered as unauthorised reproductions, coming under the penalties of civil law. The same applies to the reproduction, in any form whatever, of a complete work, or the greater part of it, accompanied by notes or commentaries under the pretext of literary criticism, or amplifying or supplementing the original work.

#### ARTICLE 14

Every work infringing copyright shall be subject to seizure in the signatory countries where the original work is entitled to legal protection, without prejudice to the indemnities or penalties incurred by the infringers, according to the laws of the country where the infringement has been committed.

#### ARTICLE 15

The government of each signatory country shall retain the right to permit, control, or prohibit the circulation, representation or exhibition of works or productions over which the competent authority shall have the right to exercise its action.

#### ARTICLE 16

The present Convention shall come into force in the signatory States which ratify it three months after they have communicated their ratification to the Argentine Government; and shall remain in force amongst them for one year from the date of denunciation.

This declaration shall be addressed to the Argentine Government, and shall affect only the country which makes it.



Made and signed in the city of Buenos Ayres on August 11, 1910, in Spanish, English, Portuguese, and French, and deposited in the ministry of foreign affairs of the Argentine Republic, in order that certified copies be made for transmission to each of the signatory nations through the appropriate diplomatic channels.

THE UNITED STATES COPYRIGHT  
ACT, 1909

## NOTE

THE Act here printed passed both Houses of Congress on March 3, and was signed by the President on March 4, 1909. It came into force on July 1, 1909.

It is "An Act to amend and consolidate the Acts respecting copyright." On July 1, 1909, it took the place of the copyright enactments then in force, including title 60, chapter 3, of the Revised Statutes (1873), and the amendatory Acts of June 18, 1874; August 1, 1882; March 3, 1891; March 3, 1893; March 2, 1895; January 6, 1897; February 19, 1897; March 3, 1897; January 7, 1904; and March 3, 1905.

The "proclaimed" countries (April 9, 1910) enjoying the benefits of the Act, excepting benefits under sect. 1 (e) (mechanical musical works), as to which special conditions are imposed, are Austria, Belgium, Chili, China, Costa Rica, Cuba, Denmark, France, Germany (including mechanical contrivances), Great Britain and her possessions, Italy, Japan, Luxembourg, Mexico, Holland and possessions, Norway, Portugal, Salvador, Spain, and Switzerland.

# THE UNITED STATES COPYRIGHT ACT, 1909

*An Act to amend and consolidate the Acts respecting  
Copyright*

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

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



**Act not retroactive.**

**Music by foreign author.**

**Control of mechanical musical reproduction.**

**Royalty for use of music on records, etc.**

**Notice of use of music on records.**

**License to use music on records.**

**Failure to pay royalties.**

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

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.

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.

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.

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.

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

Works protected.

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

Classification of copyright works.

- (a) Books, including composite and cyclopædic works, directories, gazetteers, 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 ;

Books, composite, cyclopædic works; directories, gazetteers, etc.

*Provided, nevertheless,* That the above specifications shall not be held to limit the subject-matter of copyright as defined in sect. 4 of this Act, nor shall any error in classification invalidate or impair the copyright protection secured under this Act.

Classification does not limit copyright.

6. That compilations or abridgments, adaptations, arrangements, dramatisations, translations, or other versions of works in the public domain, or of copyrighted works, when produced with the consent of the proprietor of the copyright in such work or works republished with new matter, shall be regarded as new works subject to copyright under the provisions of this Act ; but the publication of any such new works shall not affect the force

Compilations, abridgments, dramatisations, translations, new editions.



Subsisting  
copyright  
not affected.

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.

Not subject-  
matter of  
copyright;  
works in pub-  
lic domain;  
government  
publications.

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

Copyright to  
author or  
proprietor  
for terms  
specified  
in Act.

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:

Foreign  
authors who  
may secure  
copyright  
protection.  
Alien authors  
domiciled  
in U.S.  
Authors,  
when  
citizens of  
countries  
granting  
reciprocal  
rights.

(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.

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  
proclama-  
tion.

Publication  
with notice  
initiates  
copyright.

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 sect. 21 of this Act.

10. That such person may obtain registration of his claim to copyright by complying with the provisions of this Act, including the deposit of copies, and upon such compliance the register of copyrights shall issue to him the certificate provided for in sect. 55 of this Act.

**Registration of copyright.**  
**Copyright certificate.**

11. That copyright may also be had of the works of an author of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production or a dramatic or musical composition ; of a photographic print if the work be a photograph ; or of a photograph or other identifying reproduction thereof if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt the copyright proprietor from the deposit of copies under sects. 12 and 13 of this Act where the work is later reproduced in copies for sale.

**Copyright protection of unpublished works : lectures, dramas, music, etc.**  
**Deposit of copies after publication.**

12. That after copyright has been secured by publication of the work with the notice of copyright as provided in sect. 9 of this Act, there shall be promptly deposited in the copyright office or in the mail addressed to the register of copyrights, Washington, District of Columbia, two complete copies of the best edition thereof then published, which copies, if the work be a book or periodical, shall have been produced in accordance with the manufacturing provisions specified in sect. 15 of this Act ; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution ; or if the work is not reproduced in copies for sale, there shall be deposited the copy, print, photograph, or other identifying reproduction provided by sect. 11 of this Act, such copies or copy, print, photograph, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this Act with respect to the deposit of copies and registration of such work shall have been complied with.

**Two complete copies of best edition.**

**Periodical contributions.**

**Work not reproduced in copies for sale.**

**No action for infringement until deposit of copies.**

13. That should the copies called for by sect. 12 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.**



Postmaster's receipt.

14. That the postmaster to whom are delivered the articles deposited as provided in sects. 11 and 12 of this Act shall, if requested, give a receipt therefor, and shall mail them to their destination without cost to the copyright claimant.

Printed from type set within the United States. Book in foreign language excepted.

Lithographic or photo-engraving process. Printing and binding of the book. Illustrations in a book.

Separate lithographs and photo-engravings.

Books for blind excepted.

Books in foreign languages excepted.

Affidavit of American manufacture.

Printing and binding of the book.

Establishment where printing was done.

Date of publication.

False affidavit, a misdemeanour; fine, \$1000 and forfeiture of copyright.

15. That of the printed book or periodical specified in sect. 5, subsects. (a) and (b) of this Act, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this Act, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photo-engraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photo-engraving process, and also to separate lithographs or photo-engravings, except where in either case the subjects represented are located in a foreign country, and illustrate a scientific work or reproduce a work of art; but they shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking *ad interim* protection under this Act.

16. That in the case of the book the copies so deposited shall be accompanied by an affidavit, under the official seal of any officer authorised to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorised agent or representative residing in the United States, or by the printer who has printed the books, 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 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.

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 misdemeanour, 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.

18. That the notice of copyright required by sect. 9 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 subsects. (f) to (k), inclusive, of sect. 5 of this Act, the notice may consist of the letter C enclosed 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 of copyright.

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

Notice on accessible portion.

Notice on existing copyright works.

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.

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.

21. That in the case of a book published abroad in the English language before publication in this country, the deposit in the copyright office, not later than thirty days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright, and a statement of the name and nationality of the author, and of the copyright proprietor, and of the date of publication of the said book, shall secure to the author or proprietor an *ad interim* copyright, which shall have all the force and effect given to copyright by this Act, and shall

Book published abroad in the English language.

*Ad interim* copyright for 30 days.

endure until the expiration of thirty days after such deposit in the copyright office.

**Extension to full term.**

22. That whenever within the period of such *ad interim* protection an authorised edition of such book shall be published within the United States, in accordance with the manufacturing provisions specified in sect. 15 of this Act, and whenever the provisions of this Act as to deposit of copies, registration, filing of affidavit, and the printing of the copyright notice shall have been duly complied with, the copyright shall be extended to endure in such book for the full term elsewhere provided in this Act.

**Deposit of copies, filing of affidavit.**

**Duration of copyright: 1st term, 28 years.**

23. That the copyright secured by this Act shall endure for twenty-eight years from the date of first publication, whether the copyrighted work bears the author's true name or is published anonymously or under an assumed name: *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 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 children be not living, then the author's executors, or, in the absence of a will, his next of kin, shall be entitled to a renewal and extension of the copyright in such work for a further term 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.

**Posthumous works, periodicals, cyclopædic or composite works.**

**Renewal term 28 years.**

**Other copyrighted works, first term 28 years.**

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

**Notice that renewal term is desired.**

**Copyright ends in 28 years unless renewed.**

**Extension of subsisting copyrights.**

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.

Proprietor entitled to renewal for composite work.  
Renewal application.

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

Infringement of copyright.

(a) To an injunction restraining such infringement;

Injunction.

(b) To pay to the copyright proprietor such damages as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only, and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits, such damages as to the court shall appear to be just, and in assessing such damages the court may, in its discretion, allow the amounts as hereinafter stated, but in the case of a newspaper reproduction of a copyrighted photograph, such damages shall not exceed the sum of two hundred dollars nor be less than the sum of fifty dollars, and such damages shall in no other case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty:

Damages.

in proving profits the plaintiff shall be required to prove sales only, and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits, such damages as to the court shall appear to be just, and in assessing such damages the court may, in its discretion, allow the amounts as hereinafter stated, but in the case of a newspaper reproduction of a copyrighted photograph, such damages shall not exceed the sum of two hundred dollars nor be less than the sum of fifty dollars, and such damages shall in no other case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty:

Proving sales.

in the case of a newspaper reproduction of a copyrighted photograph, such damages shall not exceed the sum of two hundred dollars nor be less than the sum of fifty dollars, and such damages shall in no other case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty:

Newspaper reproduction of photograph; recovery, \$50-\$200.

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;

Maximum recovery, \$5000.

in the case of any work enumerated in sect. 5 of this Act, except a painting, statue, or sculpture, one dollar for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

Minimum recovery, \$250.

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

Painting, statue, or sculpture, \$10 for every infringing copy.

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

Other works \$1 for every infringing copy.

in the case of other musical compositions, ten dollars for every infringing performance;

Lectures, \$50 for every infringing delivery.

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

Dramatic or musical works, \$100 for first and \$50 for subsequent infringing performance.

in the case of other musical compositions, ten dollars for every infringing performance;

Other musical compositions, \$10 for every infringing performance.



Delivering up infringing articles.

(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 ;

Destruction of infringing copies, etc.

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

Infringement by mechanical musical instruments.

(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 unauthorised 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 sect. 1, subsect. (e), of this Act: *Provided also*, That whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, relying upon the compulsory license provision of this Act, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at his last address disclosed by the records of the copyright office, sending to the copyright office a duplicate of such notice ; and in case of his failure so to do the court may, in its discretion, in addition to sums hereinabove mentioned, award the complainant a further sum, not to exceed three times the amount provided by sect. 1, subsect. (e), by way of damages, and not as a penalty, and also a temporary injunction until the full award is paid.

Injunction may be granted.

Recovery of royalty.

Notice to proprietor of intention to use.

Damages, three times amount provided.

Temporary injunction.

Rules 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.

26. That any court given jurisdiction under sect. 34 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.

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

28. That any person who wilfully and for profit shall infringe any copyright secured by this Act, or who shall knowingly and wilfully aid or abet such infringement, shall be deemed guilty of a misdemeanour, 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: *Provided, however,* That nothing in this Act shall be so construed as to prevent the performance of religious or secular works, such as oratorios, cantatas, masses, or octavo choruses by public schools, church choirs, or vocal societies, rented, borrowed, or obtained from some public library, public school, church choir, school choir, or vocal society, provided the performance is given for charitable or educational purposes and not for profit.

Penalty for wilful infringement.

Oratorios, cantatas, etc., may be performed.

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 misdemeanour punishable by a fine of not less than one hundred dollars and not more than one thousand dollars. Any person who shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country, or who shall knowingly import any article bearing such notice or words of the same purport, which has not been copyrighted in this country, shall be liable to a fine of one hundred dollars.

False notice of copyright (penalty for).

Fraudulent removal of notice; fine \$100-\$1000.

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

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.

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 authorised by the author or proprietor) which have not been produced in accordance with the manufacturing provisions specified in sect. 15 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 sect. 15 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;
- (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 authorisation;

Works for the blind.

Foreign newspapers or magazines.



Books in foreign languages of which only translations are copyrighted.

Importation of authorised foreign books permitted.

For individual use and not for sale.

For the use of the United States.

For the use of societies, libraries, etc.

Libraries purchased *en bloc*.

Books brought personally into the United States.

Imported copies not to be used to violate copyright.

Seizure of unlawfully imported copies.

Copies of authorised books imported may be returned.

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

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

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

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

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

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

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 authorised editions of copyright books imported in the mails or otherwise in violation of the provisions of this Act may be exported and returned to the country of export, whenever it is shown to the satisfaction of the Secretary of the Treasury, in a written application, that such importation does not involve wilful negligence or fraud.



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.

34. That all actions, suits, or proceedings arising under the copyright laws of the United States shall be originally cognisable 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.

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.

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.

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.

38. That the orders, judgments, or decrees of any court mentioned in sect. 34 of this Act arising under the copyright laws of the United States may be reviewed on appeal or writ of error in the manner and to the extent now provided by law for the review of cases determined in said courts, respectively.

Judgments, etc., may be reviewed on appeal or writ of error.

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

No criminal proceedings shall be maintained after three years.

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

Full costs shall be allowed.

Copyright distinct from property in material object.

Transfer of any copy of copyrighted work permitted.

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

Assignment executed in foreign country to be acknowledged.

Assignments to be recorded.

Register of copyrights to record assignments.

Assignee's name may be substituted in copyright notice.

Copyright records.

Register of copyrights and assistant register of copyrights.

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.

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.

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.

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.

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.

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.

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.

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 authorised by law.

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

**Register of copyrights to deposit and account for fees.**

**Shall make monthly report of fees.**

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

**Bond of register of copyrights.**

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.

**Annual report of register of copyrights.**

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.

**Seal of copyright office.**

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

**Rules for the registration of copyrights.**

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.

**Record books.**

**Entry of copyright.**

55. That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain his name and address, the title of the work upon which copyright is claimed, the date of the deposit of the copies of such work, and such marks as to class designation and entry number as shall fully identify

**Certificate of registration.**



Certificate for book to state receipt of affidavit.

Certificate may be given to any person.

Receipt for copies deposited.

Index to copyright registrations.

Catalogue of copyright entries

Catalogue cards.

Catalogues and indexes *prima facie* evidence.

Distribution of catalogue of copyright entries.

Subscription price.

Superintendent of documents to receive subscriptions.

Record books, etc. open to inspection.

the entry. In the case of a book the certificate shall also state the receipt of the affidavit as provided by sect. 16 of this Act, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The register of copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for, which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same, and the said certificate 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.

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.

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

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.**

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. **Disposition of copyright deposits.**

60. That of any articles undisposed of as above provided, together with all titles and correspondence relating thereto, the Librarian of Congress and the register of copyrights jointly shall, at suitable intervals, determine what of these received during any period of years it is desirable or useful to preserve in the permanent files of the copyright office, and, after due notice as hereinafter provided, may within their discretion cause the remaining articles and other things to be destroyed: *Provided*, That there shall be printed in the Catalogue of Copyright Entries from February to November, inclusive, a statement of the years of receipt of such articles and a notice to permit any author, copyright proprietor, or other lawful claimant to claim and remove before the expiration of the month of December of that year anything found which relates to any of his productions deposited or registered for copyright within the period of years stated, not reserved or disposed of as provided for in this Act: *And provided further*, That no manuscript of an unpublished work shall be destroyed during its term of copyright without specific notice to the copyright proprietor of record, permitting him to claim and remove it. **Preservation of copyright deposits.**

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 sect. 1, subsect. (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 sect. 1, subsect. (e), twenty-five cents for each notice if not over fifty **Disposal of copyright deposits.**

**Manuscript copies to be preserved.**

**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.**



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 sects. 23 and 24 of this Act, fifty cents. For recording the transfer of the proprietorship of copyrighted articles, ten cents for each title of a book or other article, in addition to the fee prescribed for recording the instrument of assignment. For any requested search of copyright office records, indexes, or deposits, fifty cents for each full hour of time consumed in making such search: *Provided*, That only one registration at one fee shall be required in the case of several volumes of the same book deposited at the same time.

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 authorised 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.

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.

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

Approved, March 4, 1909.

Fee for comparing copy of assignment.

Fee for recording renewal of copyright.

Fee for recording transfer of proprietorship.

Fee for search.

Only one registration required for work in several volumes.

Definitions: "Date of publication."

"Author."

Repealing clause.

Date of enforcement.

#### NOTE TO SECT. 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."



## APPENDIX II

FORMS OF AGREEMENT, ASSIGN-  
MENT, LICENSE, ETC.

THE following Forms between Author and Manager for Dramatic and Musical Works have been prepared by the Author with, in the cases of Agreement I. and Forms VI. and IX., the assistance of Mr C. Harvard Pierson, of the Inner Temple, Barrister-at-Law.

I

AGREEMENT FOR WEST END WITH OPTIONS

II

AGREEMENT FOR PROVINCIAL TOUR

III

AGREEMENT FOR UNITED STATES OR BRITISH POSSESSIONS

IV

AGREEMENT FOR A FIT-UP TOUR

V

AGREEMENT FOR ONE-ACT PLAY, SKETCH, SCENA, ETC.

VI

LICENSE FOR SONG OR RECITATION

VII

AGREEMENT TO COMPLETE UNFINISHED PLAY

VIII

AGREEMENT TO TRANSLATE OR ADAPT PLAY

IX

ASSIGNMENT OF COPYRIGHT

X

FORMS UNDER MUSICAL COPYRIGHT (SUMMARY) ACTS

## FORMS OF AGREEMENT, ASSIGNMENT, LICENSE, ETC.

IN disposing of his work a dramatic author has various courses open to him. He can sell his work right out. He can assign his copyright either for the whole term (less the unassignable period that belongs to his estate) or for any part of the whole term within his possession. He can assign the whole of his rights, which are covered by the word copyright, or he can assign his acting right, while retaining his right to publish, and so on. He can assign a right subject to such limitations of country or parts of a country as he pleases. Further, he may make a grant of interest by way of a license.

Courses open  
to an author.

The last-named course is the one recommended to the dramatic author and also to the manager. The play of an author may or may not be successful. It is not possible to say before production, and therefore no idea can be formed of the value of the work. In these circumstances, a manager, if he pays a considerable sum for the work—and the monetary potentialities of a play should make the sum relatively considerable—may be a heavy loser, because he may have a valueless work on his hands. But no sum, however considerable—no sum, that is, that any sensible person would be ready to pay down before production—bears any proportion to the earning power of a play that wins a great popularity. In these circumstances, it is best for the author to hold on to and for the manager not to buy a thing that in its provisional state has no calculable values.

License.



The author therefore does not sell his work, nor does he assign the copyright, but he grants a license to perform. In other words, he lets out the acting right upon stated terms. The license may, subject to the performance of the agreement embodying the license, vest the acting right exclusively in a single licensee; but usually that course is not advisable. Yet a manager, risking not only his deposit to the author but the costs of production, may reasonably not be content with a license confined to his immediate purpose, which say is the production of the piece for a run in the West End. He may look for a share in the fortunes of the play elsewhere than at his theatre. Next to the author he has the best claim to this benefit from the play.

With  
options.

Hence with a license it is only fair to link up an option or options. It may be an option on the acting right for the provinces, whether for the whole area or for the large towns only. Other options are options for the United States of America, for the British self-governing dominions and other possessions, and for foreign countries. It is well to keep the options separate from each other. One option, for example, might be for the United States, Canada, and Newfoundland; another for the Union of South Africa; another for Germany, and so on. It is not suggested that the manager should have options in all these respects under his license, but the different sorts of option are enumerated in order to show how an agreement for a license may be developed.

Time-limit.

In the subjoined Agreements, space is left for a time-limit to be inserted. This limit must of course depend on circumstances, but it is in the interest of the author not in any case to carry it further than five years. In a license to produce in the West End, it has been not unusual for the manager to enjoy a right—assuming that he has fulfilled the conditions of the agreement, an agreement that is otherwise determined—to revive the piece in the West End at any time within five or more years from the original date of production, on the same terms and con-

ditions as heretofore, should he wish to do so. A clause to this effect could, with the necessary modifications, be inserted in an agreement, assuming the term of the license was say two or three years instead of five. An example is given in Agreement I.

The mode of payment is either by percentage or fixed royalty. A royalty is not calculated on the best earning capacity of the work, and is generally therefore not so favourable to the author as the manager. Royalties are usual for one-act plays, sketches, songs, and other compositions that form parts of programmes—that is to say, where such pieces are not bought outright. It may be suggested, however, that in the case of music-hall sketches and similar pieces the author shall receive a specified percentage on the gross amount of each contract under which the manager or artist performs. For example, a sketch may be played under a contract for £20 at one hall and for £30 at another, and the percentage would be payable accordingly. The manager or artist might object on the ground that this form of payment obliged him to disclose his terms. On the other hand, he discloses them to his agent, just as the theatrical manager discloses his nightly receipts to the author under the percentage system.

Melodramas are as often as not toured with a royalty payment to the author, which is the rule for plays on tour in towns known as the smalls and the fit-ups.

The rate of percentage varies. An average percentage in town is 5 per cent., rising with the receipts to 10 per cent., and in circumstances of exceptional receipts to 15 per cent. The rate starts sometimes as low down as 3 per cent. But an author able to command his own terms has been known to stipulate that after the receipts have reached a certain point he shall take as much as one-half of the subsequent receipts. The French Society regulates these matters on a strict basis. The rates are by assessment, and the different denominations come into force automatically.

Our own sliding scale may be applied two ways. A



manager may pay, say, 5 per cent. up to gross receipts of £500,<sup>1</sup> and 7½ per cent. of gross receipts between £500 and £750, and so on. Or when the £500 point is reached he may pay 7½ per cent. of the total gross receipts. Suppose imaginary figures are filled in as follow :—The manager to pay 5 per cent. of the receipts up to £500, and when the receipts exceed £500 but do not exceed £750, the manager to pay 5 per cent. of such receipts up to £500, and to pay 7½ per cent. of such receipts exceeding £500 up to £750. But assuming the increased percentage applies to the total gross receipts, then, taking the same imaginary totals and percentages, the author receives 5 per cent. of all receipts up to £500, but immediately the takings reach £501 his percentage is 7½ per cent. of such total receipts. It need scarcely be pointed out that it is of the utmost importance to the author to see that his intentions with regard to percentages are correctly stated. In the Agreements the two methods of calculating percentages are given.

The play  
kept in per-  
formance.

Where the acting rights are let out for a year or more, the duration of the agreement is or should be dependent on the manager's performing the work for not fewer than a given number of weeks in each year. An alternative, which is suggested as in some cases fairer to the manager, is that the determining factor should lie not in the number of the weeks but in the gross amount of the percentages. Thus the rights of the manager would remain in force until the amount of the percentages accruing to the author under the Agreement failed to reach the minimum sum. And from the point of view of the author, a manager might play a piece for the stipulated minimum number of weeks, yet do so at such bad theatres or to such poor business that the author would find the performance of his play in such circumstances unremunerative. A further safeguard for the author would be to combine the two methods by imposing a minimum number of weeks and a minimum gross amount of percentages. An author

<sup>1</sup> Provinces £300 and *pro rata*.



has to bear in mind that he may write one successful play and one only. It seems, unfortunately, to be by no means a rare experience.

It is necessary, in turn, that the manager should be protected in certain respects. It should be a condition of the Agreement that the work has a good copyright, and, perhaps, that the work is not blasphemous, seditious, immoral, libellous or scandalous, or against public policy. It may be said that it is the business of the manager before accepting the work to satisfy himself on these latter points, but often he has not the materials for a judgment completed before him when he makes the deposit-money. The Agreements contain a clause indemnifying the manager; though, speaking in general terms, an indemnity, while honourably binding, would not be legally valid if, at the time it was given, the manager was a conscious party to a wrong-doing. Nor would the indemnity cover criminal proceedings. Then, as to the propriety of a play, the Lord Chamberlain as Censor is a disturbing element. He may veto a play, and the manager is powerless to produce it in Great Britain. While the Censorship remains as constituted, it is necessary to make an Agreement for Great Britain subject to the Lord Chancellor's license and to give the manager a right of recovery of all sums paid to the author in advance in the event of the refusal of the Lord Chamberlain's license.

The manager is also in need of protection in other ways. It is incumbent on the author to protect his copyright not only in his own interests but also in the manager's. Under the 1911 Act there are no formalities, but the author must not give his play first publication in a non-reciprocal country. If he so prints his work in copies for sale outside the area of the Act or its foreign extensions, it is open to anyone to perform the work next door to the manager with whom the author has entered into the agreement. Again, if he gives his play first publication here without complying with the formalities of the United States law, the author cannot acquire his rights thereunder. If his work is

Protection  
for the  
manager.

Publishing  
the play.

unpublished he is protected in the United States at common law, but it is better for him to come under statutory protection, for although he apparently has to sacrifice his perpetual copyright, he simplifies the position for the manager, especially as the United States law is exacting in the matter of registration of assignment, which seems to include a grant of interest such as a license.

In another respect the publication of the play may concern the manager. A popular play, published in cheap printed form, may be read instead of witnessed in performance, especially by persons at a distance from the theatre. The manager, in consequence, can provide in the Agreement that the play shall not be published during the existence of the license. There is the counter-view that the published book may be an advertisement for the play.

**Film and  
record rights.**

The author does not include in the acting right the cinematograph right nor the mechanical-contrivance rights. Here again, if the author exercises these rights while the license is running, the interests of the manager may be affected. A manager on tour, for example, does not want his performance to be anticipated by films of the play. It is a thing that has occurred, and the growth of "photo-plays" may make it a contingency seriously to be reckoned with. The objection to mechanical contrivances applies more particularly to musical pieces.

**Control of  
production.**

The questions of alterations in the play and of the casting and the rehearsal of the play involve delicate relations between author and manager. In the first respect it seems that the author should reserve to himself the power to have his work performed as it is written and otherwise expressed. The other matters seem more within the province of the manager. These questions depend a good deal on the circumstances of the particular case. There may, as an instance, be a play with an unhappy ending. Where that is so, it might be a wise precaution of the manager to stipulate that, at the request of the manager after the

original production, the author shall supply promptly a happy ending.

The Agreements are drawn in accordance with the foregoing remarks. They have also been drawn with a view to being as adaptable to a particular case as an Agreement on general lines can be. Clauses may be modified as required, or deleted, or transferred from one Form to another. The Agreements do not in all respects follow the existing procedure, which, however, has been carefully considered ; and it is hoped that such deviations as have been attempted in form and practice may be found fair to the parties and not impracticable.

It should be added that Mr Cecil Raleigh, Mr Arthur Shirley, Mr Charles Hannan, Mr George King, and Mr Mowbray Marras and others have kindly supplied various particulars of existing contracts.

#### LA SOCIÉTÉ DES AUTEURS ET COMPOSITEURS DRAMATIQUES

The reference already made to the Société may be extended a little. The organisation is now of long standing. The statutes of the Société go back to Beaumarchais in 1777, what time the author of *Le Barbier de Séville* and *Le Mariage de Figaro* took steps of practical protest against the disabilities and hardships from which dramatic authors of the eighteenth century suffered. The Société was much developed under Scribe in 1829 ; and to the protection that it was able to afford its members in its new form may no doubt be attributed very largely the ascendancy of French drama during the last century. The Société, by fixing the position of the author in the French theatre and defining and securing his economic conditions, made the profession of play-writing one worth a man's following, and therefore likely to attract talents that might easily be diverted to other directions.



Managers  
under con-  
tract.

The Société requires managers to contract with it ; and the signatories to the rules of the Société—who are of three classes, sociétaires, stagiaires, and heirs or assigns of authors—enter into an undertaking that their works shall only be performed by such contracting managers. Generally speaking, therefore, the French managers are in the hands of a severely-regulated trade union. A manager who does not contract with the Société has practically the play-supply of France—except the non-copyright drama, which in France is drama that falls into the public domain fifty years from the death of author—shut in his face. He has thus to take the whole supply of modern drama under the conditions imposed by the Société.

In the first place he has to agree to a fixed scale of payment. In Paris it varies from 15 per cent. of the gross receipts downwards ; in the provinces from 10 per cent. to 6 per cent., according to the freshness or the importance of the piece. The Société makes its own assessments. Thus the Comédie Française is assessed at 15 per cent. of its gross receipts ; such theatres as the Odéon, Gymnase, Vaudeville, Palais Royal, Variétés, Renaissance, Bouffes, and Folies, at 12 per cent. ; as the Porte-Saint-Martin, Ambigu, Déjazet, Gaité, Châtelet, and Cluny at 10 per cent. ; and minor and outlying theatres at 8 per cent. and less. The assessment is sometimes raised or lowered, but the foregoing are the usual rates. In addition, the managers sometimes pay premiums direct to the authors for new plays that are specially desired for production. Moreover, in the case of all plays, the managers have to consent to the issue of author's tickets for a certain number of reserved seats for each performance. The tickets in Paris are sold straight away to the Porcher Agency, which resells them direct to the public. In the provinces the author's tickets become the property of the Société.

Deposits and  
collections.

A theatre manager has to deposit with the Société a certain sum as part security for author's fees, and also

guarantee a minimum number of performances, say one hundred. Though the deposit is made, the author's fees are collected after each performance by the representative of the Société, who has the entrée of the box-office. The manager must deliver to the representative a detailed statement of the gross receipts, countersigned by the box-office keeper. The deposit, as far as the provinces go, is not returnable until the end of the tour, when the manager gets it back on producing the receipts for the fees paid by him in every town visited.

French managers thus have to pay somewhat dearly and also inflexibly for their play-supply ; but they get it. In this country, at the West-End theatres, there is a great deal of extravagant paying to a very small number of successful authors, but no full supply ; and the treatment of the most vital part of the theatre's economy is the most immethodical.

From the point of view of the authors, the benefits of the Société are substantial, at all events to the great working body. The Société from its position can protect their general interests to the utmost. It secures and collects their fees. It collects them not merely in France. It is said—and the story should be true—that when Sarah Bernhardt gave a performance of *Hamlet* at Stratford-on-Avon, one of the ubiquitous representatives of the Société collected the fees at the theatre for the French adapters of the tragedy, Mm. Eugène Morand and Marcel Schwob.

The Société also acts as a provident institution. The fully qualified member, *i.e.* the sociétaire, can, if he belongs to this class before he is forty, obtain an annual pension of 12,000 francs at age sixty. He is eligible as sociétaire if he has had five acts from a play or plays performed at an important theatre or theatres, or has earned 30,000 francs in royalties. To the English author the former requirement would be less difficult to satisfy.

The model of the Société would no doubt be regarded as too stringent and exact for English tastes. Yet it has

features that might well be reproduced in a similar body for our stage. As well as the French, there is a strong German organisation ; and American authors have their society also. We are late to recognise that it is in the worst interests of the Theatre for play-writing to be left to be a haphazard, shiftless business.



I

AGREEMENT TO PRODUCE A PLAY OR OTHER  
WORK UNDER LICENSE

MEMORANDUM OF AGREEMENT made this  
day of , one thousand  
nine hundred and , BETWEEN  
of  
hereinafter called the author of the one part, and  
of  
hereinafter called the manager of the other part.

WHEREAS the author is the author of and the owner  
of the acting right in a [play<sup>1</sup>] entitled

hereinafter called the [play].

AND WHEREAS the manager is desirous to produce  
and perform in public the [play].

NOW IT IS HEREBY AGREED as follows :—

I. *Grant of License*

That in consideration of the hereinafter mentioned  
payments, and subject to the provisions of this Agreement  
and to the termination clauses hereinafter contained, the  
author hereby grants to the manager a license to produce  
and perform the [play] for the period of  
[weeks, months, or years] from the

<sup>1</sup> Here state the nature of the play or musical work, e.g. drama, comedy,  
farce, opera, comic opera, or musical comedy.

day of \_\_\_\_\_, or for so long as the [play] shall be continuously performed at the Theatre, London, or at any other West-End London Theatre, but not including the theatres named in the attached Schedule A.<sup>1</sup>

### 2. *Production of Play*

The manager shall produce the [play] in the evening at the \_\_\_\_\_ Theatre, London, or at any other West-End London Theatre as aforesaid, on or before the day of \_\_\_\_\_.

### 3. *Preliminary Performances*

Prior to the production of the play at the Theatre, London, and subject to the payment of the author's percentages as hereinafter provided, the manager shall be at liberty to produce the play at any [one] theatre or hall outside a radius of \_\_\_\_\_ miles from Charing Cross, for the purpose of preliminary performances, provided such performances do not exceed \_\_\_\_\_ in number.

### 4. *Payment by Manager*

The manager shall pay to the author on the signing hereof the sum of £ \_\_\_\_\_ sterling, the said payment to be on account of the first percentages accruing out of the [play], and the said sum shall in no event be repayable by the author to the manager, except as hereinafter provided; and no further percentages shall be payable until this sum is exhausted according to the terms of this Agreement.

### 5. *Guarantee by the Author*

The author guarantees to the manager that the [play] is in no way whatever a violation of any subsisting copy-

<sup>1</sup> Those theatres or other West-End houses licensed for stage-plays which the author does not wish included should be marked in Schedule A. For a list of West-End theatres see THE STAGE GUIDE.

right, and that the [play] is not in character [blasphemous, seditious, immoral] libellous or scandalous [or against public policy]; and he agrees to hold harmless and keep indemnified<sup>1</sup> the manager from all suits, claims, and proceedings, damages and costs against the manager, provided the [play] is adjudged to infringe a subsisting copyright, or to be in itself a [blasphemous, seditious, immoral] libellous or scandalous work [or to be a work against public policy].

#### 6. *Refusal of Lord Chamberlain's License*

(1) The refusal of the Lord Chamberlain to grant a stage-play license for the [play] shall forthwith determine this Agreement, and the author shall thereupon refund to the manager all moneys paid on account of percentages, or otherwise paid by the manager to the author in respect of the [play].

(2) The manager will make the necessary application to obtain the license of the Lord Chamberlain for the [play], and will discharge all expenses connected therewith, including the deposit of fees and of copy of the [play] at the office of the Lord Chamberlain.

#### 7. *Production*

The manager will defray all the expenses of the production and the performance of the [play].

The manager will produce the [play] under the personal supervision and to the reasonable satisfaction of the author.

#### 8. *Alterations*

The manager will produce the [play] and cause it to be performed in accordance with the manuscript thereof, and will not alter, add, or delete any words, action, situation, or business of the [play], nor vary the title, without the consent of the author previously obtained in writing.

<sup>1</sup> See p. 239 *ante*.



9. *Selection of Cast and Direction of Rehearsals*

[The intentions of the parties with regard to these matters may be stated in a few simple words.]

10. *Name of Author*

The [play] shall be announced and advertised as written by

11. *Advertisements*

The manager shall duly and sufficiently advertise the [play], and shall cause the author's name to appear with reasonable prominence in all such advertisements of the [play], whether contained in the press, bills, notices, programmes, and in any announcement, throwaway, or mural poster whatsoever.

12. *Percentages and Mode of Payment*

(1) For the Theatre, London, or for any other West-End London Theatre as aforesaid, when the gross receipts of admission money from any and every source whatsoever arising do not exceed £ per week, the manager shall pay to the author per cent. of such gross receipts for each week or part of a week, and when the gross receipts as aforesaid exceed £ per week but do not exceed £ per week, the manager shall pay the author per cent. of such total gross receipts for each week or part of a week.<sup>1</sup>

12. *Alternative Clause*

(1) *During the run of the [play] at the Theatre, London, or at any other West-End London Theatre as aforesaid, the manager shall pay to the author a percentage equal to per cent. of the gross receipts of the said theatre for each week or part of a week up to and including £*

*And when the gross receipts per week shall exceed £ but shall not exceed £, the manager shall pay the author a percentage equal to per cent. of such*

<sup>1</sup> The latter part of this clause to be repeated with each increase in the sliding scale.

gross receipts up to and including £ \_\_\_\_\_, and shall pay a percentage equal to \_\_\_\_\_ per cent. of such receipts exceeding £ \_\_\_\_\_ and up to and including £ \_\_\_\_\_.

And when the gross receipts per week or any part thereof shall exceed the sum of £ \_\_\_\_\_, the manager shall pay the author in respect of any and every such week instead of the percentages aforesaid a percentage equal to \_\_\_\_\_ per cent. of the whole gross receipts of the said theatre for such week or part thereof.

(2) During the run of the [play] at the Theatre, London, or at any West-End London Theatre as aforesaid, the manager shall furnish the author every day with a detailed return of the gross receipts of admission money for each and every performance of the [play] and from all sources whatsoever arising.

(3) Whilst the [play] is running at the Theatre, London, or at any West-End London Theatre as aforesaid, the author's percentages for each and every week shall be due on the Monday succeeding such week, and they shall be paid to the author not later than the Wednesday in such succeeding week. And in the event of such percentage being in arrear for two whole weeks in succession, or for any two whole weeks, the author shall be empowered to determine this Agreement on giving \_\_\_\_\_ days' notice in writing to the manager.

### 13. *Reduction of Charges for Admission*

The manager shall not at any time reduce the charges for admission to the various seats and parts of the \_\_\_\_\_ Theatre, London, or of any other London West-End Theatre at any time when the [play] is performed thereat as hereinbefore provided, except with the consent of the author previously obtained in writing.

### 14. *The Two-Houses-a-Night System*

The manager shall not at any time institute the two-houses-a-night system at the \_\_\_\_\_ Theatre,

London, or at any other London West-End Theatre, while the [play] is performed thereat as hereinbefore provided, except with the consent of the author previously obtained in writing.

#### 15. *Condensed Version*

The author will not grant a right or license to produce or perform a condensed version of the [play] or any part of the [play] within the limits aforesaid to any other person or persons whomsoever during the period hereinbefore recited.

#### 16. *Subletting*

The manager will not sublet or grant any sub-license to any other person or persons whomsoever of the license hereby granted without the consent of the author previously obtained in writing. The license granted herewith is a personal license to the manager only to produce and perform the [play] himself by means of a company of artists under his supervision and management.

#### 16. *Alternative Clause*

*The manager agrees that he will not sublet any portion of his rights of performance of the [play] without the consent in writing of the author previously obtained [such consent not unreasonably to be withheld by the author].*

#### 17. *Right of West-End Revival*

*[The manager shall, in the event of the [play] running continuously at the Theatre, London, for a period of weeks from the date of its first production, shall, subject to his having at all times duly observed and performed the terms and conditions of the license, have the [sole] right of reviving the [play] upon the terms and conditions of this Agreement at any West-End London Theatre as aforesaid for a period of years from the date of such first production.]*

#### 18. *Determination and Penalty*

Provided always and it is hereby agreed and declared as follows :—



(a) If the manager shall fail to produce the [play] as aforesaid on or before the                    day of                    the sum of £                   , hereinbefore referred to and paid by him as deposit on account of percentages, shall be forfeited to the author, and the license contained herein shall cease accordingly, and the manager shall pay to the author the sum of £                    by way of damages for breach of this Agreement, and such sum shall be over and above the sum of £                    paid by the manager on account of percentages as hereinbefore provided, and it is hereby declared that such damages shall be liquidated and ascertained damages and not a penalty.

(b) And if the manager shall fail to observe or perform any of the other provisions of this Agreement, or shall have a receiving order in bankruptcy made against him, or shall enter into any composition or arrangement with creditors, the author shall be entitled to give to the manager                    weeks' notice in writing of his intention to revoke the license contained herein, and on the expiration of such notice such license shall cease accordingly, without prejudice to the recovery of any fees due to the author or of any rights that the author may or might have in respect of any breach or breaches of this Agreement.

### 19. *Options of Manager*

The manager shall have the option of acquiring from the author a license [licenses] to produce and perform the [play] in the hereinafter mentioned English-speaking countries<sup>1</sup> on the terms and conditions<sup>2</sup> herein following and further subject to the terms and conditions of Clauses [5], 7, 8, 9, 10, 11, 15, 16, 22, 23, 24, 25, 26, 27 [28], and 29 of this Agreement :—

#### I.—*Great Britain and Ireland*

(1) The option, if exercised for the suburbs of London outside a radius of                    miles from Charing Cross

<sup>1</sup> Strike out sections relating to countries for which options are not given.

<sup>2</sup> For a full Agreement for Provinces, United States of America, etc., see Forms II. and III. pp. 262, 270 *et seq.*, *post.*

and for the provincial cities of Great Britain and Ireland, the Channel Islands and the Isle of Man, shall be declared by notice in writing to be given to the author by registered letter                      days from and including the original day of production in London as hereinbefore provided, and the manager shall with the said notice pay to the author the sum of £                      on account of the percentages undermentioned, and such sum shall in no case be repayable to the manager.

• *(a) Percentages*

When the gross receipts, etc. [insert particulars from Clause 12 (1)].

*Alternative Clause—(b) Royalties or Fixed Fees*

For first-class theatres, including the suburbs of London, as per Schedule B<sup>1</sup> attached hereto, the royalty to be                      for each and every performance.

For second-class theatres, as per Schedule C<sup>2</sup> attached hereto, the royalty to be                      for each and every performance.

For all other theatres and halls in existence at the date of the signing of this Agreement and not specifically mentioned in either of the Schedules attached hereto and marked B and C respectively, the royalty to be                      for each and every performance.

For all theatres and halls not in existence or in course of erection at the date of the signing hereof, the royalty mutually to be agreed upon between the author and the manager.

(2) *Date of Production under Option.*—If the manager should acquire the acting right of the [play] for the suburbs of London and the provincial cities and towns of Great Britain and Ireland as aforesaid, in accordance with the option hereinbefore recited, he shall produce the [play] in

<sup>1</sup> The Schedule should contain the list of first-class theatres referred to. The list may be compiled from THE STAGE GUIDE.

<sup>2</sup> Schedule C should contain a similar list.

at least one of such suburbs or towns on or before day of \_\_\_\_\_, for not fewer than \_\_\_\_\_ consecutive performances thereafter, and should he fail so to do, all his rights for Great Britain and Ireland as aforesaid in respect of the [play] shall cease, and he shall pay to the author the sum of \_\_\_\_\_ pounds by way of damages for breach hereof, and such sum shall be over and above the sum of \_\_\_\_\_ pounds paid by the manager on account of percentages [or royalties] as hereinbefore provided, and it is hereby declared that such damages shall be liquidated and ascertained damages and not a penalty.

(3) *Duration.*—The rights of the manager acquired for the suburbs of London and the provincial towns and cities of Great Britain and Ireland, by license under the option hereinbefore recited, shall remain in force so long as the [play] shall be performed for a number of weeks not fewer than \_\_\_\_\_ in any one year, each year to be reckoned as commencing from that day of the month on which such original production took place.

Provided that the total period during which the aforesaid rights may remain in force under the license shall not exceed \_\_\_\_\_ years from the date of the original production at the \_\_\_\_\_ Theatre, London.

(4) *Determination.*—If the manager shall fail to observe and comply with these conditions at any time, all his rights for the suburbs of London and the provincial cities and towns of Great Britain and Ireland in respect of the [play] shall cease.

*Alternative Clause as to Duration*

(3) *The rights of the manager acquired for the suburbs of London and the provincial cities and towns of Great Britain and Ireland under the option hereinbefore recited shall remain in force until such time as the percentages [or royalties] accruing under the Agreement to the author shall amount to less than \_\_\_\_\_ in any one year, each year to be reckoned as commencing from the day of the month of the first produc-*



*tion of the play in the suburbs of London or the provincial cities and towns of Great Britain and Ireland.*

*Provided that the total period during which the aforesaid rights may remain in force under this option shall not exceed*  
*years from the date of the original production*  
*at the Theatre, London.*

## II.—*United States of America, Canada, and Newfoundland*

(1) The option, if exercised for the United States of America, the Dominion of Canada, and Newfoundland, shall be declared by notice, etc. [insert particulars from Clause 19, I. (1)].

### (a) *Percentages*

[Insert particulars from Clause 12 (1).]

### *Alternative Clause—(b) Royalties or Fixed Fees*

For any theatre in New York, and in first-class cities in the United States of America and the Dominion of Canada, viz. :—Brooklyn, Haarlem, Boston, Philadelphia, Chicago, St Louis, Pittsburg, New Orleans, Baltimore, Washington, San Francisco, Montreal [etc.], the royalty to be for each and every performance.

For the next towns of importance in the United States of America and in Canada (a list to be approved and agreed between the author and the manager) the royalty to be for each and every performance.

For the remainder of towns in the United States of America and in Canada, and for towns in Newfoundland, the royalty to be for each and every performance.

(2) *Date of Production under Option.*—If the manager should acquire the acting right of the [play] for the United States of America, the Dominion of Canada, and Newfoundland, in accordance with the option hereinbefore recited, he shall produce the [play] in at least one of such countries on or before day of

, for not fewer than \_\_\_\_\_ consecutive performances thereafter, and should he fail so to do, all his rights for the United States, Canada, and Newfoundland in the [play] shall cease, and he shall pay to the author the sum of \_\_\_\_\_ pounds by way of damages for breach thereof, and such sum shall be over and above the sum of \_\_\_\_\_ pounds paid by the manager on account of percentages [or royalties] as hereinbefore provided, and it is hereby declared that such damages shall be liquidated and ascertained damages and not a penalty.

(3) *Duration*.—The rights of the manager acquired for the United States, Canada, and Newfoundland shall remain in force until such time as the percentages [or royalties] accruing to the author by license under this option shall amount to less than \_\_\_\_\_ in any one year, each year to be reckoned as from that day of the month on which the first production of the play in the United States, Canada, or Newfoundland shall take place. Provided that the total period during which the aforesaid rights under the license may remain in force shall not exceed \_\_\_\_\_ years from the date of the first performance thereunder.

(4) *Determination*.—If the manager shall fail to observe and comply with these conditions at any time, all his rights for the United States, Canada, and Newfoundland in respect of the [play] shall cease.

(5) *Protection of Copyright*.—If the manager should acquire the acting right of the [play] for the United States of America, in accordance with this option, he shall file at Washington notice of grant of performing right, in accordance with the requirements of the Statute law of the United States of America in force at the date of his acquiring such acting rights.

The author will register the author's claim for copyright at Washington, and will there deposit one copy of the [play] or otherwise in accordance with the requirements of the Statute law of the United States of America in force at the date of such registration.

### III.—*Australia and New Zealand*

(1) The option if exercised for the Commonwealth of Australia and the Dominion of New Zealand, etc. [insert particulars from Clause 19, I. (1)].

#### (a) *Percentages*

[Insert particulars from Clause 12 (1).]

#### *Alternative Clause—(b) Royalties or Fixed Fees*

For any theatre in Melbourne and Sydney the royalty to be \_\_\_\_\_ for each and every performance.

For any theatre in Adelaide, Brisbane, and Perth, the royalty to be \_\_\_\_\_ for each and every performance.

For all other towns in Australia, including the whole of New Zealand, the royalty to be \_\_\_\_\_ for each and every performance.

(2) *Date of Production under Option.*—If the manager should acquire the acting rights of the [play] for the Commonwealth of Australia and for New Zealand, in accordance with the option hereinbefore recited, he shall produce the [play] in at least one of such countries on or before \_\_\_\_\_ day of \_\_\_\_\_, for not fewer than \_\_\_\_\_ consecutive performances, and should he fail so to do, all his rights for the Commonwealth of Australia and for New Zealand in respect of the [play] shall cease, and he shall pay to the author the sum of \_\_\_\_\_ pounds by way of damages for breach hereof, and such sum shall be over and above the sum of \_\_\_\_\_ pounds paid by the manager on account of percentages [or royalties] as hereinbefore provided, and it is hereby declared that such damages shall be liquidated and ascertained damages and not a penalty.

(3) *Duration.*—The rights of the manager acquired for the Commonwealth of Australia and for New Zealand under the option shall remain in force until such time as the percentages [or royalties] accruing to the author



by license under this option shall amount to less than  
in any one year, each year to be reckoned  
as commencing from that day of the month on which the  
first production of the play in the Commonwealth of  
Australia and New Zealand shall take place. Provided that  
the total period during which the aforesaid rights under the  
license may remain in force shall not exceed  
years from the date of the first performance thereunder.

(4) *Determination*.—If the manager shall fail to observe  
and comply with these conditions at any time, all his rights  
for the Commonwealth of Australia and New Zealand in  
respect of the [play] shall cease.

#### IV.—*South Africa*

(1) The option if exercised for the Union of South Africa,  
etc. [insert particulars from Clause 19, I. (1)].

##### (a) *Percentages*

[Insert particulars from Clause 12.]

##### *Alternative Clause—(b) Royalties or Fixed Fees*

For any theatre in Cape Town, Johannesburg, and Durban  
[etc.], the royalty to be \_\_\_\_\_ for each and every  
performance.

For any theatre in Kimberley, Pretoria, East London,  
and Port Elizabeth [etc.], the royalty to be \_\_\_\_\_  
for each and every performance.

For all other towns in South Africa the royalty to be \_\_\_\_\_  
for each and every performance.

(2) *Date of Production under Option*.—If the manager  
should acquire the acting right of the [play] for the  
Union of South Africa, in accordance with the option  
hereinbefore recited, he shall produce the [play] in  
at least one city or town of South Africa on or before  
\_\_\_\_\_ day of \_\_\_\_\_, for not fewer than  
consecutive performances thereafter, and should

he fail so to do, all his rights for South Africa in respect of the [play] shall cease, and he shall pay to the author the sum of \_\_\_\_\_ pounds by way of damages for breach hereof, and such sum shall be over and above the sum of \_\_\_\_\_ pounds paid by the manager on account of percentages [or royalties] as hereinbefore provided, and it is hereby declared that such damages shall be liquidated and ascertained damages and not a penalty.

(3) *Duration.*—The rights of the manager acquired for the Union of South Africa under the option shall remain in force until such time as the percentages or [royalties] accruing to the author by license under this option shall amount to less than \_\_\_\_\_ in any one year, each year to be reckoned as commencing from that day of the month on which the first production of the play in the Union of South Africa shall take place. Provided that the total period during which the aforesaid rights under the license may remain in force shall not exceed \_\_\_\_\_ years from the first performance thereunder.

(4) *Determination.*—If the manager shall fail to observe and comply with these conditions at any time, all his rights for the Union of South Africa in respect of the [play] shall cease.

## 20. *Returns and Payments under Options*

Proper signed box-office returns of the gross receipts shall be rendered nightly to the author, and all percentages [or royalties] paid to the author weekly, provided that in the case of countries outside Great Britain and Ireland reasonable time shall be allowed for forwarding the same to the author in England in the due course of post or other transmission.

## 21. *Sub-licenses (United States, Australia, etc.)*

The manager shall have power from the date of exercising this option until \_\_\_\_\_ to grant, notwithstanding anything to the contrary contained in this Agreement, licenses to any other person or persons to

produce and perform or cause to be produced and performed the [play] in any theatre or place of entertainment in <sup>1</sup> , but not elsewhere. Any and every sub-license shall be strictly subject to the terms and conditions of this Agreement.

22. *Translations*

The author reserves to himself the right of translation of the [play] into any and every foreign language.

23. *Book of Words*

(1) The author retains his exclusive right to publish the [play] in book form. All profits arising from the sale of copies of such book in the theatre where the [play] is performed shall, except as otherwise agreed in writing, be equally divided between the author and the manager.

(2) The author will not give the [play] publication in any way that will forfeit the copyright under the Copyright Act, 1911.

24. *Proceedings to Protect License*<sup>2</sup>

The author will allow his name to be used by the manager in any proceedings taken by the manager against third parties to protect the license to perform hereby conferred upon the manager. The manager will bear the entire cost of any such proceedings.

The author will assist the manager to the best of his ability in such proceedings.

25. *Kinematograph and Mechanical-Contrivance Rights*

The author retains his right of kinematographic reproduction of the [play], and of adaptation of the whole or any part of the [play] to mechanical musical instruments, but he agrees not to exercise or sanction or permit the exercise of these rights so long as the [play] is licensed to the manager, without the consent of the manager previously obtained in writing.

<sup>1</sup> Insert here the country or countries to which this clause is meant to apply.

<sup>2</sup> See similar clauses, pp. 268, 273, 274 *post*.



26. *Performances by Amateurs [and at Working Men's Clubs]*

The author reserves to himself the acting right in respect of amateurs [and at working men's clubs].

27. *Manuscripts, Acting Parts, etc.*

All actors' parts, prompt books [conductor's score, band parts, scene plots, property plots, lighting plots and every other manuscript whatsoever] used in the production of the [play] shall, at the determination of this Agreement from any cause whatsoever, become the property of the author, and shall be delivered to him by the manager.

28. *Arbitration*

*[In the event of any dispute or question arising between the author and the manager relative to this Agreement, the same shall be referred to two arbitrators, one to be appointed by either party or their umpire pursuant to the Arbitration Act, 1889.]*

29. *Interpretation*

In this Agreement "theatre" includes any building or place duly licensed for the performance of stage-plays.

"Gross receipts" include any and all receipts in the form of admission money whether from agencies, libraries, box-office, pay-boxes, or elsewhere. Gross receipts do not include receipts from refreshment bars, cloak-rooms, programmes, advertisements, and like sources of revenue.

"License to perform" includes only the right to represent in public the play in words and action, by means of living impersonators of the various characters at each and every performance, and does not include the right to convert the [play] into a novel or other non-dramatic work, nor to publish or authorise any translation thereof, nor to make or authorise any person or persons to make any record, perforated roll, kinematograph film, or other con-

trivance by means of which the [play] may be mechanically performed or delivered.

“ Produce ” means to perform the [play] with a view to a continuous run in the city or town where such performance first takes place, or to stage the [play] with a view to a tour through the various cities and towns of any country comprised within the terms of this Agreement, and does not apply to any colourable representation of the [play] whatsoever.

“ Continuous.” The [play] shall be deemed to be played continuously notwithstanding that the theatre where it is being performed is closed for ordinary vacations, decoration, or by order of any competent superior authority, and notwithstanding that the [play] is transferred from the stage of one theatre to another theatre in the same town, always provided that such transfer is effected within an interval of time not exceeding .

This Agreement shall not be deemed to create a partnership between the parties hereto,

As Witness, etc.,

[Signatures of both parties.]

[SCHEDULES.]

## II

### AGREEMENT FOR A PLAY ON TOUR

MEMORANDUM OF AGREEMENT made this  
day of \_\_\_\_\_ in the year \_\_\_\_\_ BETWEEN  
of \_\_\_\_\_ of \_\_\_\_\_ in the County  
of \_\_\_\_\_ hereinafter termed the author of the  
one part, and of \_\_\_\_\_ in the  
County of \_\_\_\_\_ hereinafter termed  
the manager of the other part, whereby it is MUTUALLY  
AGREED as follows :—

#### *Grant of a License to Perform*

1.—The author, in consideration of the payments hereinafter named, hereby grants and the manager hereby takes on the terms and conditions following a [the sole and exclusive<sup>1</sup>] license to perform the [work<sup>2</sup>] entitled \_\_\_\_\_, hereinafter called the [work], on tour in Great Britain and Ireland for a period that shall not in any event exceed \_\_\_\_\_ years<sup>3</sup> and shall further be subject to the determination clauses hereinafter stated.

#### *Guarantee by the Author*

2.—The author guarantees to the manager that the [work] is an original work and is in no way whatever a violation of any copyright belonging to any other person or persons, and that the [work] contains nothing of a [an immoral or] libellous or slanderous character, and he agrees to hold

<sup>1</sup> If sole and exclusive, insert these words.

<sup>2</sup> State kind of dramatic or musical work.

<sup>3</sup> If period is less than a year alter to months.



harmless and keep indemnified the manager from all suits and all manner of claims, proceedings, and expenses that may be taken or incurred against the manager on the ground that the work is such violation of copyright or is in itself [immoral] libellous or slanderous.

*Sum in Advance of Fees*

3.—The manager agrees to pay to the author on the signing of this Agreement, which shall be taken to be and is the receipt therefor, the sum of \_\_\_\_\_, such sum to be reckoned as a payment on account of fees and to be met and satisfied out of the fees first accruing to the author under the terms of payment hereinafter stated.

*Alternative Clause*

3.—*The manager agrees to pay the author on the signing of this Agreement, which shall be taken to be and is the receipt therefor, the sum of \_\_\_\_\_, such sum to be reckoned as a deposit on account of fees. If this Agreement should continue for the full term of \_\_\_\_\_ years, then \_\_\_\_\_ months before the end of the last year, the said sum shall first begin to be returnable to the manager out of the fees that may be at that time accruing, and if such fees during the said \_\_\_\_\_ months do not equal the said sum the balance of the said sum shall, if no fees are in arrear, be paid by the author immediately on the termination of this Agreement. If no fees accrue during the said \_\_\_\_\_ months, the total amount of the said sum on deposit for fees shall, less any amount due for fees in arrear, be returned to the manager \_\_\_\_\_ days before the termination of this Agreement.*

*Determination Clauses*

4.—(1) The manager undertakes to start a tour of the [work] beginning on or before \_\_\_\_\_. If he should fail to start the tour as agreed and to continue the tour of the [work] therefrom for a period of not fewer than \_\_\_\_\_ consecutive weeks, then the sum of \_\_\_\_\_ paid by the manager to the author shall be forfeited and shall

belong absolutely to the author and be not returnable, and thereupon all rights in and to the performance of the [work] shall be forfeited by the manager and revert to the author.

Provided that if the [work] be refused a license by the Lord Chamberlain or be adjudged an invasion of copyright or a [an immoral] libellous or slanderous work, the manager shall be entitled to the return of the aforesaid sum paid on account of fees, or to so much of it as has not been met and satisfied out of fees accruing to the author.

(2) The license granted under this Agreement is subject to the condition that the manager performs the [work] in accordance with the terms of the Agreement for not fewer than \_\_\_\_\_ weeks in each and every year during which the Agreement runs, the first year to commence on or before \_\_\_\_\_. If the manager does not perform the [work] for the said number of weeks in any one year or in each and every year, this Agreement thereupon becomes null and void, and the rights granted under it revert to the author, without prejudice to the recovery of any sums or fees due to him or to any right or rights that the author may or might have in respect of any breach or breaches of this Agreement.

(3) In the event of a receiving order in bankruptcy being made against the manager or of his entering into any composition or other arrangement with his creditors, then from the date thereof the author shall be entitled to revoke and end the license hereunder forthwith.

(4) If the manager shall at any time fail to fulfil any of the conditions set forth in this Agreement, the author or his authorised agent may, except as otherwise provided herein, thereupon, by registered letter sent addressed to the manager at the address cited at the commencement of this Agreement, give notice terminating this Agreement, and all rights granted by the author to the manager shall thereupon revert to the author, but without prejudice to any right or rights that the author may or might have in respect to any breach or breaches of this Agreement.

*Payment of Fees*

5.—(1) The manager agrees to pay to the author fees as follow :—

per cent. of the gross receipts up to £  
for the week.

per cent. of the total gross receipts for the week  
when the gross receipts for the week exceed £  
but do not exceed £

per cent. of the total gross receipts for the  
week when the gross receipts for the week exceed  
£

Provided that where the [work] is performed by the manager under an engagement to a lessee on Certainty terms, the percentage shall be reckoned on the amount of the manager's contract plus a further per cent. of the said amount.

*Alternative Clause*

5.—(1) *The manager agrees to pay to the author fees as follow :—*

*per cent. of the gross weekly receipts up to  
£*

*per cent. when the gross weekly receipts exceed  
£ on such excess up to £*

*per cent. when the gross weekly receipts exceed  
£ on such excess.*

[or instead of the last clause]

*per cent. of the total gross weekly receipts when  
the weekly receipts exceed £*

(2) The manager agrees to furnish to the author or to his authorised agent nightly proper box-office returns of the gross daily receipts of the [work], countersigned by the resident manager, and to make on the Tuesday in each week, for the week preceding, payments to the author or to his authorised agent of all moneys due according to the terms of this Agreement. <sup>1</sup>Provided that no such payments shall be made until the sum of £

<sup>1</sup> This provision to be deleted if the Alternative Clause 3 is adopted.



paid on account of fees as aforesaid has been met and satisfied in full out of the fees first accruing to the author for the performance of his [work].

(3) The author or his authorised agent may at any reasonable time examine entries relating to the gross receipts of the work.

(4) "Gross receipts" mean any and all receipts in the form of admission money from all sources.

#### *Alternative Clause*

5.—(1) *The manager agrees to pay the author a royalty of £ \_\_\_\_\_ on each and every performance of the [work] given under this Agreement.*

(2) *The royalties for each week or part of a week shall be paid to the author or his authorised agent on the Tuesday in the week following the week in which they accrue. <sup>1</sup>Provided that no such royalties shall be payable until the sum of £ \_\_\_\_\_ paid on account of fees as aforesaid has been met and satisfied in full out of the fees first accruing to the author for the performance of his [work].*

#### *Suburban London Theatres*

6.—It is agreed that the manager has the right to play the [work] on the provincial terms at any London Suburban Theatre at which companies on tour are ordinarily received. It is also agreed that this license to perform does not include performance at a West-End London Theatre, except that the theatres named in the attached Schedule shall be deemed suburban theatres for the purposes of this license.

#### *Nature and Extent of License*

7.—(1) The author grants only a license to perform the [work] by means of acting by professional actors and actresses on the professional stage. He reserves and retains all the other rights comprehended in his copyright

<sup>1</sup> This provision to be deleted if the Alternative Clause 3 is adopted.

[but he agrees not to exercise or sanction or permit the exercise of his right of kinematographic reproduction or of mechanical musical reproduction so long as this license is in force].

(2) The license is personal to the manager, and is intended to apply exclusively to performances by a company belonging to and under the control of the manager. The manager agrees that he will not sublet any portion of his rights of performance.

#### *Alternative Clause*

7.—(2) *The manager agrees that he will not sublet any portion of his rights of performance of the [work] without the consent in writing of the author previously obtained [such consent not unreasonably to be withheld by the author].*

#### *Alterations*

8.—The manager shall not in any way whatsoever condense, add to, or otherwise alter the [work] nor vary the title of the [work] without the consent of the author previously obtained in writing [such consent not unreasonably to be withheld].

#### *Production and Performance*

9.—(1) The manager will produce and play the [work] with cast, scenery, printing, dresses, properties, etc., to the satisfaction of the author.

(2) The manager shall allow the author to call for, and direct, if he so wishes, rehearsals of the [work], and shall comply with all reasonable requirements that the author shall make at such rehearsals.

(3) The author shall be entitled to object to the employment or engagement of any member or members of the cast [or chorus], and the manager on such objection shall forthwith withdraw such member or members from any future participation in the performance of the [work], provided always such objections are reasonable.

*Name of Author*

10.—The manager will announce the name of the author on all day-bills, programmes, posters, and also on or in any other advertising matter relating to the [work] as far as shall be possible.

*Publication of Work*

11.—The author undertakes not to publish the [work] in any country where such publication would invalidate the copyright under the Copyright Act, 1911.

*Infringement of Work*

12.—If either party has reasonable cause for believing that the copyright in the work has been infringed, he shall give immediate notice to the other party. If the author takes proceedings in respect of the infringement, and if the manager desires to be joined in the action, the latter may give written notice to the author to that effect ; and on an undertaking on his part to pay an equal share in the entire cost of the litigation he shall be joined by the author as a party. In such case the author shall diligently prosecute the action, but shall retain control of the proceedings, and may make any reasonable settlement with the defendants in the interests of author and manager, and the damages, if any recovered, shall firstly be applied in payment of costs, and if there is any surplus shall be divided equally between author and manager. If the author, after the infringement has come to his notice, refuses or neglects to take proceedings in respect thereof, the manager shall be entitled to take proceedings, and on giving the author a sufficient and reasonable indemnity against liability for costs shall be entitled to use the author's name as a party to such proceedings. In such case the manager shall retain control of the proceedings, and may make any reasonable settlement in the interests of author and manager, and the damages, if any recovered, shall firstly be applied in payment of costs, and if there is any surplus shall be divided



in the proportion of one-third to the author and two-thirds to the manager.<sup>1</sup>

*Script, Actors' Parts, etc.*

13.—On the termination of this Agreement from any cause whatsoever, the manager shall immediately give up and send to the author all copies of the play, of all actors' parts, and of all scene and other plots [scores], etc., in the possession of the manager.

14.—This Agreement shall not in any way constitute or be deemed to constitute a partnership between the parties hereto.

IN WITNESS WHEREOF the parties here below-named have set their hands the day and year first above written.

[Signatures of Author and Manager.]

[SCHEDULE.]

<sup>1</sup> In lieu of Clause 12, if it should seem elaborate or oppressive, insert one of the similar clauses from the other Forms.

### III

AGREEMENT FOR A LICENSE FOR A PLAY FOR  
(1) THE UNITED STATES OF AMERICA AND  
FOR CANADA ; (2) THE COMMONWEALTH OF  
AUSTRALIA ; (3) THE UNION OF SOUTH  
AFRICA, ETC.

MEMORANDUM OF AGREEMENT made this  
day of \_\_\_\_\_ in the year \_\_\_\_\_ BETWEEN  
\_\_\_\_\_ of \_\_\_\_\_ in the County  
of \_\_\_\_\_ hereinafter called the author of the  
one part, and of \_\_\_\_\_ in the \_\_\_\_\_ of  
\_\_\_\_\_ hereinafter called the manager of the  
other part.

WHEREAS the author is the author and owner of the  
original [play] entitled \_\_\_\_\_,  
hereinafter called the [play], and whereas the manager is  
desirous of producing and performing the said [play] in

NOW THEREFORE, in consideration of the payments  
hereinafter named, and subject to the conditions herein-  
after contained, it is MUTUALLY AGREED as follows :—

#### *Grant of a License to Perform*

1.—The author hereby grants to the manager the sole  
license to perform the [play] in the \_\_\_\_\_, but in  
no other country, for a period that shall not exceed  
\_\_\_\_\_ years from the date of this contract, and  
this period is further subject to the determination clauses  
hereinafter stated.

*Guarantee by Author*

2.—The author guarantees to the manager that the [play] is an original work, and is a copyright work in \_\_\_\_\_, and further is in no way whatever a violation of any copyright belonging to any other person or persons, and that the [play] contains nothing of a [an immoral] libellous or slanderous character; and he agrees to hold harmless and keep indemnified the manager from all suits and all manner of claims, proceedings, and expenses that may be taken or incurred against the manager on the ground that the work is such violation or is in itself [immoral or] libellous or slanderous in character.

*Sub-licenses by Manager*

3.—The author agrees to permit the manager to grant sub-licenses under this license, such sub-licenses to be strictly in accordance with the terms of this Agreement, and to be limited to the territorial area of the license hereunder.

*Deposit on Account of Fees*

4.—The manager agrees to pay on the signing of this Agreement the sum of £ \_\_\_\_\_, which shall be taken and received on account of fees accruing from the performance of the [play]. The manager further agrees that the said sum shall be forfeited to the author and this Agreement shall become null and void in the event of the manager's failing to produce the [play] on or before \_\_\_\_\_ for not fewer than \_\_\_\_\_ consecutive performances therefrom, and the manager shall pay the author the sum of £ \_\_\_\_\_ by way of damages for breach thereof, and such sum shall be over and above the sum of £ \_\_\_\_\_ paid by the manager on account of fees as hereinbefore provided, and it is hereby declared that such damages shall be liquidated and ascertained damages and not a penalty.

*Determination Clauses*

5.—(1) After the due production of the [play] on or before the day named, this license shall continue for a period of \_\_\_\_\_ years therefrom. Provided that if the manager



shall not in any and every year perform the [play] for a period of \_\_\_\_\_ weeks under this license or sub-licenses granted by the manager [or in the alternative shall not pay the manager in respect of any and every year in which the [play] shall not have been performed for \_\_\_\_\_ weeks under this license or sub-licenses granted by the manager, fees amounting to a total of £ \_\_\_\_\_ ], then, notwithstanding anything to the contrary in this Agreement, the license hereunder shall forthwith cease, and all rights in the play shall at once revert to the author, but without prejudice to the rights and remedies of the author in respect of any fees that may be in arrear, or of any breach or breaches of the terms and conditions of this Agreement.

(2) If the manager shall at any time fail to fulfil any of the conditions set forth in this Agreement, or if the manager shall become bankrupt, the author or his authorised agent may, except as otherwise provided herein, thereupon, by registered letter sent addressed to the manager at the address cited at the commencement of this Agreement, give notice terminating this Agreement, and all rights granted by the author to the manager shall thereupon revert to the author, but without prejudice to any right or rights that the author may or might have in respect of any breach or breaches of this Agreement.

#### *Payment of Fees*

6.—(1) The author agrees that the aforementioned sum of £ \_\_\_\_\_ shall be met and satisfied out of the fees first accruing to him under these terms of payment. After the aforementioned sum of £ \_\_\_\_\_ has been fully satisfied in this manner, the manager shall make weekly payments to the author or his authorised agent of all moneys due to the author in accordance with the terms of this Agreement.<sup>1</sup>

(2) The manager agrees to pay to the author or his authorised agent, fees as author's royalties as follow :—  
                     \_\_\_\_\_ per cent. of the gross weekly receipts from each and every performance of the [play] under this

<sup>1</sup> See Alternative Clause 3 in Form II. p. 263 *ante*.

license or any sub-license up to £ . Should the gross weekly receipts exceed the latter sum, then the manager agrees to pay further per cent. of such excess up to £ ; and per cent. of the excess beyond £ and up to £ . Should the gross weekly receipts exceed £ , then the percentage payable to the author shall be per cent. of the total gross weekly receipts. It is agreed that this sliding scale of percentage applies separately to this license and any sub-license or sub-licenses, and that the gross weekly receipts under license and sub-license or sub-licenses are not to be reckoned together in calculating excess receipts.

(3) The manager agrees to furnish the author or his agent with full weekly statements of the daily box-office returns of the gross receipts of the [play] duly countersigned, and to make weekly payment of all moneys due to the author according to the terms of this Agreement, and to give the author or his agent access at any time to all accounts relating to the receipts at the theatres where the [play] has been represented in .

(4) The failure of the manager to pay to the author or his agent the fees for any one week, within a period of [days, weeks] from the date of the said fees becoming due shall, except as provided in clause 6 (1), be a breach of the Agreement. The fees for each week shall become due at the end of each week.

(5) "Gross receipts" mean any and all receipts in the form of admission money from all sources.

*Proceedings in respect of License*

7.—The manager shall have full power as licensee of the author, and if necessary in the name of the author, but not at the expense of the author, to prohibit and prevent, when and as often as the manager thinks proper, the representation or performance of the [play] or any part or parts thereof (during the period that this license is in force) by any person or persons in

, and also in his, the manager's, own name as licensee, or if necessary in the name of the author, but at his, the manager's, own expense, to sue for and recover all penalties and damages incurred by and recovered from any person or persons who shall or may perform or cause to be performed the [play] in , during the said period without previous authority of the manager.

#### *Protection of Copyright*

8.—The manager shall comply with all the formalities of the laws of for the due protection of the copyright of the [play] in , and shall and hereby does indemnify the author against all loss and damage caused to the author by neglect of the manager to comply with the said formalities.

#### *Production and Performance*

9.—(1) The manager shall allow the author or his agent to call for, and direct, if he or his agent so wishes, rehearsals of the [play], and shall comply with all reasonable requirements that the author or his agent shall make at such rehearsals.

(2) The author shall be entitled to object to the employment or engagement of any member or members of the cast [or chorus], and the manager on such objection shall forthwith withdraw such member or members from any future participation in the performance of the play, provided always such objections are reasonable.

(3) The manager shall not in any way whatsoever condense, add to, or otherwise alter the [play] nor vary the title of the [play] without the consent of the author previously obtained in writing [such consent not unreasonably to be withheld].

#### *Name of Author*

10.—The manager will announce the name of the author on all programmes and on all day-bills, posters, and also on or in any other advertising matter relating to the work as far as shall be possible.



*Script, Actors' Parts, etc.*

11.—On the termination of this Agreement from whatever cause the manager shall forthwith give up and send to the author all his property and all copies of the play, all actors' parts, all scene and other plots [scores], etc., in the possession of the manager.

*Interpretation*

12.—(1) The author grants only a license to perform the [play] by means of acting by professional actors and actresses on the professional stage. He reserves and retains all the other rights comprehended in his copyright [but he agrees not to exercise or sanction or permit the exercise of any right he may possess in of kinematograph reproduction or of mechanical musical reproduction so long as this license is in force, without the consent of the manager previously obtained in writing].

(2) This Agreement does not in any way constitute a partnership between the parties hereto.

IN WITNESS WHEREOF the said parties to this Agreement have hereunto set their hands this day of

[Signatures of Author and Manager.]

#### IV

### AGREEMENT FOR LICENSE FOR FIT-UP RIGHTS

MEMORANDUM OF AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ BETWEEN \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ hereinafter termed the author of the one part, and \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ hereinafter termed the manager of the other part, whereby it is **MUTUALLY AGREED** as follows :—

#### *Grant of License to Perform*

The author, in consideration of the payments hereinafter named, hereby grants, and the manager hereby takes on the terms and conditions following a [the sole and exclusive] license for fit-up rights to perform the author's [work] entitled \_\_\_\_\_, hereinafter called the [work], in the fit-up towns of Great Britain and Ireland for a period that shall not in any event exceed \_\_\_\_\_, and shall further be subject to the determination clauses hereinafter stated.

[Here insert Clauses 2, 3, 4, 5, 7, 8, 9, 10, 11, 13 from Form II., pp. 262-269 *ante*, striking out the alternative clauses not required.]

#### *Interpretation*

“ Fit-up rights ” mean the right to perform the [work] by the medium of acting in towns in which there is no

regular theatre ; and it is agreed that where there is any reasonable doubt whether a place of entertainment answers to the description of a regular theatre, the manager shall not perform the [work] therein without the consent of the author previously obtained in writing. [Provided that the towns named in the attached Schedule shall [not] in any circumstances be deemed fit-up towns.]

IN WITNESS WHEREOF the parties here below-named have set their hands the day and year first above written.

[Signatures of Author and Manager.]

[SCHEDULE.]



V

AGREEMENT FOR A LICENSE FOR A ONE-ACT  
PLAY, SKETCH, SCENA, ETC., IN GREAT  
BRITAIN AND IRELAND

MEMORANDUM OF AGREEMENT made this  
day of                                 BETWEEN  
of                                 in the County of                                 hereinafter  
called the author on the one part, and  
of                                 in the County of  
hereinafter called the manager on the other part.

WHEREBY it is AGREED between the parties hereto as  
follows :—

*Grant of License to Perform*

1.—The author, in consideration of the moneys paid  
on the signing of this Agreement, for which this Agreement  
is a receipt, and subject to the performance of the terms  
and conditions hereinafter contained, hereby grants to the  
manager a license [the sole and exclusive license] to repre-  
sent by a company of actors under his control and super-  
vision the [play, sketch, scena], entitled  
hereinafter called the [work], in any duly licensed place of  
public entertainment in Great Britain and Ireland, for a  
period of                 years, subject to the determination clauses  
hereinafter stated.

*Author's Fees*

2.—(1) The manager shall pay for each and every per-  
formance a royalty of £         , payment to be made to the  
author or his duly authorised agent weekly, on the Tuesday  
in each week following the week in which the royalties  
shall have become due. Provided that no royalties shall  
be payable by the manager to the author or his agent until

the total amount of the sum of £            paid to the manager on the signing of this Agreement on account of royalties shall have been met and satisfied out of the royalties first accruing to the author.<sup>1</sup>

(2) If the work should be performed at a West-End theatre or music hall, the manager shall pay to the author an increased royalty amounting to a total royalty of £            per performance.

*Alternative Clause*

2.—(1) *The manager shall pay to the author weekly fees equal to an amount of            per cent. of the sum paid or agreed to be paid to the manager under each and every contract under which the manager is for the time being performing the [work]. The weekly fees shall be paid to the author or his agent by the manager on the Tuesday following in each and every week in which the said fees shall have fallen due. Provided that no fees shall be payable to the author or his agent by the manager until the total amount of the sum of £            paid by the manager to the author on the signing of this Agreement on account of fees shall have been met and satisfied out of the fees first accruing to the author.*

*The manager agrees to give the author access at any time to all contracts under which the manager has performed the [work] or caused or allowed the [work] to be performed.*

(2) *If the [work] should be performed at a West-End theatre or music hall, the manager shall further pay the author an additional percentage of            .*

*Reservation of Rights*

3.—The author reserves and retains his rights for amateur performance, but this license includes the right to perform the [work] at smoking concerts and at performances at working men's clubs.

[Insert Clauses 4 (2), (3), (4), 7, 8, 10, 13, and other suitable clauses from Form II., pp. 262-269 ante.]

[Signatures of Author and Manager.]

<sup>1</sup> See Alternative Clause 3, Form II. p. 263 ante.

## VI

### LICENSE TO SING A SONG OR DELIVER A RECITATION IN PUBLIC

I, \_\_\_\_\_,  
of \_\_\_\_\_,  
in the County of \_\_\_\_\_, being the  
[composer or author and] owner of the copyright in  
a [song<sup>1</sup>] entitled \_\_\_\_\_, do  
hereby grant to \_\_\_\_\_,  
of \_\_\_\_\_,  
in the County of \_\_\_\_\_  
the [sole and exclusive<sup>2</sup>] personal right of singing<sup>3</sup> in public  
the said [song] throughout the whole of Great Britain  
and Ireland<sup>4</sup> for the period of<sup>5</sup> \_\_\_\_\_ from  
the date hereof, in consideration of the sum of £ \_\_\_\_\_  
paid to me by the said \_\_\_\_\_,  
the receipt whereof is hereby acknowledged.

Dated this \_\_\_\_\_ day of \_\_\_\_\_.

[Signature of Grantor.]

To [Name and Address of Licensee.]

<sup>1</sup> Insert nature of song or recitation, *e.g.* ballad, comic song, poem, dramatic monologue, etc.

<sup>2</sup> If not sole and exclusive, strike out these words.

<sup>3</sup> If reciting, alter accordingly.

<sup>4</sup> If for a town or towns or certain parts of the United Kingdom only, alter accordingly.

<sup>5</sup> Insert the period for which the license is granted.



## VII

### AGREEMENT TO COMPLETE AN UNFINISHED PLAY AND TO GRANT A LICENSE

MEMORANDUM OF AGREEMENT made this  
day of \_\_\_\_\_ BETWEEN \_\_\_\_\_ of  
\_\_\_\_\_ in the County of \_\_\_\_\_  
hereinafter termed the author of the one part, and  
\_\_\_\_\_ of  
\_\_\_\_\_ in the County of \_\_\_\_\_ hereinafter termed  
the manager of the other part, whereby it is AGREED  
between the parties hereto as follows:—

(1) The author, having partly written a [play] entitled  
\_\_\_\_\_, hereinafter termed the [play], hereby  
undertakes, in consideration of the payments hereinafter  
named, completely to finish and to deliver to the manager  
on or before the \_\_\_\_\_ day of \_\_\_\_\_, the manu-  
script of the [play]. And in the event of his not so doing  
he shall return to the manager in full the sum of  
£ \_\_\_\_\_ [paid on account of percentages  
[or royalties]] and shall further pay to the manager the  
sum of £ \_\_\_\_\_ by way of damages for  
breach hereof, and it is hereby declared that such damages  
shall be liquidated and ascertained damages and not a  
penalty.

And the author hereby grants to the manager, in con-  
sideration of the said payments, and subject to the pro-  
visions of this Agreement and to the determination clauses  
hereinafter contained, a license to produce and perform  
the [play] for the period of  
[continue from Clause 1 in Agreement I., inserting the  
other clauses. A slight alteration will be necessary in  
lines 4, 5, and 6 in Clause 4].

As Witness, etc.,

[Signatures of both parties.]

[SCHEDULES.]

## VIII

### AGREEMENT TO TRANSLATE OR ADAPT A PLAY, ETC.

MEMORANDUM OF AGREEMENT made this  
day of \_\_\_\_\_ BETWEEN  
of \_\_\_\_\_ in the County of \_\_\_\_\_ hereinafter  
called the author of the one part, and  
of \_\_\_\_\_ in the County of \_\_\_\_\_  
hereinafter called the manager of the other part.

WHEREAS the manager desires the author to translate  
[adapt] into English for the manager for the purpose of  
production and performance on the British stage the  
foreign play entitled

by \_\_\_\_\_

NOW IT IS HEREBY AGREED as follows :—

The author hereby undertakes, in consideration of  
the sum of £ \_\_\_\_\_ paid to him [on account of  
percentages [or royalties]] by the manager on the signing of  
this Agreement, to make the said translation [adaptation].

The author shall prepare the said [play] for production,  
and deliver the same to the manager on or before the  
day of \_\_\_\_\_. And  
in the event of his not so doing he shall repay in full to the  
manager the sum of £ \_\_\_\_\_ [paid on account of  
percentages [or royalties]], and shall further pay to the  
manager the sum of £ \_\_\_\_\_ by way of  
damages for breach hereof, and it is hereby declared that  
such damages shall be liquidated and ascertained damages  
and not a penalty.

As Witness, etc.,

[Signatures of both parties.]

## IX

### ASSIGNMENT OF COPYRIGHT

THIS INDENTURE is made the \_\_\_\_\_ day  
of \_\_\_\_\_ BETWEEN

of  
hereinafter called the [author<sup>1</sup>] of the one part, and  
of  
hereinafter called the [manager<sup>2</sup>] of the other part.

WHEREAS the [author] is the [author and] sole owner of  
the copyright in a [play<sup>3</sup>] entitled  
\_\_\_\_\_ and has agreed to assign the same to the  
[manager].

NOW THIS INDENTURE WITNESSETH that in pursuance  
of the said Agreement and in consideration of the sum  
of £ \_\_\_\_\_, paid by the [manager] to the [author],  
the receipt whereof is hereby acknowledged, the [author]  
as beneficial owner hereby assigns unto the [manager] ALL  
his copyright in the [play] that is subsisting or may be  
subsisting now or in the future in all English-speaking  
countries, to include Great Britain and Ireland, the Channel  
Islands, the Isle of Man, the Dominion of Canada, New-  
foundland, the Commonwealth of Australia, New Zealand,  
the Union of South Africa, and all other British Posses-  
sions and Dependencies whatsoever, the United States of

<sup>1</sup> Or assignor.

<sup>2</sup> Or assignee.

Insert kind of dramatic or musical work.



America [and in France, Germany, Austria, Belgium, Holland, Italy, Spain, Portugal, Norway, Sweden, Switzerland, Russia, or in any and every other country in the world<sup>1</sup>], for the residue of the term or terms thereof, except for the reversionary period belonging to the estate of the author.

*And* the [author] hereby warrants that the [play] is the original copyright work of [author], and he further warrants that it not to be libellous or slanderous.

*And it is hereby declared*<sup>2</sup> that the transaction hereby effected does not form part of a larger transaction or series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds five hundred pounds.

As Witness, etc.,

[Signature and Seal of Assignor.]

<sup>1</sup> Insert if these foreign rights are included.

<sup>2</sup> Declaration to be inserted if the consideration does not exceed £500.

X

DRAFT FORMS UNDER MUSICAL COPYRIGHT  
ACTS

(I)

GENERAL WRITTEN AUTHORITY TO CHIEF OFFICER OF  
POLICE TO ARREST HAWKER

*To the Chief Officer of Police at*

I, the undersigned, pursuant to sect. 1 (2) of 6 Ed. VII. ch. 36, hereby give you notice that I am the owner [the authorised agent of the owner] of the undermentioned copyright musical works, and request you to secure the arrest, at my risk [at the owner's risk], of any person or persons who in any street or public place in sells or exposes, offers, or has in his possession for sale any pirated copies of any musical work specified hereunder, or who offers for sale any pirated copies of any such specified musical work by personal canvass or by personally delivering advertisements or circulars.

[Signature.]

[SCHEDULE of copyright works.]

(II)

WRITTEN AUTHORITY TO CONSTABLE TO SEIZE PIRATED  
COPIES FROM HAWKER

*To be given to Constable*

I, the undersigned, give you notice that I am the owner [the authorised agent of the owner] of certain

musical works that this hawker is carrying about, selling, or offering for sale; and pursuant to sect. 2 of 2 Ed. VII. ch. 15, I hereby request you to seize such copies at my own risk [at the owner's risk], and as the Act directs, convey them to the police station.

[Signature.]

*Note.*—An agent must have the authority of the owner in writing.

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