

5 & 6 Vict. c. 97, s. 2, it is enacted, in all cases in which treble costs were given, that a full and reasonable indemnity as to all costs, charges and expenses incurred in and about any action, suit, or other legal proceeding, shall be awarded in lieu of such treble costs.

*The Certificate of the Judge (a).*—The certificate given by a Judge under the Act, 5 & 6 Wm. 4, c. 83, s. 5, should be, as to the determination of each objection, of which notice has been given, and not as to the issues. (*Losh v. Hague*, 5 M. & W. 387).

It was also held, that the validity of the patent might be considered as having come in question under the plea—that the alleged improvements were not new—so as to entitle the plaintiff to a certificate to that effect under the statute. (*Gillett and Another v Wilby*, 9 Carr. & P. 334).

*Scire Facias pending.*—As to the plaintiff being entitled to have his action tried, notwithstanding the pendency of an action of *scire facias* to repeal the patent, see *Muntz v. Foster*, 1 Dowl. & L. 942; *Smith v. Upton*, 6 M. & G. 251.

*As to Injunctions in Equity (b).*—The following decisions have been made respecting Injunctions:—

Although a patent is of long standing, yet if from the nature of the alleged invention, or the conflicting evidence, as to its novelty or its validity, appears to be doubtful; or if the evidence of exclusive possession be not satisfactory, the Court will not grant an injunction until the title has been established at law. After the patentee had obtained a verdict in an action brought to try the validity of the patent, the Court refused to grant an injunction to restrain the infringement of the patent, on the ground that a rule nisi for a new trial had been obtained, and was pending in the Court of Law, and that the legal title of the patentee was therefore still undecided. (*Collard v. Allison*, 4 M. & C. 487).

In the case of *Westhead v. Keene* (1 Bevan's Rep. 287), a bill

(a) See p. 249 of *The Practical Treatise*, 2nd Ed.

(b) *Id.* p. 253.

filed by a patentee to restrain the piracy of his patent, and for an account, did not distinctly state the specification, or explain the nature of the invention for which the patent right was claimed; but it alleged that the specification was duly enrolled, and that the drawings and description in the specification could not be set out in the bill, and it charged that the plaintiff was the inventor, and that the invention was new: the Court (not without some doubt) held, on the authority of *Kay v. Marshall*, that the bill was not demurrable.

In August 1835, (*Bacon v. Jones*, 4 M. & C. 433; and *see same case*, 1 Beavan, 382), a patentee filed a bill to restrain an alleged infringement of his patent, and the defendant having by his answer denied the validity of the patent, and also the fact of the alleged infringement, the plaintiff made no interlocutory application for an injunction, but went into evidence in support of his case, and in May, 1839, brought the cause to a hearing. The Master of the Rolls, being of opinion that the plaintiff upon the evidence had not made out a case which would have supported an injunction, if applied for in the interlocutory stage, refused to give him an opportunity of establishing his title at law by retaining the bill, with liberty to bring an action, and dismissed the bill with costs; and the Lord Chancellor, on appeal, affirmed this decision.

Where the Court interferes by interlocutory injunction between parties at issue upon a legal right, it will accompany the injunction with a provision for putting the question immediately in a course of legal investigation. (*Harman v. Jones*, 1 Cr. & Phil. 299).

Where an injunction has been granted, on an undertaking to try the right by action, it must be brought and prosecuted promptly and diligently, or the Court will remove the injunction, unless the defendant has himself been supine in the cause. (*Beckford v. Shewes*, 4 Mylne & Cr. 498).

Upon the invasion of a patent right, the party complaining has a right to the protection of an injunction, although the other party may promise to commit no further infringement, and may offer to pay the costs of preparing the bill; and if the defendant do not, after injunction obtained, offer to pay the costs of it, the plaintiff may bring the suit to a hearing, and will be entitled to

the costs of the suit. (*Geary v. Norton*, 1 De G. & S. 9). It is also in *Geary v. Norton* questionable whether, in such a case, the Court will give an account of damages.

The plaintiff having obtained a patent for an improved method of making steel by the application of carburet of manganese, brought an action against the defendant for infringing his patent by using two ingredients which, when fused, would produce carburet of manganese. The Court of Exchequer held, that the patent had not been infringed, either directly or indirectly, because the defendant was ignorant of the fact that he was using the same substance as that employed by the plaintiff. A motion for an injunction upon a bill filed prior to the action was now opposed, on the ground that the decision of the Court of Law was final, and the bill ought to be dismissed. The Court considered, that although the act was committed unconsciously, the defendant was liable for the injury he had done, and consequently retained the bill, and gave liberty to the plaintiff to bring another action. (*Heath v. Unwin*, 11 Jur. 420; 16 Law J. Chanc. 283, V. C. E.).

See as to the principle upon which the Court acts in granting or refusing an injunction, where the legal right of the plaintiff as against the defendant is open to doubt. (*Electric Telegraph Company v. Nott*, 11 Jur. 157, C.).

See as to the Court retaining the bill for a year, to give the patentee an opportunity of establishing his right at law. *Ward v. Key*, 10 Jur. 792. See also the same case as to cases in Equity.

*The Decree.*—For the practical difficulties in working out a decree, see *Crossley v. The Derby Gas Light Company*, 3 Mylne & C. 428.

## CHAPTER IX.

OF LETTERS PATENT WHEN VOID, AND THE MANNER OF  
HAVING THEM CANCELLED.

*What renders a Patent void (a).*—In one case it was attempted to raise the question that a patent was void because it created a monopoly, and was generally inconvenient, but it was not supported. (*Gillet v. Wilby*, 9 Carr. & P. 334).

*Proceedings by Scire Facias to Repeal a Patent (b).*—These proceedings originate in the Petty Bag Office, but the writ is not granted as a matter of course, (*The Queen v. Neilson*, Webster's Cases, 665), and the first step taken is to give instructions for the draft of the writ, which, having been settled by the counsel for the prosecution, is to be taken to the Attorney General, who thereupon grants his fiat, upon the prosecutor and two sureties entering into a bond of 1000*l.* conditioned to pay the defendant his *costs*, taxed as between attorney and client, if the verdict given be against the Crown.

A patentee applied to the Court of Chancery to stay all proceedings on a *scire facias*, to repeal the patent, or that a *nolle prosequi* might be entered, on the ground, first, that the prosecutor was an alien; secondly, that he had no special interest in the patent or the repeal of it; but was acting in collusion with other persons, with a view to oppress the patentee; and thirdly, that the security for costs given by the prosecutor was improper and insufficient: It was held, that the Court had no authority to interfere in the matter. It would appear also that the writ of *scire facias* to repeal a patent does not issue, nor is the fiat for that purpose granted by the Attorney General as of course. (*R. v. Prosser*, 11 Beav. 306; 18 L. J. Ch. 35; 12 L. T. 509; 13 Jur. 71).

(a) See p. 262 of The Practical Treatise, 2nd Ed.

(b) Id. p. 269.

It was also decided in the same case that, in the ordinary course of proceeding upon a writ of *scire facias* to repeal letters patent, it is within the discretion of the Attorney General to determine upon what, or whose information, or on what terms or security, he will permit the action to be prosecuted, and the exercise of his discretion in the conduct of the action, is not subject to the control of the Court, in which the proceedings take place. And further, according to the same case, the practice of requiring security from the prosecutor in a *scire facias* to repeal a patent is not founded on any law or rule of Court, but seems to have been very properly introduced by the authority of the Attorney General alone, almost within living memory. There is no instance whatever of the Court having interfered upon that subject. See the 12 & 13 Vict. c. 109, s. 37 (Appendix to Supplement). On *scire facias* brought in the Petty Bag Office in Chancery, to repeal letters patent for an invention, if issues of fact are joined there, and the record sent to the Queen's Bench for a trial, which is had, and a verdict found for the Crown, the Queen's Bench, though the letters patent remain in Chancery, may give judgment that they be revoked, cancelled, vacated, disallowed, annulled, void, and invalid, and be altogether had and held for nothing, and also that the enrolment thereof be cancelled, quashed and annulled, and that they be restored to the Court of Chancery there to be cancelled. (*Bynner v. Reg.* (in error) 9 Q. B. 523) and now see the 12 & 13 Vict. c. 109, *post*.

A *scire facias* to repeal letters patent was issued out of Chancery, returnable there, appearance was entered, declaration filed, plea pleaded, and issue joined in the Petty Bag Office. The case was then sent to the Court of Queen's Bench for trial, and the entry there was that the Chancellor, with his own hand, delivered "a record." On motion (by a party bringing error), to amend by substituting the words, "transcript of a record." It was held, that the entry did not require amendment. (*Reg. v. Bynner*, 9 Q. B. 529).

The 12 & 13 Vict. c. 109 (passed the 1st Aug. 1849), "An act to amend an act to regulate certain Offices in the Petty Bag in the High Court of Chancery, the practice of the Common Law side of that Court, and the Enrolment Office of the said Court," and to be called "The Petty Bag Office and Enrolment in Chancery Amendment Act, 1849," is so important a statute

with regard to *scire facias* as relating to patents, that the act has been inserted and will be found at large in the Appendix to the Supplement. By that statute the 11 & 12 Vict. c. 94 (a similar statute) is partially repealed. The 12 & 13 Vict. c. 109, then proceeds (after some preliminary enactments with regard to the Clerk of the Petty Bag, his duties, the transfer of business, &c.) by ss. 11, 13, 14, to provide that a new seal of office, called the Chancery Common Law Seal, shall be made, and copies of documents sealed with it are to be admissible in evidence: and that all writs, records, &c. (with some exceptions), issuing out of the Petty Bag Office are to be sealed with this seal. Section 12 provides that a certificate of enrolment shall be made by the Clerk of the Petty Bag, and that such certificate shall be admitted in evidence. By s. 15, specifications and disclaimers enrolled under the 5 & 6 Wm. 4, c. 83, are to be enrolled in the Enrolment Office. By ss. 17, 18, 19, a seal or stamp is to be provided for the Enrolment Office; and certificates to be given of enrolment, and copies of enrolments, &c., bearing this seal or stamp, shall be admitted in evidence. By ss. 25, 26, 27, 28, writs issuing out of the Petty Bag Office, may be tested and made returnable in Term time, or in Vacation, and so may take place the proceedings of the Court. By ss. 29, 30, 31, 32, writs of *scire facias* to repeal patents may be directed to the sheriff of any county: the declarations and pleas in actions of *scire facias* to repeal patents are to be delivered and not filed, and the issues of fact arising may be sent by transcript to, and be tried at Bar or *nisi prius* in any of the three Superior Courts of Common Law. By s. 33, issues in law, or issues both of fact and law in actions of *scire facias*, may be sent by transcript to and be determined in any of such three Superior Courts. By ss. 34, 35, 36, the three Superior Courts are to have the same powers in regard to such trials on transcript of the record, as in actions pending in their Courts. Each Court may give and execute such judgment in like manner, as might have done, before this act, the Court of Queen's Bench. A transcript of the judgment is to be taken into the Court of Chancery for its final judgment.

The concluding sections relate to costs; preparation of writs; disposal of incidental matters; custody of records, rules, and orders; abolition of officers' privileges of suing; registration of suitors' and attorneys' names; affidavits; forms of writs, and moneys paid into Court. For these the act itself (see Appendix

to Supplement) may be consulted. See also in the Appendix to Supplement the Chancery amended Orders of the 3rd August, 1849, consequent upon this statute.

With regard to *scire facias* for repealing a patent in England and in Ireland, the reader is also referred to the recent second edition of Mr. E. M. Kelly's very able and useful work, "A Treatise on the Law and Practice of *Scire Facias*."

*List of Objections (a).*—By the 5 & 6 Wm. 4, c. 83, the list of objections to be taken must be delivered by the prosecutor under a *scire facias*, as, by the defendant in an action for an infringement. Those objections must not go beyond the declaration (b).

In the case of a *scire facias*, (*The Queen v. Walton*, 2 Q. B. Rep. 969), to repeal a patent, the prosecutor having, while the record was in Chancery, filed notice of objections, under stat. 5 & 6 Wm. 4, c. 83, s. 5, namely, that other persons than the patentee had used the invention in England before the grant of the patent, the Court of Queen's Bench refused, on motion after the proceedings were before them, to order the delivery of a further particular stating the names and addresses of such persons.

The recent case of *The Queen on the prosecution of Davis v. Mill*, 20 L. J. R., C. P. 16, is a very important decision with regard to *scire facias*, and the proceedings under it. In that case a declaration in *scire facias* to repeal a patent "for improvements in instruments used for writing and marking, and in the construction of inkstands," contained suggestions, alleging want of novelty and utility "in a certain part" of the said invention; and that the defendant had not properly described the "said" invention, &c. The pleas denied all the suggestions in the declaration. Objections were filed with the declaration under the 5 & 6 Wm. 4, c. 83, s. 5, specifying (*inter alia*) claim No. 6 in the specification, as objected to for want of novelty and utility. After issue joined, the defendant procured to be enrolled a disclaimer under the 5 & 6 Wm. 4, c. 83, s. 1, disclaiming (*inter alia*) the claim No. 6. The claims not disclaimed were for improvements in penholders and pencil-cases, and in the construction of inkstands. Those disclaimed were for pens and instruments used for marking with a stamp. It was held, first, that such disclaimer, though enrolled subsequently to issue

(a) See p. 271 of *The Practical Treatise*, 2nd Ed.

(b) 1 Carr. & M. 471.

joined, was admissible for the defendant, and to be read as part of the original specification put in by the prosecutor: secondly, that it was not necessary to plead the disclaimer *puis darrien continuance*: thirdly, that the objections filed with the declaration under the 5 & 6 Wm. 4, c. 83, s. 5, are not part and parcel of the record, so as to be incorporated with the issues, and shew that those specific objections are in issue; and that, therefore, it could not be taken that issue had been joined upon the objections which went to the disclaimed parts of the invention, and that those issues must therefore be tried: fourthly, that the disclaimer, being admitted, proved the issues as to a "certain part" of the invention not being new or useful, in favour of the defendant, the prosecutor at the trial having abandoned all objections except to the sixth claim in the specification, which had been disclaimed: fifthly, that the title of the patent, as regarded "instruments used for writing and marking," was satisfied by the inventions for improvements in penholders and pencil-cases, which may be described as instruments used for writing and marking with pens and pencils. It would appear also from this case that in actions or suits, not being proceedings by *scire facias*, and which were not pending at the time of the enrolment of a disclaimer under the 5 & 6 Wm. 4, c. 83, s. 1, the disclaimer is to be deemed and taken to be a part of the patent or specification from the time of the granting of the letters patent, and not from the time of its enrolment only.

*Plea.*—The expression—General Issue—in the Treatise has been misunderstood. It means that the allegations in the writ, if more than one, are met by general denials of the truth of each of them. The pleas, in fact, traverse severally each affirmation of the prosecutor (*a*), and are a series of general issues.

*Costs of Suit by Scire Facias.*—Formerly no costs were paid, or received under a *scire facias*, but now a bond is entered into by the prosecutor to pay the costs of the defendant. See also the 12 & 13 Vict. c. 109, ss. 25, 32, 37, (Appendix to Supplement).

For the official orders recently issued, relative to patents, by the Attorney General, see *post* in the Appendix to Supplement.

(a) See the Pleas in *Rex v. Arkwright*, printed case, p. 10.



## CHAPTER X (a).

## FOREIGN LAWS RESPECTING INVENTIONS.

*Belgium.*—By a recent regulation, patents for foreign inventions are not granted for a longer term than ten years, and sometimes for not more than five years; they may, however, upon special application being made before the expiration of the original term, be prolonged for a few years. A great change in the law of patents is at present in contemplation in Belgium.

*France.*—A new law with regard to patents was passed in France on the 5th October, 1844. By Article 52 of this new law, all the former laws mentioned above in the Practical Treatise, p. 296, are repealed. The new code is therefore now the law of patents in France. It is, however, in a great measure a re-enactment of the former law: it makes no important alteration either in the duration, cost, or mode of obtaining patents. The most material change is the payment of the government duty in yearly instalments of one hundred francs, instead of one-half the tax on making the application, and the other half in six months. Patents for five and ten years are somewhat increased, and patents for fifteen years diminished in expense. Several minor variations relating to proceedings against infringers are made, and several regulations, previously only official, are now part of the law itself. Very minute directions are given as to the preparation of the specification. No further restriction is any longer imposed on French patentees obtaining patents also in foreign countries, except that if an inventor has a patent in a foreign country, his French patent for the same invention cannot be granted for a longer term than that for which the original patent was obtained. Article 53 inflicts a fine from fifty to one thousand francs upon any person who, in his placards, advertisements, prospectuses, marks or stamps calls himself a patentee, without being in possession of a legal existing patent, and without setting forth the words “without authority from government:” the fine may be doubled on a repetition of the offence.

# SUPPLEMENT

TO

## THE LAW OF COPYRIGHT,

IN

LITERATURE, THE DRAMA, MUSIC, ENGRAVING AND SCULPTURE,  
AND ALSO IN ORNAMENTAL AND USEFUL DESIGNS.

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### CHAPTER I

#### OF COPYRIGHT IN GENERAL (a).

THE laws respecting the different kinds of copyright have undergone much alteration, and in every instance for the better, since the publication of the second edition of *The Practical Treatise*. The following Supplement may therefore be regarded as an entire review of the subject.

The important change has been chiefly made by the 5 & 6 Vict. c. 45, often and most appropriately called *Serjt. Talfourd's Act*; since, to the earnest eloquence and untiring exertions of that great lawyer, statesman and poet, Thomas Noon Talfourd, now an honoured Judge at Westminster, the public mainly owes the happy amelioration of our Copyright law. Under that act the term COPYRIGHT is defined to mean—the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the word is applied in the statute.

The whole subject may now be divided as follows:

- I. Literary Copyright, depending on the 5 & 6 Vict. c. 45, which repeals the 8 Anne, c. 19; the 41 Geo. 3, c. 107, and the 54 Geo. 3, c. 156. The 5 & 6 Vict. c. 45, is amended with regard to the colonies by the 10 & 11 Vict. c. 95, see *post*.
- II. Dramatic Literary Property, depending on the 3 & 4 Wm. 4, c. 15, and sections 20, 21, and 22 of the 5 & 6 Vict. c. 45, and also in some measure on the 6 & 7 Vict. c. 68, which regulates theatres.

(a) See above, p. 305 of *The Practical Treatise*, 2nd Edition.

III. Engraving Copyright, constituted by the 8 Geo. 2, c. 13; the 7 Geo. 3, c. 38; the 17 Geo. 3, c. 57, and the 6 & 7 Wm. 4, c. 59 (Irish Act).

IV. Sculpture Copyright, constituted by the 38 Geo. 3, c. 71, and the 54 Geo. 3, c. 56.

V. Designs Copyright, depending on the 5 & 6 Vict. c. 100, the 6 & 7 Vict. c. 65, and the 13 & 14 Vict. c. 104.

VI. International Copyright, tendered to foreign countries by the 7 & 8 Vict. c. 12, which repeals 1 & 2 Vict. c. 59.

The alterations are so numerous that a comprehensive view of the law in question will best be taken in a tabular form of the different *terms* of copyright as they now exist.

I. BOOKS (5 & 6 Vict. c. 45, including in that word MAPS, CHARTS, AND PLANS):

Of which the copyright belongs to the Crown

Of which the copyright is given or bequeathed to the Universities of Oxford or Cambridge, the colleges within them; to the four Universities in Scotland; to Trinity College, Dublin; or to the Colleges of Eton, Westminster, or Winchester

In manuscript

Published after the passing of the 5 & 6 Vict. c. 45, the 1st July, 1842.

Published before the passing of the 5 & 6 Vict. c. 45, the 1st July, 1842, and having at that time subsisting copyright; provided that that copyright belong to the author or his representative, or have been transferred in consideration of natural love and affection; or, in case of any other kind of transfer, there be an agreement between the author or his

#### TERM OF COPYRIGHT.

PERPETUAL.

PERPETUAL, while printed at their own presses, if the term be not limited in the donation.

PERPETUAL.

*If published in the author's lifetime, THE AUTHOR'S LIFE AND 7 YEARS AFTER HIS DEATH; OR 42 YEARS FROM THE TIME OF FIRST PUBLICATION. If published after the author's death, 42 YEARS FROM THE TIME OF FIRST PUBLICATION.*

Ditto.

**BOOKS :**

representative and the actual proprietor to accept the benefits given by the 5 & 6 Vict. c. 45.

Published before the passing of the 5 & 6 Vict. c. 45, the 1st July, 1842, and having at that time subsisting copyright; *in any other case than those above mentioned.*

Published by license of the Privy Council, pursuant to the 5 & 6 Vict. c. 45, s. 5.

Articles in Encyclopædias.

Articles in Reviews, and periodicals to be published therein.

**II. DRAMATIC PIECES AND MUSICAL COMPOSITIONS, right to the representation or performance of :**

While in manuscript.

When published.

**III. ENGRAVINGS AND PRINTS.**

**IV. SCULPTURES, MODELS, OR CASTS.** (These may be provisionally registered under the 13 & 14 Vict. c. 104, s. 6).

**TERM OF COPYRIGHT.**

**THE AUTHOR'S LIFE, OR 28 YEARS FROM THE TIME OF FIRST PUBLICATION.**

**ACCORDING TO THE CONDITIONS OF THE LICENSE.**

*If published in the author's lifetime, THE AUTHOR'S LIFE, AND 7 YEARS AFTER HIS DEATH ; OR 42 YEARS FROM THE TIME OF FIRST PUBLICATION. If published after the author's death, 42 YEARS FROM THE TIME OF FIRST PUBLICATION.*

**Ditto ; with this proviso, that after 28 years from the time of their first publication in the review or periodical, the author may publish them in a separate form.**

**Doubtful as to whether PERPETUAL, or for the same term as those published.**

**THE AUTHOR'S LIFE, AND 7 YEARS AFTER HIS DEATH ; OR 42 YEARS FROM THE TIME OF FIRST REPRESENTATION OR PERFORMANCE.**

**28 YEARS FROM THE TIME OF FIRST PUBLICATION.**

**14 YEARS FROM THE TIME OF FIRST PUBLICATION ; AND, TO THE AUTHOR, IF HE BE LIVING AT THE END OF THAT PERIOD, 14 YEARS MORE (UNDER THE PROVISIONAL REGISTRATION, FOR THE WHOLE OR PART OF THE SAME TERM, AT THE DIRECTION OF THE BOARD OF TRADE).**

## V. DESIGNS :

FIRST, *For ornamenting,*

1. Articles in metal

2. Articles in wood

3. Articles in glass

4. Articles in earthenware .  
(comprising ivory, bone, papier maché, and other solid substances not already comprised in Classes 1, 2, 3 ; 13 & 14 Vict. c. 104, s. 6).

5. Paper Hangings

6. Carpets (floor and oil-cloths, added by 6 &amp; 7 Vict. c. 65, s. 5).

7. Shawls (patterns printed)

8. Shawls (ditto not printed)

9. Yarn, thread, or warp, (printed)

10. Woven fabrics, not furnitures (patterns printed)

11. Woven fabrics, furnitures (patterns printed)

12. Woven fabrics (patterns not printed)

Do. damasks, copyright extended by the Board of Trade to

13. Lace and all other articles

In DESIGNS. SECONDLY, For the shape or configuration of articles of utility

## PROVISIONAL COPYRIGHT OF DESIGNS.

VI. INTERNATIONAL COPYRIGHT (which extends to the above divisions I. II. III. IV., but not to division V. Designs).

## TERM OF COPYRIGHT.

3 YEARS FROM THE TIME OF REGISTRATION.

3 YEARS ditto.

3 YEARS ditto.

3 YEARS ditto.

3 YEARS ditto.

3 YEARS ditto.

9 MONTHS ditto.

3 YEARS ditto.

9 MONTHS ditto.

9 MONTHS ditto.

3 YEARS ditto.

12 MONTHS ditto.

3 YEARS ditto.

12 MONTHS ditto.

3 YEARS ditto.

1 YEAR, which the Board of Trade may extend to a further term not exceeding six months.

For such terms as the Order in Council may direct, not however to exceed the periods given to the respective copyrights in England by act of Parliament.

Which, in the case of all ornamental designs, the Board of Trade may, under the 13 &amp; 14 Vict. c. 104, s. 9, extend (in damasks this has been done) for an additional term not exceeding 3 years.

## CHAPTER II.

OF THE DIFFERENT KINDS OF LITERARY PROPERTY—  
OF ORIGINAL COMPOSITIONS.

*A Book (a) generally (b).*—The word, BOOK, in the construction of the 5 & 6 Vict. c. 45, the *Copyright Amendment Act*, sec. 2, is, by that act, defined to mean and include “every volume, part, or division of a volume, pamphlet, sheet of letter press, sheet of music, map, chart, or plan, separately published.”

*Works in Manuscript (c).*—A literary composition, and the right to its first publication while it remains in manuscript, are the private and exclusive property of the author, and he may keep it in that condition for ever: *Donaldson v. Beckett*, 2 Bro. P. C. 144; 4 Burr. 2408.

The right and property of an author or composer of any work, whether of literature, art, or science, in such works unpublished and kept for his private use or pleasure, entitles the owner to withhold the same altogether, or so far as he may please, from the knowledge of others; and the Court will interfere to prevent the invasion of his right by the publication of a catalogue containing a description of such work. The Court will interfere by injunction to prevent a party availing himself in any manner of a title arising out of a violation of right or breach of contract or confidence. The cases in which the Court refuses to interfere by injunction until the legal right is established at law, have no application to cases in which the Court exercises an original and independent jurisdiction to prevent a wrong arising from a violation of right, or breach of contract or confidence. A party having, at the suit of A. and B., submitted to an injunction restraining him from publishing certain etchings the work of A. and B.

(a) See p. 321 of the *Practical Treatise*, 2nd Edition.

(b) *Id.* 322.

(c) *Id.* 325.

respectively, cannot object to an injunction granted on the application of A. restraining the publication of a catalogue or description of the etchings, on the ground that it is too extensive, as not clearly identifying which of such etchings belong exclusively to A. *Prince Albert v. Strange*, 1 Macnaght. & Gord. 25; 1 Hall & Twells, 6, 13 Jur. 45, 109; 18 L. J. 120, Ch.; 12 L. T. 367, 441.

*Lectures.*—By the 5 & 6 Wm. 4, c. 65, (a) (an act for preventing the publication of lectures without consent), s. 1, the author, or his assignee, of lectures to be delivered in any school, seminary, institution, or other place, has the sole right of publishing them; and every person who obtains, by taking down in shorthand, or through any other means, a copy of the lectures, and publishes them without leave of the author or his assignee, and every person who knowingly sells or offers for sale lectures so unlawfully published, shall forfeit the illegal copies of the lectures, together with one penny for every sheet of them found in his custody, one moiety to the Crown and the other moiety to the party suing for it. The 2nd section of the same statute inflicts a like penalty on the printers and publishers of newspapers, who publish such lectures without leave of the author or his assignee. By the 3rd section, persons allowed, on payment of fees, to attend lectures, are not licensed, on that account, to publish them. By the 4th section, the act does not prohibit the publication of lectures which have been published with the leave of the author or assignee, and of which the literary copyright given by the 8 Anne, c. 19, and the 54 Geo. 3, c. 156, has expired; nor does it prohibit the publication of lectures which have been printed or published before the passing of this act, the 9th Sept. 1835. The 5th section provides that the act shall not extend to lectures of the delivery of which notice in writing has not been given to two magistrates living within five miles of the place of delivery, two days at least before the delivery; nor is it to extend to lectures delivered in a university or public school, or college, or on a public foundation, or by an individual in virtue of any gift, endowment, or foundation.

As far as regards lectures printed and published by the author

(a) See p. 327 of *The Practical Treatise*, 2nd Ed., and p. 74 of its Appendix for the statute at large.

or his assignee, they will now have the same term of copyright as is given to other literary productions by the 5 & 6 Vict. c. 45. The above act, however, remains valid to prevent the piratical publication of those lectures it protects, when only orally delivered by their author.

*Of Foreign Publications and International Copyright (a).*—The statute the 7 and 8 Vict. c. 12, “An Act to amend the Law relating to International Copyright,” in s. 1, repeals the 1 and 2 Vict. c. 59 (the former international copyright act). By s. 2 of the 7 & 8 Vict. c. 12, it is enacted, that Her Majesty may by an Order in Council direct that all or any particular class of the following works, viz.: books, prints, articles of sculpture, and other works of art to be defined in such Order, which shall, after a future time specified in the Order, be first published in any foreign country named in the Order, the authors, inventors, designers, engravers, and makers of the works, respectively, and their executors, administrators, and assigns, shall have a copyright in their works for a period defined in the Order, not exceeding, however, the term of copyright which authors, inventors, designers, engravers, and makers of the like works, are respectively entitled to when published in this country. By s. 3, if the Order in Council applies to books, the Copyright Law as to books first published in this country, shall apply to the books to which the Order relates with certain exceptions, one of which is, as to the delivery of copies to the British Museum and other libraries. By s. 4, if the Order applies to prints, sculptures, or any of the other works of art mentioned above, the Copyright Law as to prints, sculptures, and works of art first published in this country, shall apply to the prints, sculptures, and works of art to which the Order relates. By s. 5, Her Majesty may, by an Order in Council direct that authors and composers of Dramatic Pieces and Musical Compositions, first publicly represented and performed in foreign countries, may have the sole liberty of representation and performance, and rights of protection in the same manner as, and for a term mentioned in the Order, not exceeding the period given, under the Dramatic and Copyright Acts, to similar productions in this country. S. 6, gives directions as to registry at and delivery of copies to Stationers’ Hall. S. 7, provides that in case of books published anonymously, the

(a) See p. 332 of *The Practical Treatise*, 2nd Ed.



name of the publisher will be sufficient for registration. S. 8, extends the provisions of the English Copyright Act as to entries at Stationers' Hall to this act. S. 9, provides for expunging or varying an entry granted on a wrongful first publication. By s. 10, all copies of books having a copyright existing under this act, reprinted in any foreign country, except that country in which the books were first published, are prohibited from importation, without the consent of the registered proprietor, under the Customs' Acts, and under the penalties for piracy in the English Copyright Act. By s. 11, the officer of the Stationers' Company, is to deposit the copies received there in the library of the British Museum. By s. 12, copies of second or subsequent editions need not be delivered to the Stationers' Company, unless they contain additions or alterations. By s. 13, Orders in Council may specify different periods for different foreign countries and for different classes of works. By s. 14, no Order in Council shall have any effect unless it states that reciprocal protection is secured by the foreign power mentioned in the Order for similar works first published in this country. By s. 16 and 17, the Orders in Council are to be published in the Gazette, to have the same effect as this act, and are to be laid before Parliament; and by s. 17 the Orders may be revoked. S. 18, provides that nothing in this act shall prevent printing, publication, or sale of any translation of any book protected by this act. By s. 19, authors of works first published abroad shall not have any copyright or protection here except as under this act. S. 20, is an interpretation clause. See the statute at large in the Appendix to Supplement.

No foreign country having yet entered into a reciprocal copyright with this country, this statute, as well as the one that preceded it, have not come into full operation. The law with regard to the works of a foreigner published here remains as it was before, and that law is still in a very unsettled state; the cases are, indeed, so conflicting, that it is impossible to form a positive opinion on the subject. The main question in dispute is, whether or not copyright in this country attaches to a book the work of a foreign author resident abroad, such book being published in this country before, or at, or nearly at the same time as it is published abroad?

The cases that favour the affirmative of this proposition are *Back v. Longman*, Cowp. 623; *D'Almaine v. Boosey*, 1 Y. & C. 288; *Bentley v. Foster*, 10 Sim. 329; *Cocks v. Purday*, 12 Jur. 677, 17 L. J., Ex. 273, 5 C. B. 860; *Boosey v. Davidson*, 13 Jur. 678, 18 L. J., Q. B. 174, and *Ollendorf v. Black*, 14 Jur. 1080.

The cases that support the negative are *Clementi v. Walker*, 2 B. & C. 861; *Delondre v. Shaw*, 2 Si. 231; *Chappell v. Purday*, 4 Y. & C. 485, and the case of *Boosey v. Purday*, 13 Jur. 918, 18 L. J. R., Ex. 373, in which last case it was decided that a foreign author residing and composing his work abroad, sending it to this country, and first publishing it here, does not acquire any copyright in England; and that a British subject who purchases of such foreign author such right as the latter had in his own country does not stand in a better situation in this country than the foreign author.

This ruling has given great dissatisfaction, being altogether contrary to the decisions just previous to it, in *Boosey v. Davidson* and *Cocks v. Purday*. In *Boosey v. Davidson*, it was laid down that there is copyright in this country for the works of a foreigner published here, without having been before published abroad. In *Cocks v. Purday*, a case coming within the present Copyright Act, the 5 & 6 Vict. c. 45, it was, after full argument decided that there was copyright in the work of a foreigner resident abroad, published here contemporaneously with the publication abroad, by an English publisher claiming under a verbal assignment from the author, which was valid according to the law of the place where it was made. The decision was expressly founded on the general principle, that aliens may acquire personal rights and maintain personal actions in respect of injuries to them in this country.

The case of *Boosey v. Purday* is now, however, much shaken by the more recent case of *Ollendorf v. Black*, (14 Jur. 1080), where the plaintiff, an alien author, first published a literary work while residing in this country. An edition of the same work, was published after the English publication, at Frankfort-on-the-Maine, and copies were imported into this country, and sold by a London bookseller. The alien filed a bill for an injunction to restrain the sale. Vice Chancellor Knight Bruce, in the course of the case, said, "Can any conclusion be imagined more injurious to literature in general than the decision in *Boosey v.*

*Purday*? Surely literature is of no country, and the object of the act of Parliament must have been to promote learning generally. That decision is an unfortunate one for literature in this country, for is it not a benefit that the learned men of other countries should publish their works here?" His Honor, in granting this injunction, spoke as follows:—"My belief is, that when the cases of *Murray v. Bohn* and *Murray v. Routledge* (not reported), were brought before me, the point, whether the injunction should be granted or refused was not argued, or was scarcely argued; by which I mean, according to my impression, it was not pressed upon me. It was in substance conceded, or almost conceded, by the counsel for the plaintiff, that the matter might go to law, the defendants being directed to keep an account. If, however, the point had been fully argued before me, and substantially contested on that occasion, I should still not hold myself bound by what took place in either of those cases. Notwithstanding what I did, or declined to do, in those cases, I consider myself at liberty to deal with the present case as if those cases were not, and I shall do so. It has been said here that the legal right is doubtful—that the mere existence of the doubt, is sufficient to prevent the Court from granting the injunction. In that I do not agree. I believe that doctrine to be new in this Court; for it would interfere theoretically and practically with its jurisdiction, daily exercised to a very great extent. The question of the legal right being in doubt is a matter for the serious attention of the Court, and one to which it is right that weight should be given; but it is not a matter which renders it incumbent on the Court to refuse the injunction. The Court must be guided by a discretion exercised according to the exigencies and the nature of each particular case. Now, notwithstanding Mr. Eddis's argument, which he very properly put, that the plaintiff in *Cocks v. Purday*, was an Englishman claiming by assignment from a foreigner, I still think that circumstance affords no clear ground of distinction between that case and the present. It appears to me, if the case of *Cocks v. Purday* was rightly decided, that the plaintiff, Dr. Ollendorf, is right here in equity and right at law in the present instance. But it has been said, and I believe correctly said, that the case of *Cocks v. Purday*, which was before the Court of Common Pleas, and afterwards before the Court of Queen's Bench, has been

opposed by a case in the Court of Exchequer, and I believe they are in opposition. But this circumstance does not render it incumbent on the Court to follow the decision in the Court of Exchequer, however, it may tend to throw doubt on the legal question, and therefore may be material as affecting the manner in which the Court is to exercise its discretion. I think it right to say, if I were to elect between *Cocks v. Purday*, and the case in the Exchequer, I should be disposed to say—I am disposed to say—and I do say, *Cocks v. Purday* appears to me, to be consistent with an enlarged view of the subject, and with the true interpretation of the act of Parliament. That point, however, is not for my ultimate decision now. I state merely my view of it as a circumstance entering in some degree into my reasons for the course I at present mean to take. There is a circumstance, however, here which distinguishes the present case from the case in the Court of Exchequer, *Boosey v. Purday*, namely, that when the first publication of the work in question took place in England, the plaintiff, Dr. Ollendorf, was himself present in England. It is said, and I believe with truth, it was only temporarily, and that his domicile was originally foreign, and has never ceased to be foreign. That may be so. I cannot, however, accede to the proposition, that the circumstance of his being present here at the time of the first publication is immaterial. Assuming *Boosey v. Purday* to be law—though I think *Cocks v. Purday* to be a more correct view of the law—assuming, I say *Boosey v. Purday* to be law, there is the circumstance of difference to which I have just adverted—a circumstance which ought to have weight on such a question and on such a point. I am of opinion that there is a case for an injunction now. Take an injunction on the common undertaking of the plaintiff to abide by any order which the Court may make as to damages, in the event of the injunction being discharged, dissolved, or varied. I make this order merely as a lawyer; but, for the sake of literature generally, this ought to be the right view of the law. Let an injunction issue at once.” The following day, Vice Chancellor Knight Bruce, stated that it was to be part of the order that the plaintiff must undertake to bring an action, if the defendants, or any of them, should require it.

It is somewhat singular that in the arguments in the above cases, the 19th section of the International Copyright Act, the

7 & 8 Vict. c. 12, does not seem to have been brought forward. By that section it is enacted, "That neither the author of any book nor the author or composer of any dramatic piece or musical composition, nor the inventor, designer, or engraver of any print, nor the maker of any article of sculpture, or of such other work of art as aforesaid, which shall after the passing of this act be *first published out of Her Majesty's dominions*, shall have any copyright therein respectively, or any exclusive right to the public representation or performance thereof, otherwise than such (if any) he may become entitled to under this act." If the maxim *expressio unius est exclusio alterius* is to prevail, the mention in this section of the only circumstance, that of previous publication abroad, which is to prevent foreign copyright, would go to exclude the deprivation of that copyright under any other state of circumstances. However, be that as it may, the tide of opinion and decision clearly flows now in favour of a foreign author, resident here, having a copyright in a work which he first publishes in this country. One can hardly think that the further point of his being resident abroad can make any difference, while his nation is at amity with ours.

It is a question, however, in the face of the 19th section of the 7 & 8 Vict. c. 12 above cited, whether the further decisions in *Cocks v. Purday* and *Boosey v. Purday*, that a contemporaneous publication or a publication at an earlier hour on the same day abroad does not defeat the copyright here, would prevail with regard to books published after the date of the 7 & 8 Vict. c. 12, which passed the 10th May, 1844. By the 19th section of that statute, it will be observed, that the copyright is taken away from a work *first published out of Her Majesty's dominions*, and consequently, to obtain copyright an actual *first* publication, it is presumed, is required here.

## CHAPTERS III. IV. (a)

## OF PARTICULAR WORKS, AND PERIODICAL PUBLICATIONS.

*Encyclopædias, Reviews, Magazines, and other Periodicals.*—The 5 & 6 Vict. c. 45, s. 18, enacts, that when a publisher or other person shall, before or at the time of the passing of this act, have projected, conducted, or carried on, or shall hereafter project, conduct, or carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, and this shall have been done on the terms that the copyright shall belong to such proprietor, projector, publisher, or conductor, then, on payment by him, the copyright in every such composition shall be his property to the full extent, and for the same term, as are given by this act to the authors of books.

In the case, however, of essays, articles, or portions forming part, and first published in *reviews, magazines, or other periodical works of a like nature*, the section makes this exception: that, after twenty-eight years from their first publication, the right of publishing them in a separate form shall revert to the author for the remainder of the term given by this act. But, during the twenty-eight years, the proprietor of the review, magazine, or similar periodical, cannot publish an article separately, without the previous consent of the author or his assignees.

There is then a proviso which affects encyclopædias, reviews, and all the publications mentioned in the section: it is this— that an author may publish his composition in a separate form, if, by contract, express or *implied*, he have reserved the right to do so; but he will be entitled to the copyright in his composition when so separately published, according to this act, without prejudice to the rights of the proprietor of the encyclopædia or periodical.

(a) See pp. 339, 351 of *The Practical Treatise*, 2nd Ed.

The proprietor of an encyclopædia, who employs a person to write an article for publication in that work, cannot, without the author's consent, publish the article in a separate form or otherwise than in the encyclopædia, unless the article was written on the terms that the copyright therein should belong to the proprietor of the encyclopædia for all purposes. *The Bishop of Hereford v. Griffin*, 16 Sim. 190; 12 Jur. 255; 17 L. J. Ch. 210.

Where the publishers of a magazine employ and pay an editor, and the editor employs and pays persons for writing articles in the magazine, it would appear that the copyright in such articles is not vested in the publishers under 5 & 6 Vict. c. 45, s. 18. *Brown v. Cooke*, 11 Jur. 77; 16 Law J., Chanc. 140. *Query*, in the same case, whether, in order so to vest the copyright, the publishers must have employed such persons beforehand.

*Abridgments.*—The case of *Strahan v. Newberry* (Lofft's Rep. 775), and the deductions from it above, in the Practical Treatise, p. 344, give a latitude to abridgments which would hardly be acted on at the present day. If, indeed, according to *Strahan v. Newberry*, an original work might be republished by a stranger on the mere retrenchment of such unnecessary and uninteresting circumstances as rather deaden the narrative, scarcely a work that issues from the press would be safe. For, where is there a human production free from error? where a book without some unnecessary and uninteresting matter in it? Who is to be the judge of the part that is to be left in, and the part that is to be omitted, since what might be useful and interesting to one class of readers might not be so to another? Again, there is undoubtedly a copyright in an original work that may be altogether, or nearly altogether prosy and dull. *Strahan v. Newberry* would make the copyright depend, not on newness or originality, but on the actual ability displayed in each particular production. This certainly cannot be the law, and the later cases are far from going to that extent. The better view seems to be that no abridging or copying will be permitted when it is likely to interfere with or prejudice the legitimate circulation and sale of the original work. In deciding this question, the fact whether or not the abridgment is similar in object and is directed to the same class of readers as the original book, will be a serious consideration. Take, for instance, Dr. Lingard's or Mr. Macaulay's Histories of England—one

already in a number of volumes, and the other likely to be so too. A reduction of either of these works into half or even a third of their size, and thus perhaps made more acceptable to many readers of history, could hardly be aught else than an infringement of the copyright. Still, the formation of a small schoolbook from either of these histories, made for clearly another purpose, and directed to a set of readers who would not want or be likely to buy the greater works, might safely be allowed. The cases of *Saunders v. Smith*, 2 Jur. 491; *Lucas v. Shaw*, 3 Jur. 215; *Sweet v. Maugham*, 4 Jur. 456, 479; *Stevens v. Wildy*, 39 L. O. 346; and *D'Almaine v. Boosey*, 1 Y. & C. 298, support this view. In *D'Almaine v. Boosey*, Lord Lyndhurst, C. B., said,—“It is a nice question what shall be deemed such a modification of an original work as shall absorb the merit of the original in the new composition. No doubt such a modification may be allowed in some cases, as in that of an abridgment or digest; such publications are in their nature original. Their compiler intends to make of them *a new use*; not that which the author proposed to make. Digests are of great use to practical men; though not so, comparatively speaking, to students. The same may be said of an abridgment of any study; but it must be a *bonâ fide* abridgment; because, if it contain many chapters of the original, or such as made that work most saleable, the maker of the abridgment commits a piracy.”

A question may arise whether the alteration of the language and style of the original work—a reproduction, in fact, not in the same words—would protect the party copying. It is presumed it would not; it might render the proof of the piracy more difficult, but on detection of a substantial copy from the original, it would be immaterial whether the identical phraseology or a colourable variation was adopted: the piracy would be equally there. See the cases of *Roworth v. Wilkes*, 1 Camp. 94, and *Campbell v. Scott*, 6 Jur. 186.

*Newspapers (a).*—The laws respecting newspapers have only been changed as to the conduct which may be pursued respecting any *Libels (b)* which may be published in them. The 6 & 7

(a) See p. 355 of The Practical Treatise, 2nd Edition.

(b) Id. 361.



Vict. c. 96, "An Act to amend the Law respecting Defamatory Words and Libel," by its 2nd section enacts, "That in an action for a libel contained in any public newspaper or other periodical publication, it shall be competent to the defendant to plead that such libel was inserted in such newspaper or other periodical publication without actual malice, and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in such newspaper or other periodical publication a full apology for the said libel, or, if the newspaper or periodical publication in which the said libel appeared should be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper or periodical publication, to be selected by the plaintiff in such action; and, that every such defendant shall upon filing such plea be at liberty to pay into Court a sum of money by way of amends for the injury sustained by the publication of such libel, and such payment into Court shall be of the same effect and be available in the same manner and to the same extent, and be subject to the same rules and regulations as to payment of costs and the form of pleading, except so far as regards the pleading of the additional facts herein-before required to be pleaded by such defendant, as if actions for libel had not been excepted from the personal actions in which it is lawful to pay money into Court, under an act passed in the session of Parliament held in the fourth year of his late Majesty, intituled *An Act for the further Amendment of the Law, and the better advancement of Justice* (3 & 4 Wm. 4, c. 42;) and that to such plea to such action, it shall be competent to the plaintiff to reply generally, denying the whole of such plea."

**PUBLIC LIBRARIES.**—See in the Appendix to Supplement the recent act, the 13 & 14 Vict. c. 65, for enabling Town Councils to establish public libraries and museums.

## CHAPTER V.

## OF MUSICAL AND DRAMATIC COMPOSITIONS (a).

THE Dramatic Copyright Act, the 3 & 4 Wm. 4, c. 15, has been enlarged by s. 20 of the Copyright Act, the 5 & 6 Vict. c. 45. The 1st section of the 3 & 4 Wm. 4, c. 15 (the Dramatic Copyright Act, which see at large, Appendix to Supplement), gave to the author or his assignee of any printed and unpublished tragedy, comedy, play, opera, farce, or other dramatic piece or entertainment, the sole right of having it represented in any part of the British dominions; and to the author or his assignee of any such dramatic production which was printed or published after the passing of this act, or ten years before, a sole right of representation, *from the time of publication, or of the passing of the act*, for a period of twenty-eight years, or, if the author were living at the end of that time, for the remainder of the author's life.

The 20th section of the 5 & 6 Vict. c. 45, enlarges the term of copyright in favour of dramatic pieces, and extends also to musical compositions all its own benefits, and those of the 3 & 4 Wm. 4, c. 15.

By the 5 & 6 Vict. c. 45, s. 20, it is enacted, that the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure, and be the property of the author or his assignee for the term provided in that act for the duration of copyright in books, viz. for the author's life and seven years after his death, or for forty-two years. The same section extends the provisions in the act respecting literary copyright and its registration, to the liberty of representing or performing a dramatic piece or musical composition, except that the first public representation or performance shall be deemed equivalent to the first publication of a book.

An important question here arises, as to what is the effect of the two statutes combined, with regard to the exclusive right of

(a) See p. 384 of The Practical Treatise, 2nd Ed.

performing dramatic or musical productions that have not been printed and published. It is clear that the 1st section of the 3 & 4 Wm. 4, c. 15, gives to their author or his assignee, a sole liberty of performing them, without affixing any limitation of time. By printing and publishing he exchanges this perpetual monopoly for a new one, viz., the sole right of performance for the author's life, or twenty-eight years *from the time of publication*. Now the 5 & 6 Vict. c. 45, s. 20, which includes musical compositions, professes to extend the term given in the former act; and this it cannot mean to effect by reducing that which is already perpetual, yet it would seem to do so when it declares "the first public representation or performance of *any* dramatic piece or musical composition, shall be deemed in the construction of this act to the first publication of a book." If an unpublished play were to have a perpetual protection, where would be the necessity of giving a stated period to its first performance, unless indeed it might be with regard to its being subsequently printed and published? The question is a doubtful one, although the Legislature in the International Copyright Act, 7 & 8 Vict. c. 12, s. 5, does not seem to contemplate the existence of this perpetual dramatic copyright. In conclusion, the law may be said to stand thus:—

I. The author or assignee of a dramatic piece or musical composition *printed and published* within ten years before the passing of the 3 & 4 Wm. 4, c. 15 (10 June, 1833), or *printed and published* after the passing of that act, has the sole right of performance for the author's life and seven years after his death, and if that term expire before forty-two years from the time of first performance, then for such forty-two years: in case of the author's death before publication, the right will endure for forty-two years from the time of first performance.

II. It is doubtful whether the author or assignee of a dramatic piece or musical composition *unprinted and unpublished*, comes within these periods, or has a sole, perpetual right to its performance.

*Registration of Copyright in the Drama and Music.*—By the 20th section of the 5 & 6 Vict. c. 45, there is to be the same registration at Stationers' Hall for dramatic and musical as for

literary copyright, with this provision, that, in case of a dramatic piece or musical composition in manuscript, the person having sole liberty of representation need register only, 1. the title of the production; 2. the name and abode of its author or composer; 3. the name and abode of its proprietor; 4. the time and place of its first representation or performance. Pursuant, however, to the 24th section of the same statute, the omission to register will not prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece has by virtue of this act, or of the 3 & 4 Wm. 4, c. 15.

*Assignment of Copyright in the Drama and Music.*—The 22nd section of the 5 & 6 Vict. c. 45, enacts, that no assignment of the copyright of a book consisting of or containing a dramatic piece or musical composition shall convey to the assignee the right of representation or performance, unless an entry of the assignment be made in the registry book, expressing the intention of the parties that such right should pass by the assignment.

This section will prevent the recurrence of what took place in the case of *Cumberland v. Planché*, 1 Ad. & E. 580, where by the transfer of the copyright of a play, the right of representation was held to pass also.

*Remedies against Piracy.*—The 21st section of the 5 & 6 Vict. c. 45, gives to the proprietors the right of dramatic or musical representation or performance, during the term of their interest, all the remedies provided by the 3 & 4 Wm. 4, c. 15; and to that latter statute, therefore, we must look for the penalties against piracy. By the 3 & 4 Wm. 4, c. 15, s. 2, it is enacted, that if any person, during the continuance of the exclusive right of representing a dramatic piece, cause to be represented, without the author's or proprietor's previous written consent, such production at any place of dramatic entertainment within the British dominions, every such offender shall, for each representation, be liable to the payment of not less than 40s., or of the full amount of the advantage arising from the representation, or of the loss sustained by the plaintiff, whichever shall be the greater damage. These penalties are recoverable by the author or proprietor, together with double costs of suit in any Court having jurisdiction in such cases, in that part of the British dominions where the offence is

committed. Pursuant to the 24th section of the 5 & 6 Vict. c. 45, the right to recover these penalties is not prejudiced by an omission to register on the part of the proprietor of the sole liberty of representing a dramatic piece.

It is a question of fact, and not of law, whether there has been a representation of part of a dramatic entertainment, under the 3 & 4 Wm. 4, c. 15; and where the jury found that the singing the words of a song, taken from an opera written by the plaintiff, amounted to such a representation, the Court refused to disturb the verdict. *Planché v. Braham*, 1 Jurist, 823.

*Injunction.*—A right of property being vested by the act, dramatic writers and musical composers have also the remedy by injunction, on the same principles as the proprietors of literary copyright.

*Limitation of Actions.*—The 3rd section of 3 & 4 Wm. 4, c. 15, provides that all actions or proceedings for any offence or injury against that act shall be commenced within twelve calendar months from the committing of the offence, or else the same shall be void and of no effect.

*Theatres or Playhouses (a).*—Theatres are now regulated by 6 & 7 Vict. c. 68. See the statute at large, *post*, in the Appendix to Supplement, and the powers of, and fees payable to the Lord Chamberlain, and the county Justices, under it, with regard to theatres and plays.

In an action for penalties, brought upon the statute 3 & 4 Wm. 4, c. 15, the declaration stated that plaintiff was the author of a certain dramatic entertainment, &c., and that defendant caused the said entertainment to be represented at a certain place of dramatic entertainment, &c., whereby, &c.:—It was held, First, that the introduction to a pantomime was a dramatic entertainment within the meaning of the statute: Secondly, that it was not necessary to allege in the declaration, or to prove at the trial, that the defendant knew that the plaintiff was the author thereof: Thirdly, that the allegation in the declaration, that the same was represented at a certain place of dramatic

(a) See p. 387 of *The Practical Treatise*, 2nd Ed.

entertainment, was sufficient: Fourthly, that the proof of an offering for sale in Middlesex of the manuscript of the production in question was a compliance with an undertaking to give material evidence in that county. *Lee v. Simpson*, 1 Dowl. & L. 666; 11 Jur. 127; 16 L. J., C. P. 105.

A person who lets for hire by the evening a place of dramatic entertainment for the public performance of songs and music, and provides the hirer, who performs songs and music which he has not liberty to perform, with lights, benches, &c., is not liable to pay damages to the author for causing or permitting to be represented or performed a musical composition without the author's written consent. Under the 3 & 4 Wm. 4, c. 15, s. 2, such person only is liable to an action, who by himself or his agent, actually takes part in a representation which is a violation of copyrights. *Russell v. Briant*, 19 L. J. 33, C. P.; 14 Jur. 201; 14 L. T. 349.

Plaintiff was the composer of a musical composition of a representative character, called "The Ship on Fire;" defendant sung it at a vocal entertainment, announced by bills, with the price of tickets of admission, and giving a programme of the two parts of the performance. The performance was at Crosby Hall, which was licensed for musical entertainment, and was prepared with seats for the audience, and a stage for the performer; and the defendant, without scenes or appropriate dresses, accompanied his singing with a piano, and gave considerable expression to the matters described. It was held, First, that "The Ship on Fire," was a dramatic piece within sect. 20 of stat. 5 & 6 Vict. c. 45: Secondly, that Crosby Hall was, on the occasion of the performance, a place of dramatic entertainment within the stat. 3 & 4 Wm. 4, c. 15, and 5 & 6 Vict. c. 45, and Thirdly, that it was not necessary that plaintiff's right should be registered under sect. 24 of stat. 5 & 6 Vict. c. 45. *Russell v. Smith*, 12 Jur. 723, 17 L. J. R., Q. B. 225.

A person who writes words to an old air, and procures an accompaniment and publishes them together, is entitled to the copyright in the whole work, and may describe his title accordingly in a declaration. *Leader v. Purday*, 18 L. J., C. P. 197, 12 Jur. 1091. In the same case B. wrote words to an old air, and got his friend H. to compose an accompaniment, and B. agreed, in writing, with L. to execute a proper assignment of the whole work to him, or any person he might name. B. accordingly executed a deed of

assignment to L. and C., the plaintiffs. The defendant published a copy of the whole work. An action having been brought for the infringement of the copyright, the defendant gave notice of objections to the plaintiff's title, under 5 & 6 Vict. c. 45, s. 16, in which he stated, that plaintiffs were not the owners of the copyright, but he did not state who were. It was held, that the defendant was not entitled under his notice to object that no assignment of the accompaniment from H. to the plaintiffs had been proved, even although the objection arose on the plaintiffs' case; and, Secondly, that the agreement to assign was executory, and did not operate as an assignment, so as to render the subsequent deed of assignment inoperative.

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## CHAPTER VI.

### OF COPYRIGHT IN ENGRAVING, ORNAMENTAL, AND USEFUL DESIGNS, AND IN SCULPTURE.

ENGRAVING—This subject is discussed in the Practical Treatise, 2nd Edition, p. 395, under the head of "Fine Arts." By the 8 Geo. 2, c. 13, s. 1, as there stated, it is enacted, "that every person who shall invent and design, engrave, etch, or work in mezzotinto, chiaro oscuro, or, from his own works and inventions, shall cause to be designed and engraved, etched, or worked in mezzotinto or chiaro oscuro, any historical or other print or prints, shall have the sole right and liberty of printing and reprinting the same for the term of fourteen years, to commence from the day of the first publishing thereof, which shall be truly engraved, with the name of the proprietor on each plate, and printed on every such print or prints." The property in historical and other prints was by this act vested in engravers, who took from their own designs. By the 7 Geo. 3, c. 38, s. 1, the former statute was extended to the prints of any portrait, conversation, landscape, or architecture, *map, chart, or plan*, or any other prints whatsoever, whether they were taken from the artist's own original designs, or from any picture, drawing, model, or sculpture, either ancient or modern; and the term of enjoying the right was in all cases enlarged from fourteen to twenty-eight years.

The 5 & 6 Vict. c. 45, s. 2, expressly including in the term book when mentioned in that act, every map, chart, or plan separately published, it would seem that to those productions extend all the benefits, rights, and privileges given to copyright by that statute. For the law regarding maps, charts, and plans, we may refer therefore to what has been already stated in respect to literary copyright.

As to the evidence necessary to support an action for the piracy of a print or engraving, the following decision has been made. In an action on the case, *Moore v. Clark* (9 M. & W. 692), for pirating an engraving brought under the statute 17 Geo. 3, c. 57, which gives a right of action against any one who shall copy any print “in the whole, or in part, by varying, adding to, or diminishing from the main design,” the Judge, at the trial, directed the jury to consider whether the defendant’s engraving was substantially a copy of the plaintiff’s: and the Court held that the direction was correct.

**DESIGNS ORNAMENTAL AND USEFUL (a).**—The statutes respecting designs have been repealed by the 5 & 6 Vict. c. 100. On that act, amended and extended by the 6 & 7 Vict. c. 65, and the 13 & 14 Vict. c. 104, copyright in designs rests. This subject may now be divided into two parts; **PART I.** relating to a Complete Copyright in Ornamental and Useful Designs, under the “Designs’ Act, 1842,” the 5 & 6 Vict. c. 100, and the “Designs’ Act, 1843,” the 6 & 7 Vict. c. 65; and **PART II.** relating to the Provisional Copyright in both Ornamental and Useful Designs, under the “Designs’ Act, 1850,” the 13 & 14 Vict. c. 104. It should however be observed that the 13 & 14 Vict. c. 104, in addition to creating a provisional copyright of designs, amends and extends the two former Designs’ Acts of 1842 and 1843. To begin with

**PART I. COMPLETE COPYRIGHT IN ORNAMENTAL AND USEFUL DESIGNS;** and first as to

#### ORNAMENTAL DESIGNS.

*The Subject of the Copyright.*—A complete copyright is given, for exposition, sale, or any purpose whatever, by the 5 & 6 Vict.

(a) See p. 410 of *The Practical Treatise*, 2nd Ed.



c. 100, the "Designs' Act, 1842," (see the statute at large in the Appendix to Supplement) to any new and original design (except designs for articles mentioned in the two statutes relating to sculpture), whether such new and original design be applicable to the ornamenting,

1. of any article of manufacture ;

2. or of any substance, artificial or natural, or partly artificial and partly natural ;

and whether the design be so applicable for

the pattern,

the shape or configuration,

the ornament,

or for any two or more of such purposes ;

and by whatever means the design may be so applicable, whether by

printing,

embroidery,

painting,

weaving,

sewing,

embossing,

modelling,

engraving,

casting,

staining,

or by any other means whatsoever, manual, mechanical, or chemical, separate or combined (s. 3).

*The Nature and Duration of the Copyright.*—The copyright itself is this: the proprietor of every such above mentioned design, not previously published in the United Kingdom or elsewhere, is to have the sole right, provided it be done in the United Kingdom, of applying the design to any of the above mentioned articles or substances for the respective terms, as follow:—

1. *For Three Years*, in respect to the application of the design to ornamenting any article of manufacture contained in

Class 1. Articles composed wholly or chiefly of metal or mixed metals.

Class 2. Articles composed wholly or chiefly of wood.

Class 3. Articles composed wholly or chiefly of glass.

Class 4. Articles composed wholly or chiefly of earthenware, (ivory, bone, papier maché, and other solid substances not comprised in Classes 1, 2, and 3, added by the 13 & 14 Vict. c. 104, s. 8).

Class 5. Paper Hangings.

**Class 6. Carpets.** (Floor-cloths and oil-cloths added by the 6 & 7 Vict. c. 65, s. 5).

**Class 8. Shawls,** not comprised in Class 7.

**Class 11. Woven Fabrics,** composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics coming within the description technically called furnitures, and if the repeat of the design be more than twelve inches by eight inches (s. 3).

**2. For Nine Calendar Months,** in respect of the application of the design to ornamenting any article of manufacture contained in

**Class 7. Shawls,** if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced on tissue or textile fabrics.

**Class 9. Yarn, thread, or warp,** if the design be applied by printing, or by any other process by which colours are or may hereafter be produced.

**Class 10. Woven fabrics,** composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, excepting the articles included in Class 11 (s. 3).

**3. For Twelve Calendar Months,** in respect of the application of the design to ornamenting any article of manufacture or substance contained in

**Class 12. Woven fabrics,** not comprised in any preceding class (as to damasks, a three years' copyright, see *below*).

**Class 13. Lace,** and any article of manufacture or substance not comprised in any preceding class (s. 3).

By the recent "Designs' Act, 1850," the 13 & 14 Vict. c. 104, s. 9, the Board of Trade may order the period of copyright of any of the above class of ornamental designs (but not the copyright of articles of utility) to be extended for a period not exceeding three years. Damasks have obtained this extension, pursuant to an order of the Board of Trade, dated 5th November, 1850.

*The Conditions of Copyright* are as follow:—

1. Registration of the design before its publication.
2. Specification, at the time of registration, of the number of the class of the article of manufacture or substance, in respect to its application to which the design is registered.
3. Registration, as proprietor of the design, of the name of the person registering.
4. Marking, after publication, on the article or substance to which the design is applied, at one end, if the article be a woven fabric for printing, or at the end or edge, if it be of any other kind or substance, the letters R<sup>d</sup>., together with such numbers or letters, and in such form, as correspond with the date of registration in the registrar's office. These marks may be put on the article, either on the material itself or on a label attached to it (s. 4).

*Explanation of the Term "Proprietor."*—The author of a new and original design is to be considered its proprietor, unless he have executed the work for another person for a good or a valuable consideration; in which case such person is to be considered the proprietor, and is entitled to registration in place of the author. Every person acquiring for a good or a valuable consideration a new and original design, or the right to its application to the above-mentioned articles or substances, either exclusively of any one else or otherwise, and every person upon whom the property in a design or the right to its application may devolve, shall be considered the proprietor of the design, in the respect in and to the extent which such property may have been acquired, but not otherwise (s. 5).

*Transfer of Copyright.*—Every person purchasing or otherwise acquiring the right to the entire or partial use of a design may enter his title in the register. Any writing purporting to be a transfer of the design, and signed by the proprietor, shall operate as an effectual transfer. On request, and on production of the written transfer, or, if the right be acquired otherwise than by purchase, on production of evidence to the registrar's satisfaction, the registrar is to insert the name of the new proprietor in the register (s. 6). The same section gives forms in which the transfer and the requests to register may be made.

*Registration.—Appointment of a Registrar and other Officers.—*By the “Designs’ Act, 1843,” the 6 & 7 Vict. c. 65, s. 7, the Lords of the Committee of Privy Council for the consideration of all matters of trade and plantations may appoint a registrar of designs, and, if they see fit, an assistant registrar, and other officers and servants, who are to hold their offices during the pleasure of the Lords of the Committee. Their salaries are to be fixed from time to time by the Commissioners of the Treasury. By the 5 & 6 Vict. c. 100, s. 14, the Lords of the Committee may make rules for regulating the execution of the duties of the registrar’s office, and the registrar is to have an official seal.

*Registrar’s Duties.—*The registrar will not (unless he choose to act under the 13 & 14 Vict. c. 104, s. 11, *see infra*, p. 84,) register a design, in respect of any application of it, unless he be furnished, for each application, with,

1. two copies, drawings, or prints of the design; accompanied with
2. the name of every person claiming to be proprietor, or of the style or title of the firm under which such proprietor trades, with his place of abode or of carrying on his business, or other place of address; and,
3. the number of the class in respect of which the registration is made.

The registrar is to register all such copies, drawings, and prints, from time to time successively as he has received them, and upon every one of them he is to affix a number corresponding to such succession. One copy, drawing, or print he is to retain and file in his office; the other he is to return to the person who has forwarded it to him. In order to give ready access to the registered copies of designs, the registrar is to class them, and to keep a proper index of each class (s. 15).

See as to the discretionary power with regard to registry, vested by the 6 & 7 Vict. c. 65, s. 9, in the Registrar of Designs, *post*, p. 89.

By the 10th section of the 13 & 14 Vict. c. 104 (see the statute at large in the Appendix to Supplement), the Board of Trade may make, alter, and revoke rules and regulations with regard to registration of designs, and the documents and other particulars relating thereto; such changes are to be published in the Gazette, to be laid before Parliament, and to be notified by the Registrar of

Designs. (See the most recent rules and regulations issued, in the Appendix to Supplement). By section 11 of the same act, the Registrar of Designs may, in certain cases, dispense with copies, drawings and prints, and may allow in place of them a specification or written description sufficient to identify the design, and render it intelligible. By sections 12, 13, 14, of the same act, public books and documents in the Designs' Office are not to be removed without a Judge's order; a Judge may direct that copies of documents to be furnished be given in evidence: copies delivered by the Registrar of Designs, are to be sealed with his seal of office, and to be then admissible in evidence without further proof.

*Certificate of Registration.*—Upon or attached to every copy, drawing, or print of an original design returned to the person registering, and upon or attached to every one received for the purpose of registration, or of the transfer being certified thereon, or attached thereto, the registrar is to certify under his hand—

1. that the design has been registered :
2. the date of registration :
3. the name of the registered proprietor, or the style or title of the firm under which he may trade, with his place of abode or of carrying on his business, or other place of address :
4. the number of the design, together with such numbers and letters, and in such form as the registrar shall employ, to denote or correspond with the date of registration.

A certificate so made on every original design or its copy, purporting to be signed by the registrar or deputy registrar, and purporting to have the registrar's seal of office affixed to it, is, in the absence of contrary evidence, to be sufficient proof of,

1. the due registration of the design, and the name of the proprietor mentioned in the certificate ;
2. the commencement of the period of registry ;
3. the proprietorship of the person named in the certificate as proprietor ;
4. the originality of the design ; and,
5. the fact, that the provisions of this act, and of any rule under which the certificate appears to be made, have been complied with.

Any writing purporting to be such certificate is, in the absence of contrary evidence, receivable in evidence, without proof of the handwriting of the signature, or of the seal of office, or of the person signing being the registrar or deputy registrar. (5 & 6 Vict. c. 100, s. 16).

*Inspection of Registered Designs.*—Every person may inspect any design whose copyright has expired, on payment of the appointed fee. But no design whose copyright has not expired shall be open to the inspection of any one except the proprietor of the design, a person with written authority from him, or a person specially authorized by the registrar; and then only in presence of the registrar or some person holding an appointment under this act, and not so as to take a copy of the design or part of it, nor without payment of the appointed fee. There is, however, this provision, that the registrar may give to any person applying to him, and producing a particular design with its registration mark, or producing the registration mark alone, a certificate stating whether there exist a copyright of the design; and if there do, the particular article in respect to which such copyright exists, the term of the copyright, the date of its registration, and the name and address of its registered proprietor (s. 17).

*Fees* (See the List of Fees in the Rules issued by the Registrar, Appendix to Supplement).—The Commissioners of the Treasury are from time to time to fix the fees payable for the services performed by the registrar, which fees are to go to defray the expenses and salaries of the registering establishment, and the balance to the consolidated fund. The Commissioners are also to regulate how such fees are to be received, kept, and accounted for; they may also remit or dispense with the payment of fees in any cases where they may think it expedient. It is moreover provided, that

the fee for registering a design to be applied to any woven fabric in classes 7, 9, or 10, is not to exceed one shilling:

the fee for registering a design to be applied to a paper hanging is not to exceed ten shillings:

the fee to the registrar for a certificate relative to the existence or expiration of a copyright in a design printed on woven fabric, yarn, thread, or warp, or printed, embossed, or worked

on any paper hanging, to a person exhibiting a piece-end of a registered pattern with the registration mark upon it, is not to exceed two shillings and sixpence (s. 18).

*Penalty for Extortion.*—If the registrar or any person employed under him demand or receive any gratuity or reward, whether in money or otherwise, except his authorized salary or remuneration, he shall forfeit for every offence 50*l.* to any party suing for it by action of debt in the Court of Exchequer at Westminster. He is also, for such offence, liable to be suspended or dismissed, and to be rendered incapable of holding any situation in the Registration Office, as the Commissioners of the Treasury see fit (s. 19).

*Cancellation or Amendment of Registration.*—In a suit in equity relative to a design, instituted by its proprietor, or by a person lawfully entitled to it, if it appear to the satisfaction of the Judge that the design has been registered in the name of a person not the proprietor, or not lawfully entitled, the Judge may, in his discretion, by decree or order, direct the registration to be cancelled, in which case it becomes void; or the name of the proprietor or person lawfully entitled to be substituted in the register for that wrongful proprietor or claimant, and this to be done in the manner directed in the case of the transfer of a design. The Judge may make what order he thinks fit respecting the costs of cancellation or substitution, and the proceedings to effect them. The registrar, on service of the official copy of the decree or order, and on payment of the proper fee, is to comply with the tenor of the decree or order, and to make the cancellation or substitution as the case may be (s. 10).

*Penalty for wrongfully using Marks.*—It is unlawful to apply to a design which has not been registered, or to an article to which a design when registered has not been applied within the United Kingdom, or to an article after the expiration of copyright, the marks required by this act, or any marks corresponding with them. If any person do unlawfully apply any such marks, or publish, sell, or expose for sale, with a guilty knowledge, an article or substance having unlawful marks, he shall forfeit, for every offence, a sum not exceeding five pounds, to be recovered by any person proceeding for it by any of the ways directed with respect to penalties for piracy (s. 11).

*Piracy of Designs.*—During the existence of a right to the entire or partial use of a design no person shall, without the registered proprietor's written license or consent, do any of the following acts, with regard to any articles or substances in respect of which the copyright of the design is in force; viz.—

No person shall apply the design, or a fraudulent imitation of it, for the purpose of sale, to ornamenting any article of manufacture, or any substance, artificial or natural, or partly artificial and partly natural.

No person shall publish, sell, or expose for sale, any article or substance to which such design or fraudulent imitation is applied, after having either verbally, in writing, or otherwise received from any source other than the proprietor knowledge that consent to such application has not been given; or after having been served with, or having had left at his premises, a written notice to the same effect, signed by the proprietor or his agent (s. 7).

*Penalties for Piracy.*—A person committing any of the above acts of piracy is to forfeit, for every offence, a sum not less than five and not more than thirty pounds to the proprietor of the design in respect of whose right the offence is committed (s. 8).

The proprietor may recover the penalty,

In *England*, by an action of debt, or on the case, against the offender; or summarily before two magistrates having jurisdiction where the offender resides. The section (s. 8) directs, in the summary proceeding, the mode of process and of recovering the penalties and costs by distress: it also gives forms of information and conviction. The aggregate amount of penalties, however, for offences in respect of one design, committed by one person up to the time of proceedings being instituted, shall not exceed one hundred pounds (s. 8). By the 13th section, in such summary proceedings, the magistrates may award payment of costs to the prevailing party, and may grant a warrant for enforcing payment against the summoning party, if unsuccessful, in the same manner as any penalty with costs is recoverable under this act:

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 is committed, or the offender resides. The section directs, in the summary proceeding, the mode of process and the recovery of the penalties by poinding. If the sheriff dismiss the action, and assoilzie the defender, he may find the complainer liable in expenses; and his judgment is final :

In *Ireland*, by action in a Superior Court of Law at Dublin; or by civil bill in the Civil Bill Court of the county or place where the offence is committed (s. 8).

Notwithstanding the remedies above given, the proprietor injured may, *if he elect to do so*, bring an action for the recovery of the damages which he has sustained from the piracy of his design (s. 9).

*Limitation of Actions.*—No action or other proceeding for an offence or injury under this act shall be brought after the expiration of twelve calendar months from the commission of the offence (s. 12).

*Costs.*—In every action or other proceeding for an offence or injury under this act, the prevailing party shall receive his full costs (s. 12).

#### SECONDLY : DESIGNS FOR ARTICLES OF UTILITY.

By section 2 of the 6 & 7 Vict. c. 65, s. 2, “the Designs’ Act, 1843” (see the statute at large in the Appendix to Supplement), a copyright for *three years* is given to the proprietor of any new and original design, for the *shape or configuration* either of the whole or of any part of any *article* of manufacture, *having reference to some purpose of utility*, whether such article be made in metal or any other substance.

No person shall be entitled to this copyright unless before publication the design and the name of the proprietor be registered, and unless after publication every article from the design has on it the word “registered,” and the date of registration (s. 3).

It shall be unlawful, if the design has not been registered, or if its copyright have expired, to put on any article from the design the word registered, or to advertise the same as a registered article; any person so offending is to forfeit a sum from one to

five pounds, to be recovered by any of the remedies given for piracy of designs. See above, p. 87 (s. 4).

The provisions of the "Designs' Act, 1842," the 5 & 6 Vict. c. 100, relating to the term proprietor, the transfer of copyright, the piracy of designs, the recovery of penalties, cancellation and amendment of registration, limitation of actions, costs, certificate of registration, fees and penalty for extortion, *see supra*, p. 82, *et seq.*, shall apply and extend to this act (s. 6).

The Registrar will not (unless he act under the discretionary power given him by the 13 & 14 Vict. c. 104, s. 11, *see supra*, p. 84,) register any design for the shape or configuration of any article of manufacture, unless he be furnished with two exactly similar drawings or prints of the design, with such description in writing as may be necessary to render the same intelligible according to his judgment, together with the title of the design, and the name of the proprietor, or of the style or title of the firm under which he may be trading, with his address; and every such drawing or print, together with the title and description of the design, and the name and address of the proprietor, shall be on one side of a sheet of paper or parchment, and the size of the sheet shall not exceed twenty-four inches by fifteen inches; and there shall be left a blank space on the same side for the certificate; the drawings or prints shall be made on a proper geometric scale; the description shall set forth such parts of the design (if any) as shall not be new or original; the Registrar shall register all such drawings or prints from time to time as received by him: on every such drawing or print he shall affix a number corresponding to the order of succession in the register; he shall retain one drawing or print, which he shall file at his office, and the other he shall return to the person by whom it has been forwarded to him; in order to give a ready access to the designs so registered, he shall keep a proper index of their titles (s. 8).

● If any design be brought to the Registrar to be registered under the 5 & 6 Vict. c. 100, and it shall appear to him that the same ought to be registered under this present act, the Registrar may refuse to register the design otherwise than under this present act; and if it shall appear to the Registrar that the design brought to be registered under the 5 & 6 Vict. c. 100, or this act, is not intended to be applied to any article of manufac-

ture, but only to some label, wrapper, or other covering in which such article might be disposed for sale, or that such design is contrary to public morality or order, the Registrar must in his discretion refuse the design: provided always, that the Board of Trade may, on representation by the proprietor of any design refused to be registered, if they shall see fit, direct the Registrar to register the design, whereupon the Registrar must register it accordingly (s. 9).

Every person shall be at liberty to inspect the index of the titles of the designs not being ornamental designs, registered under this act, and to take copies, paying such fees as shall be appointed by virtue of this act in that behalf; and every person shall be at liberty to inspect any design, and to take copies thereof, paying the proper fee; but no design of which the copyright shall not have expired shall be open to inspection except in the presence of the Registrar, or in the presence of some person holding an appointment under this act, and not so as to take a copy of the design nor without paying the fees (s. 10).

See *supra*, p. 83, as to the power of altering and revoking the rules and regulations, &c., with regard to registration given to the Board of Trade by the 10th section of the 13 & 14 Vict. c. 104. See also that statute, and the present rules and regulations relative to Useful Designs in the Appendix to Supplement.

#### PART II.—PROVISIONAL COPYRIGHT IN ORNAMENTAL AND USEFUL DESIGNS, FOR THE PURPOSE OF EXHIBITION.

This copyright is given by the 13 & 14 Vict. c. 104, to be called "The Designs' Act, 1850:" (See the statute at large in the Appendix to Supplement). This act nowise repeals the above two Designs' Acts of 1842 and 1843, but, on the contrary, extends and amends them. The statute may be said to have originated on account of the Exhibition of 1851, though it is not merely confined to it.

The real object of this act is to protect from piracy the ornamental and useful designs in an exhibition, and to give them the benefit of the copyright laws during the time of their exposition, without putting the authors or proprietors to the expense of obtaining such a complete copyright as, not having a present sale in view, they might not require.

By the 13 & 14 Vict. c. 104, s. 1, a provisional copyright of

one year (which may be extended to a further period not exceeding six months, by order of the Board of Trade: s. 5), is given to the author or proprietor of any ornamental or useful design which may be entitled to be registered under the two Designs' Acts of 1842 and 1843. This copyright is obtained by provisional registration, thus: the Registrar of Designs, upon application for provisional registration by or on behalf of the proprietor of any design not previously published within the United Kingdom of Great Britain and Ireland or elsewhere, and which may be registered under the Designs' Act, 1842, or under the Designs' Act, 1843, and upon being furnished with a copy, drawing, print, or description in writing or in print, sufficient in the Registrar's judgment to identify the particular design, and with the name and address of the proprietor, or the style or title of his firm, shall register such design in such manner and form as shall be prescribed or approved by the Board of Trade; and any design so registered shall be deemed "provisionally registered," and the registration shall continue in force for the term of one year from the time of registration: (See section 5 as to extension of term); and the Registrar shall certify, under his hand and seal of office, in such form as the Board shall direct or approve, that the design has been provisionally registered, giving the date of registration, and the name of the registered proprietor (s. 1).

The proprietor of any design provisionally registered shall, during the continuance of registration, have the sole right and property in such design; and the penalties and provisions of the Designs' Act, 1842, for preventing the piracy of designs, see *supra*, p. 86, shall extend as fully as if those penalties and provisions had been re-enacted in this act:

1. to the application of any provisionally registered design, or any fraudulent imitation of it, to any article of manufacture or to any substance:
2. to the publication, sale, or exposure for sale of any article of manufacture or any substance to which any provisionally registered design shall have been applied.

By sections 3 and 4, this provisional copyright is given strictly on condition that there be no sale or exposure for sale. If the proprietor of such copyright sell, expose, or offer for sale any article, substance, or thing to which his design is applied, he forfeits the provisional copyright. He may, however, sell or

transfer his right and property in the design itself, without injuring the copyright.

The copyright is, moreover, not destroyed by the proprietor exhibiting or exposing this design, or the article to which the design may have been, or be intended to be, applied in any place, whether public or private, *in which articles are not sold, or exposed, or exhibited for sale, and to which the public are not admitted gratuitously, or in any place which shall have been previously certified by the Board of Trade to be a place of public exhibition within the meaning of this act*; nor will a published account, or description of such designs in any catalogue, paper, newspaper, periodical, or otherwise, destroy the copyright.

This copyright, be it observed, ceases at the end of the twelve or eighteen months granted, and, when it ceases, no further copyright for the same design of any kind can then be had. But, *at any time during its continuance*, this provisional copyright may be converted into a complete copyright under the former two Designs' Acts of 1842 and 1843, on registration and payment of fees pursuant to those statutes and the rules of the Designs' Office.

The provisional copyright depends, moreover, on registration and the payment of some slight fees. See as to this the act itself, sections 10, 11, 12, 13, 14, and the rules and regulations of the Registrar of Designs, in the Appendix to Supplement.

The provisions contained in the Designs' Acts of 1842 and 1843, relating to the transfer of designs, to cancelling and amending registration, to refusal of registration, to penalties, costs, actions for damages, limitation of actions, certificate of registration, penalties for wrongfully using marks, fees, and to penalty for extortion, shall apply to the registration, provisional registration, and transfer of designs, *sculptures, models, copies, and casts* (see *post*), and to the designs, *sculptures, models, copies, and casts*, entitled to protection under this act, and to matters under this act, as fully and effectually as if those provisions had been re-enacted in this act. The forms contained in the Designs' Act, 1842, may, for the purposes of this act, be varied so as to meet the circumstances of the case (s. 15). Section 16 gives an interpretation of terms.

#### SCULPTURE COPYRIGHT.

By the Sculpture Copyright Acts, the 38 Geo. 3, c. 71, and the 54 Geo. 3, c. 56 (as stated above in the Practical Treatise

p. 419, 2nd edition), every new and original sculpture, model, copy, or cast, of the human figure, or of any bust or part of the human figure, or of any animal, or part of an animal, or of any subject being matter of invention in sculpture, or of any alto or basso-relievo representing any of the above-mentioned matters, or any cast from nature of the human figure, or part of the human figure, enjoys a copyright of fourteen years from the time of the first publication; in addition to which a further copyright of fourteen years is given to the actual author, if he be living at the end of the first term, and has not sold or parted with his copyright. The condition of this sculpture copyright consists in merely causing to be put before publication on the object produced, the proprietor's name and the date of publication. No registration nor further proceeding is necessary to secure the copyright by the above acts. There is now, however, under the "Designs' Act, 1850," registration for further protection.

The remedy given by these acts for an infringement of this sculpture copyright, is an action at law, with double costs of suit, which must be brought within six calendar months after the discovery of the offence.

By the "Designs' Act, 1850," the 13 & 14 Vict. c. 104, ss. 6, 7 (see the statute in the Appendix to Supplement), a further protection similar to that granted for designs (*i. e.* the penalty from 5*l.* to 30*l.*, and the summary remedy for piracy, *supra*, p. 87) is granted to the sculptures, models, copies, and casts, as detailed under the above two Sculpture Copyright Acts, during the whole or unexpired part of the fourteen or twenty-eight years given by those copyright acts. This sculpture copyright does not, for its further protection, depend on there being no sale nor exposure for sale. It is entirely independent of that, and is, in fact, absolute for all purposes. The condition for obtaining the further protection, consists in registration at the Designs' Office, which is to be done on furnishing the registrar with a copy or description of the sculpture sufficient to identify it, with the proprietor's name and address, or the name or style of the firm under which he may trade. The sculptured article must also, after registration, be marked with the word "registered," and the date of registration.

By section 16 (see *suprà*, p. 92), certain provisions there mentioned of the Designs' Acts of 1842 and 1843, apply to the registration of sculpture.

The following cases have recently been decided with regard to copyright of designs:—

*Classification.*—Designs for sewed muslin collars, transferred to the muslin by printing or stamping with lithographic ink, or other colour, and which so printed or stamped with the pattern, are worked by a needle on muslin, and present when finished, the appearance of ornamental sewing only, are properly registered under class 10 of the “ Designs’ Act, 1842,” 3rd section (5 & 6 Vict. c. 100). It would also appear that, if the design be registered under a wrong class, that would not justify the pirating of it, (*Lowndes v. Browne*, 12 Ir. Law R. 293).

*Publication.*—The publication of a book of designs by the owner of the copyright, under the 5 & 6 Vict. c. 100, does not give any right to the purchaser of such book, to apply the designs to articles for the purpose of sale without the permission of the proprietor. The copies of a duly registered design, published in a book for sale, need not have any registration mark attached to them. (*Riego de la Branchardiere v. Elvery*, 18 L. J., Ex. 381).

*As to what are Designs.*—*Quære*, whether a mechanical contrivance within the stem of a parasol, for raising or lowering it with one hand, is “ a design for the shape or configuration of an article of manufacture,” within the 5 & 6 Vict. c. 100, and 6 & 7 Vict. c. 65. (*Millengen v. Picker*, 1 C. B. R. 799).

By 6 & 7 Vict. c. 65, a limited copyright is granted for “ any new or original design; for any article of manufacture having reference to some purpose of utility, so far as such design shall be for the shape or configuration of such article,” provided such design is registered. A newly-invented brick, the utility of which consisted in its being so shaped, that when several bricks were laid together in building, a series of apertures was left in the wall, by which the air was admitted to circulate, and a saving in the number of bricks required was effected, is a design capable of being registered under the above statute. It would also appear, that where the invention is the subject of a patent, it may still be registered under the Copyright of Designs’ Act. (*Rogers and Another v. Driver*, 20 L. J. R., Q. B. 31).

## CHAPTER VII.

## OF THE PERSONS AND CORPORATIONS INTERESTED IN THE PUBLICATION OF BOOKS.

*The Author and his Assignee (a).*—By the 5 & 6 Vict. c. 45, s. 25, all copyright is made personal property; the assignment of it, or license to use it, must be in writing, and may be registered at Stationers' Hall. The assignment of the copyright becomes perfect by an entry "of such assignment and the name and place of abode of the assignee."

The proprietor of a registered copyright may, by an entry in the book of registry, assign his interest without being liable to a *stamp duty*. (Sec. 13 of 5 & 6 Vict. c. 45).

*The copyright may lapse, and the power of republication be given to another* (Sec. 5 of the 5 & 6 Vict. c. 45).—If the proprietor of a copyright in a book refuse, after the death of the author, to republish it, or to allow its republication, the Judicial Committee of the Privy Council may license the complainant to publish the book in such manner, and according to such conditions as they may think fit to impose.

*The Company of Stationers: Registration (b).*—The registration at Stationers' Hall is now regulated by the 11th section of the 5 & 6 Vict. c. 45, as to books, and the assignments of them; and as to dramatic and musical pieces, whether in manuscript or otherwise, and the licenses affecting such copyright.

The registry is made of

1. the title of the book;
2. the time of its first publication;
3. the name and place of abode of its publisher;
4. the name and place of abode of the proprietor of the copyright of the book, or of any portion of such copyright.

(a) See p. 423 of the Practical Treatise, 2nd Ed.

(b) Id. p. 448.



## RIGHTS OF CERTAIN LIBRARIES TO COPIES OF BOOKS.

*Delivery to the British Museum.*—The 6th section of the 5 & 6 Vict. c. 45, requires the delivery, on behalf of the publisher, to the British Museum, of—1. A printed copy of every book published after the passing of this act, together with all maps, prints, or other engravings belonging to it, finished and coloured as are the best copies of the work: 2. A printed copy of any second or subsequent edition published with additions or alterations, whether in the letterpress or in the maps, prints, or other engravings, and whether the first edition was published before or after the passing of this act: and, 3. A printed copy of any second or subsequent edition, of which the first or some preceding edition has not been delivered to the Museum. Each of these copies is to be bound, sewed, or stitched together, and to be upon the best paper on which the work is printed; and the delivery is to take place within one calendar month after the book is first published within the bills of mortality, or within three calendar months after it is first published in any other part of the United Kingdom, or within twelve calendar months after it is first published in any other part of the British dominions. Pursuant to the 7th section, this delivery is to be made at the British Museum between ten and four on any day except Sunday, Ash Wednesday, Good Friday, and Christmas Day, to one of the officers of the Museum, or to some person authorized by the trustees of that institution. Such officer or person receiving the copy is to give a written receipt for it; and a delivery so made will fulfil all the requisitions of the statute.

*Delivery to the other Libraries.*—The 8th section of the same statute enacts that a copy of every book, or of any second or subsequent edition containing additions or alterations, together with all maps and prints belonging to it, which is published after the passing of this act (such copy to be upon the paper of which the largest number of copies of the book or edition is printed for sale, and in like condition to them), shall, on demand in writing, left at the publisher's abode within twelve months after publication, under the hand of the officer of the Stationers' Company, or of any person with authority from the Bodleian Library at Oxford, the Public Library at Cambridge, the Library of Advocates at Edinburgh, and the Library of Trinity College, Dublin, be delivered within one month after such demand to the officer of the Stationers' Company. The officer of the Stationers' Com-

pany is to receive at the Company's Hall the copies for the use of the libraries that have made their demand within the twelve months; he is to give a written receipt for them; and, within one month after delivery to him, to deliver them to the respective libraries. The 9th section provides that if any publisher wish, he may deliver the copy of a book demanded at any of the four libraries themselves, free of expense to the library, to the librarian, or other person authorized, who must receive it, and give a written receipt in return; and such delivery will fulfil the intent of this act as much as a delivery to the officer of the Stationers' Company.

According to these provisions of the act, the main distinctions between a presentation to the British Museum and a presentation to any of the other four libraries, are these,—first, that the delivery to the Museum is to be made without demand on the part of that institution; whereas delivery to one of the other libraries need not be made at all, unless there be a written demand within twelve months after publication; and, secondly, that the copy presented to the Museum must be one from the best copies of the work, while that for any of the other libraries need be only a copy from the set the most numerous. Thus, if a publisher produce a superior and an inferior edition at the same time (as in cases of quarto and octavo editions, so frequent in illustrated works), he must give a copy of the more valuable impression to the Museum: whereas he need only make presentations to the other libraries from the set of lesser cost, provided that set exceed the other by even a single copy.

*Penalty for Non-delivery.*—The 10th section of the same statute enacts, that if the publisher of a book, or of a second or subsequent edition of a book, neglect to deliver it pursuant to this act, he shall for every default forfeit, besides the value of the copy he ought to have delivered, a sum not exceeding 5*l.*, to be recovered by the librarian or other authorized officer of the library, for whose use the copy should have been delivered; either summarily, on conviction before two magistrates for the county or place where the publisher making default resides; or by action of debt or similar proceeding at the suit of such librarian or other officer in any Court of record in the United Kingdom, in which action, if the plaintiff obtain a verdict, he shall recover his costs reasonably incurred, or taxed as between attorney and client.

*The Universities (a).*—The rights of the Universities of Oxford and Cambridge, of the four Universities of Scotland, of Trinity College, Dublin, and of the Colleges of Eton, Westminster, and Winchester are preserved (5 & 6 Vict. c. 45, s. 27).

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## CHAPTER VIII.

### OF THE REMEDIES FOR AN INFRINGEMENT OF COPYRIGHT (*b*).

No proprietor of a copyright (except dramatic pieces), commencing after the 10th of June, 1833, can sue or proceed for any infringement before making an entry of it at Stationers' Hall (5 & 6 Vict. c. 45, s. 24); but the omission does not affect the copyright in the book, but only the right to sue or proceed for the infringement.

*Piracy* (5 & 6 Vict. c. 45, s. 15. See *Campbell v. Scott*, 11 Sim. 31).—A special action on the case may be maintained against any person, who shall

1. print or cause to be printed, either for sale or exportation, any book in which there shall be a subsisting copyright, without the consent in writing of the proprietor;
2. or import for sale or hire any such unlawfully printed book from parts beyond the sea;
3. or, with a guilty knowledge, sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or have in possession for sale or hire, any such book so unlawfully printed or imported without the consent of the proprietor.

*Summary proceedings for Importation, &c. of pirated Books.*—If any person import or cause to be imported or brought for sale or hire, any pirated book into the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire, any such book, then the book shall be forfeited and may be seized and destroyed by any officer of the Customs or Excise, and the offender may be convicted in the

(a) See p. 453 of *The Practical Treatise*, 2nd Ed.

(b) *Id.* 474.

penalty of ten pounds and double the value of every copy of the book (5 & 6 Vict. c. 45, s. 17).

A party injured is entitled to the pirated copies or to damages for their detention (5 & 6 Vict. c. 45, s. 23).

By s. 63 of the Customs' Regulation Act, the 8 & 9 Vict. c. 86, there is an absolute prohibition against importation with regard to "books, wherein the copyright shall be subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, as to which the proprietor of such copyright or his agent shall have given to the Commissioners of Customs a notice in writing that such copyright subsists, such notice also stating when such copyright will expire."

*Action on the case for Damages (a).*—All actions, suits, bills, indictments, or informations for any offence committed against the Copyright Amendment Act, must be commenced within twelve months after the commission of the offence (5 & 6 Vict. c. 45, s. 26).

*Rule as to pleading the General Issue, and to Costs in certain Cases.*—The 26th section of the 5 & 6 Vict. c. 45, enacts, that if any action or suit be commenced or brought against any person for doing or causing to be done *anything in pursuance of this act*, the defendant may plead the general issue, and give the special matter in evidence; and if upon such action a verdict be given for the defendant, or the plaintiff become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant has by law in any case. It should here be observed that, according to frequent decisions, the words *in pursuance of this act* do not only refer to those who have kept within the strict line of their duty, but also to those who intended to do so, but have by mistake gone beyond it. The general rule seems to be settled that persons who *bonâ fide* and honestly believe that they are acting in the execution of the powers conferred on them by such a statute as the above, are within its privilege, although in fact they may have mistaken the extent of their power, and have exceeded it, or failed to comply with the directions of the enactment. (*Smith v. Shaw*, 10 B. & C. 284; and the other cases cited in Roscoe's N. P. E.)

(a) See p. 482 of *The Practical Treatise*, 2nd Ed.

*List of Objections.*—On pleading to an action, the defendant must deliver a notice in writing of any objections on which he means to rely on the trial of the action. (See 5 & 6 Vict. c. 45, s. 16, Appendix to Supplement, for the particulars required in that notice).

*The Proceedings in Equity.—Injunction (a).*—Before a party can move for an injunction, he must have registered the work at Stationers' Hall. (5 & 6 Vict. c. 45, s. 24).

An injunction to restrain the piracy of a publication to which the plaintiffs would have been otherwise entitled, was refused on the ground of delay in making the application (*Lewis v. Chapman*, 3 Beavan's Rep. 133), and a constructive knowledge was imputed to the plaintiffs by the Court, of an infringement of their copyright by the defendants.

The defendant, in a publication on modern English poetry with biographical sketches and selections, had introduced six short poems, and parts of longer poems of the plaintiff, which he alleged had been introduced only for illustration: a Court of equity restrained the publication as being an infringement of the plaintiff's copyright. (*Campbell v. Scott*, 11 Sim. 31).

In a suit to restrain the piracy of the plaintiff's work, the injunction had been continued until the title was decided by an action which was afterwards discontinued at the instance of the defendant, who was willing to pay the costs of the bill as between party and party, which offer was refused by the plaintiff. The Court held, that the plaintiff being entitled to an answer to settle the question of title, his claim to costs as between solicitor and client on agreeing to waive the answer and the account, was not unreasonable; and therefore he, on the defendant's refusal, was entitled to the full costs of the suit, including those of the answer. (*Kelly v. Hooper*, 1 Y. & C. 197).

*Proceedings before the Judicial Committee*, 5 & 6 Vict. c. 45, s. 5.—If the proprietor of a copyright in a work shall refuse, after the death of the author, to republish it, or to allow the republication of it, the Judicial Committee of the Privy Council may license the petitioner to publish the work on such conditions as they may think fit to impose.

(a) See p. 486 of *The Practical Treatise*, 2nd Ed.

The following cases have been recently decided in equity and at law, with regard to the infringement of copyright:—

*Assignment must be Attested.*—To entitle a party to maintain an action as assignee for the infringement of copyright in a song, under 8 Anne, c. 19, s. 1, there must have been an assignment of the copyright by an instrument in writing, attested by two witnesses. (*Davidson v. Bohn*, 6 C. B. 456).

In case for infringement of copyright, the Court refused to allow a count, founded upon a common law right, to be joined with counts on the statute 5 & 6 Vict. c. 45, upon the same cause of action. It was however held, that notwithstanding the words *contrà formam statuti*, in counts framed upon the statute, a plaintiff might give in evidence under those counts, an infringement of his common law right. (*Boozey v. Tolkien*, 3 C. B. 476; 5 D. & L. 547). As to evidence of infringement, see *Boozey v. Davidson*, 18 L. J. R., Q. B. 174; 13 Jur. 687.

A declaration upon section 20 of statute 5 & 6 Vict. c. 45, alleged, that plaintiff had “the sole liberty of representing and performing a musical composition;” yet defendant, without the consent of plaintiff, “to wit, at a place of dramatic entertainment,” wrongfully represented and performed the said musical composition. Upon motion in arrest of judgment, on the ground that the right of plaintiff was stated too largely—it was held that it was sufficient, inasmuch as it followed the words of the statute. (*Russell v. Smith*, 12 Jur. 723; 17 L. J., Q. B., 225).

*Equity.*—The bill stated that one of the plaintiffs had composed a book, and that all the plaintiffs had caused the book to be printed and published for their joint benefit, and the said book had been duly registered by the plaintiffs as proprietors of the copyright thereof at Stationers’ Hall, and the copyright had ever since remained in the plaintiffs, for their joint benefit. The bill also alleged that the defendants had published a book, in which numerous passages were copied from the plaintiffs’ book, and it prayed an injunction to restrain the sale of the defendant’s book. It was held, upon motion for the injunction, that under the Copyright Act, 5 & 6 Vict. c. 45, the plaintiffs had a joint right to sue; and also, upon comparison of the two books, that in the defendant’s book there had been such copying from the plaintiffs’ book, as would entitle them to the injunction. (*Stevens v. Wildy*, 19 L. J. 190, Ch.).

***Contested Copyright.***—In cases of contested copyright, the Court is disposed rather to restrict than increase the number of cases in which it interferes by injunction before the establishment of the legal title, and it will give great weight to the consideration of the questions, which side is more likely to suffer by an erroneous or hasty judgment, and the prejudicial effect the injunction may have on the trial of the action. (*M'Neil v. Williams*, 11 Jur. 344).

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## APPENDIX TO THE SUPPLEMENT.

3 & 4 Wm. 4, c. 15.

*An Act to amend the Laws relating to Dramatic Literary Property.* [10th June, 1833].

WHEREAS by an act passed in the fifty-fourth year of the reign of his late Majesty King George the Third, intituled, "An Act 54 G. 3. c. 156 to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of printed Books to the Authors of such Books, or their Assigns," it was, amongst other things, provided and enacted, that from and after the passing of the said act the author of any book or books composed, and not printed or published, or which should thereafter be composed and printed and published, and his assignee or assigns, should have the sole liberty of printing and reprinting such book or books for the full term of twenty-eight years, to commence from the day of first publishing the same, and also, if the author should be living at the end of that period, for the residue of his natural life: and whereas it is expedient to extend the provisions of the said act; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this act the author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed, and not printed and published by the author thereof or his assignee, or which hereafter shall be composed, and not printed or published by the author thereof or his assignee, or the assignee of such author, shall have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of Great Britain and Ireland, in the Isles of Man, Jersey, and Guernsey, or in any part of the British dominions, any such production as aforesaid, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof; and that the author of any such

The author of any dramatic piece shall have as his property the sole liberty of representing it or causing it to be represented at any place of dramatic entertainment.



production, printed and published within ten years before the passing of this act by the author thereof or his assignee, or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof: provided nevertheless, that nothing in this act contained shall prejudice, alter, or affect the right of authority of any person to represent or cause to be represented, at any place or places of dramatic entertainment whatsoever, any such production as aforesaid, in all cases in which the author thereof or his assignee shall, previously to the passing of this act, have given his consent to or authorized such representation, but that such sole liberty of the author or his assignee shall be subject to such right or authority.

Proviso as to cases where previous to the passing of this act a consent has been given.

Penalty on persons performing pieces contrary to this act.

II. And be it further enacted, that if any person shall, during the continuance of such sole liberty as aforesaid, contrary to the intent of this act, or right of the author or his assignee, represent, or cause to be represented, without the consent in writing of the author or other proprietor first had and obtained, at any place of dramatic entertainment within the limits aforesaid, any such production as aforesaid, or any part thereof, every such offender shall be liable for each and every such representation to the payment of an amount not less than forty shillings, or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever shall be the greater damages, to the author or other proprietor of such production so represented contrary to the true intent and meaning of this act, to be recovered, together with double costs of suit, by such author or other proprietor, in any Court having jurisdiction in such cases in that part of the said United Kingdom or of the British dominions in which the offence shall be committed; and in every such proceeding where the sole liberty of such author or his assignee as aforesaid shall be subject to such right or authority as aforesaid, it shall be sufficient for the plaintiff to state that he has such sole liberty, without stating the same to

be subject to such right or authority, or otherwise mentioning the same.

III. Provided nevertheless, and be it further enacted, that all actions or proceedings for any offence or injury that shall be committed against this act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of no effect. Limitation of actions.

IV. And be it further enacted, that whenever authors, persons, offenders, or others are spoken of in this act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex. Explanation of words.

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5 & 6 Vict. c. 45.

*An Act to amend the Law of Copyright.* [1st July, 1842.]

WHEREAS it is expedient to amend the law relating to copyright, and to afford greater encouragement to the production of literary works of lasting benefit to the world: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from the passing of this act an act passed in the eighth year of the reign of her Majesty Queen Anne, intituled "An Act for the Encouragement of Learning, by vesting the Copies of printed Books in the Authors or Purchasers of such Copies during the Times therein mentioned;" and also an act passed in the forty-first year of the reign of His Majesty King George the Third, intituled "An Act for the further Encouragement of Learning in the United Kingdom of Great Britain and Ireland, by securing the Copies and Copyright of printed Books to the Authors of such Books, or their Assigns, for the time therein mentioned;" and also an act passed in the fifty-fourth year of the reign of His Majesty King George the Third, intituled, "An Act to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of Printed Books to the Authors of such Books, or their Assigns," be and the same are hereby repealed, except so far as the continuance of either of them may be necessary for carrying on or giving effect to any proceedings at law or in equity pending at the time of passing this Repeal of former acts; 8 Anne, c. 19. 41 G. 3, c. 107. 54 G. 3, c. 156.

act, or for enforcing any cause of action or suit, or any right or contract, then subsisting.

Interpretation  
of act.

II. And be it enacted, that in the construction of this act the word "book" shall be construed to mean and include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan separately published; that the words "dramatic piece" shall be construed to mean and include every tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic entertainment; that the word "copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied; that the words "personal representative" shall be construed to mean and include every executor, administrator, and next of kin entitled to administration; that the word "assigns" shall be construed to mean and include every person to whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, gift, bequest, or by operation of law, or otherwise; that the words "British dominions" shall be construed to mean and include all parts of the United Kingdom of Great Britain and Ireland, the islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements, and possessions of the Crown which now are or hereafter may be acquired; and that whenever in this act, in describing any person, matter, or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons as well as one person, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there shall be something in the subject or context repugnant to such construction.

Endurance of  
term of copy-  
right in any  
book hereafter  
to be published  
in the lifetime  
of the author;

if published  
after the  
author's death.

III. And be it enacted, that the copyright in every book which shall after the passing of this act be published in the lifetime of its author shall endure for the natural life of such author, and for the further term of seven years, commencing at the time of his death, and shall be the property of such author and his assigns: provided always, that if the said term of seven years shall expire before the end of forty-two years from the first publication of such book, the copyright shall in that case endure for such period of forty-two years; and that the copyright in every book which shall be published after the death of its author shall endure for the

term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript from which such book shall be first published, and his assigns.

IV. And whereas it is just to extend the benefits of this act to authors of books published before the passing thereof, and in which copyright still subsists; be it enacted, that the copyright which at the time of passing this act shall subsist in any book theretofore published (except as hereinafter mentioned) shall be extended and endure for the full term provided by this act in cases of books thereafter published, and shall be the property of the person who at the time of passing this act shall be the proprietor of such copyright; provided always, that in all cases in which such copyright shall belong in whole or in part to a publisher or other person who shall have acquired it for other consideration than that of natural love and affection, such copyright shall not be extended by this act, but shall endure for the term which shall subsist therein at the time of passing of this act, and no longer, unless the author of such book, if he shall be living, or the personal representative of such author, if he shall be dead, and the proprietor of such copyright, shall, before the expiration of such term, consent and agree to accept the benefits of this act in respect of such book, and shall cause a minute of such consent in the form in that behalf given in the schedule to this act annexed to be entered in the book of registry hereinafter directed to be kept, in which case such copyright shall endure for the full term by this act provided in cases of books to be published after the passing of this act, and shall be the property of such person or persons as in such minute shall be expressed.

In case of subsisting copyright, the term to be extended, except when it shall belong to an assignee for other consideration than natural love and affection; in which case it shall cease at the expiration of the present term, unless its extension be agreed to between the proprietor and the author.

V. And whereas it is expedient to provide against the suppression of books of importance to the public; be it enacted, that it shall be lawful for the Judicial Committee of Her Majesty's Privy Council, on complaint made to them that the proprietor of the copyright in any book after the death of its author has refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a license to such complainant to publish such book, in such manner and subject to such conditions as they may think fit, and that it shall be lawful for such complainant to publish such book according to such licence.

Judicial Committee of the Privy Council may license the republication of books which the proprietor refuses to republish after death of the author.

VI. And be it enacted, that a printed copy of the whole of

Copies of books

published after the passing of this act, and of all subsequent editions, to be delivered within certain times at the British Museum.

every book which shall be published after the passing of this act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, and also of any second or subsequent edition which shall be so published with any additions or alterations, whether the same shall be in letter-press, or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been published before or after the passing of this act, and also of any second or subsequent edition of every book of which the first or some preceding edition shall not have been delivered for the use of the British Museum, bound, sewed, or stitched together, and upon the best paper on which the same shall be printed, shall, within one calendar month after the day on which any such book shall first be sold, published, or offered for sale within the bills of mortality, or within three calendar months if the same shall first be sold, published, or offered for sale in any other part of the United Kingdom, or within twelve calendar months after the same shall first be sold, published, or offered for sale in any other part of the British dominions, be delivered, on behalf of the publisher thereof, at the British Museum.

Mode of delivering at the British Museum.

VII. And be it enacted, that every copy of any book which under the provisions of this act ought to be delivered as aforesaid shall be delivered at the British Museum between the hours of ten in the forenoon and four in the afternoon on any day except Sunday, Ash Wednesday, Good Friday, and Christmas day, to one of the officers of the said Museum, or to some person authorized by the trustees of the said Museum to receive the same, and such officer or other person receiving such copy is hereby required to give a receipt in writing for the same, and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this act.

A copy of every book to be delivered within a month after demand to the officer of the Stationers' Company for the following libraries: the Bodleian at Oxford, the

VIII. And be it enacted, that a copy of the whole of every book, and of any second or subsequent edition of every book containing additions and alterations, together with all maps and prints belonging thereto, which after the passing of this act shall be published, shall, on demand thereof in writing, left at the place of abode of the publisher thereof at any time within twelve months next after the publication thereof, under the hand of the officer of the Company of Stationers who shall from time to time

be appointed by the said company for the purposes of this act, or under the hand of any other person thereto authorized by the persons or bodies politic and corporate, proprietors and managers of the libraries following (*videlicet*), the Bodleian library at Oxford, the public library at Cambridge, the library of the Faculty of Advocates at Edinburgh, the library of the College of the holy and undivided Trinity of Queen Elizabeth near Dublin, be delivered, upon the paper of which the largest number of copies of such book or edition shall be printed for sale, in the like condition as the copies prepared for sale by the publisher thereof respectively, within one month after demand made thereof in writing as aforesaid, to the said officer of the said Company of Stationers for the time being, which copies the said officer shall and he is hereby required to receive at the Hall of the said Company, for the use of the library for which such demand shall be made within such twelve months as aforesaid; and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library.

public library at Cambridge, the Faculty of Advocates at Edinburgh, and that of Trinity College, Dublin.

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

Publishers may deliver the copies to the libraries, instead of at the Stationers' Company.

X. And be it enacted, that if any publisher of any such book, or of any second or subsequent edition of any such book, shall neglect to deliver the same, pursuant to this act, he shall for every such default forfeit, besides the value of such copy of such book or edition which he ought to have delivered, a sum not exceeding five pounds to be recovered by the librarian or other officer (properly authorized) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction, before two justices of the peace for the county or place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other

Penalty for default in delivering copies for the use of the libraries.

officer, in any Court of record in the United Kingdom, in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

Book of registry to be kept at Stationers' Hall.

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

Making a false entry in the book of registry, a misdemeanor.

XII. And be it enacted, that if any person shall wilfully make or cause to be made any false entry in the registry book of the Stationers' Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said book, he shall be guilty of an indictable misdemeanor, and shall be punished accordingly.

Entries of copyright may be made in the book of registry.

XIII. And be it enacted, that after the passing of this act it shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book of the Stationers' Company of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in

that behalf given in the schedule to this act annexed, upon payment of the sum of five shillings to the officer of the said Company; and that it shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.

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

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

XV. And be it enacted, That if any person shall, in any part of the British dominions, after the passing of this act, print or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall import for sale or hire any such book so having been unlawfully printed from parts beyond the sea, or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or shall have in his possession, for sale or hire, any such book, so unlawfully printed or imported, without such consent as aforesaid, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought in any Court of record in that part of the British dominions in which the offence

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



shall be committed: provided always, that in Scotland such offender shall be liable to an action in the Court of session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there.

In actions for piracy the defendant to give notice of the objections to the plaintiff's title on which he means to rely.

XVI. And be it enacted, that after the passing of this act in any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire any such book, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein; and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication with the title, time, and place specified in such notice.

No person, except the proprietor, &c., shall import into the British dominions for

XVII. And be it enacted, that after the passing of this act it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British

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

sale or hire any book first composed, &c., within the United Kingdom, and reprinted elsewhere, under penalty of forfeiture thereof, and also of 10% and double the value.

Books may be seized by officers of customs or excise.

XVIII. And be it enacted, that when any publisher or other person shall, before or at the time of the passing of this act, have projected, conducted, and carried on, or shall hereafter project, conduct, and carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and

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

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

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

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

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

The provisions of 3 & 4 W. 4, c. 15, extended to musical compositions, and the term of copyright, as provided by

XX. And whereas an act was passed in the third year of the reign of his late Majesty, to amend the law relating to dramatic literary property, and it is expedient to extend the term of the sole liberty of representing dramatic pieces given by that act to the full time by this act provided for the continuance of copyright: and

whereas it is expedient to extend to musical compositions the benefits of that act, and also of this act; be it therefore enacted, that the provisions of the said act of his late Majesty, and of this act, shall apply to musical compositions, and that the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this act provided for the duration of copyright in books; and the provisions hereinbefore enacted in respect of the property of such copyright, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this act, to the first publication of any book: provided always, that in case of any dramatic piece or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing, or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance.

this act, applied to the liberty of representing dramatic pieces and musical compositions.

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

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

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

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

XXIII. And be it enacted, that all copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry book, and which shall have been unlawfully

Books pirated shall become the property of the proprietor

of the copyright  
and may be  
recovered by  
action.

printed or imported without the consent of the registered proprietor of such copyright, in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover.

No proprietor  
of copyright  
commencing  
after this act  
shall sue or  
proceed for any  
infringement  
before making  
entry in the  
book of re-  
gistry.

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

Proviso for  
dramatic  
pieces.

Copyright shall  
be personal  
property.

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

General issue.

XXVI. And be it enacted, that if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done any thing in pursuance of this act the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath: and that all actions, suits, bills, indictments, or informations for any

Limitation of  
actions;

offence that shall be committed against this act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect; provided that such limitation of time shall not extend or be construed to extend to any actions, suits, or other proceedings which under the authority of this act shall or may be brought, sued, or commenced for or in respect of any copies of books to be delivered for the use of the British Museum, or of any one of the four libraries hereinbefore mentioned.

not to extend to actions, &c. in respect of the delivery of books.

XXVII. Provided always, and be it enacted, that nothing in this act contained shall affect or alter the rights of the two Universities of Oxford and Cambridge, the colleges or houses of learning within the same, the four Universities in Scotland, the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several colleges of Eton, Westminster, and Winchester, in any copyrights heretofore and now vested or hereafter to be vested in such universities and colleges respectively, anything to the contrary herein contained notwithstanding.

Saving the rights of the universities, and the colleges of Eton, Westminster, and Winchester.

XXVIII. Provided also, and be it enacted, that nothing in this act contained shall affect, alter, or vary any right subsisting at the time of passing of this act, except as herein expressly enacted; and all contracts, agreements, and obligations made and entered into before the passing of this act, and all remedies relating thereto, shall remain in full force, any thing herein contained to the contrary notwithstanding.

Saving all subsisting rights, contracts, and engagements.

XXIX. And be it enacted, that this act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions.

Extent of the act.

XXX. And be it enacted, that this act may be amended or repealed by any act to be passed in the present session of Parliament.

Act may be amended this session.

## SCHEDULES to which the preceding Act refers.

### No. 1.

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

We, the undersigned, *A. B.* of \_\_\_\_\_ the author of a certain book, intituled *Y. Z.* [or the personal representative of the author,



## No. 3.

## ORIGINAL ENTRY OF PROPRIETORSHIP OF COPYRIGHT OF A BOOK.

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

## No. 4.

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

I, *A. B.* of \_\_\_\_\_ being the Assigner of the Copyright of the Book hereunder described, do hereby require you to make Entry of the Assignment of the Copyright therein.

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

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

## No. 5.

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

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



5 &amp; 6 Vict. c. 100.

*An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.*

[10th August, 1842].

Whereas by the several acts mentioned in the schedule (A.) to this act annexed, there was granted, in respect of the woven fabrics therein mentioned, the sole right to use any new and original pattern for printing the same during the period of three calendar months: and whereas by the act mentioned in the schedule (B.) to this act annexed, there was granted, in respect of all articles, except lace, and except the articles within the meaning of the acts hereinbefore referred to, the sole right of using any new and original design, for certain purposes, during the respective periods therein mentioned; but forasmuch as the protection afforded by the said acts in respect of the application of designs to certain articles of manufacture is insufficient, it is expedient to extend the same, but upon the conditions hereinafter expressed; now, for that purpose, and for the purpose of consolidating the provisions of the said acts, be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that this act shall come into operation on the first day of September one thousand eight hundred and forty-two, and that thereupon all the said acts mentioned in the said schedules (A.) and (B.) to this act annexed shall be and they are hereby repealed.

Commencement of act, and repeal of former acts.

Proviso as to existing copyrights.

II. Provided always, and be it enacted, that notwithstanding such repeal of the said acts, every copyright in force under the same shall continue in force till the expiration of such copyright; and with regard to all offences or injuries committed against any such copyright before this act shall come into operation, every penalty imposed and every remedy given by the said acts, in relation to any such offence or injury, shall be applicable as if such acts had not been repealed; but with regard to such offences or injuries committed against any such copyright after this act shall come into operation, every penalty imposed and every remedy given by this act in relation to any such offence or injury

shall be applicable as if such copyright had been conferred by this act.

III. And with regard to any new and original design (except <sup>Grant of copyright.</sup> for sculpture and other things within the provisions of the several acts mentioned in the schedule (C.) to this act annexed), whether such design be applicable to the ornamenting of any article of manufacture, or of any substance, artificial or natural, or partly artificial and partly natural, and that whether such design be so 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 such design may be so applicable, whether by printing, or by painting, or by embroidery, or by weaving, or by sewing, or by modelling, or by casting, or by embossing, or by engraving, or by staining, or by any other means whatsoever, manual, mechanical, or chemical, separate or combined; be it enacted, that the proprietor of every such design, not previously published either within the United Kingdom of Great Britain and Ireland, or elsewhere, shall have the sole right to apply the same to any articles of manufacture, or to any such substances as aforesaid, provided the same be done within the United Kingdom of Great Britain and Ireland, for the respective terms herein-after mentioned, such respective terms to be computed from the time of such design being registered according to this act; (that is to say,)

In respect of the application of any such design to ornamenting any article of manufacture contained in the first, second, third, fourth, fifth, sixth, eighth, or eleventh of the classes following, for the term of three years:

In respect of the application of any such design to ornamenting any article of manufacture contained in the seventh, ninth, or tenth of the classes following, for the term of nine calendar months;

In respect of the application of any such design to ornamenting any article of manufacture or substance contained in the twelfth or thirteenth of the classes following, for the term of twelve calendar months:

Class 1.—Articles of manufacture composed wholly or chiefly of any metal or mixed metals:

Class 2.—Articles of manufacture composed wholly or chiefly of wood:

**Class 3.**—Articles of manufacture composed wholly or chiefly of glass :

**Class 4.**—Articles of manufacture composed wholly or chiefly of earthenware :

**Class 5.**—Paper hangings :

**Class 6.**—Carpets :

**Class 7.**—Shawls, if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics :

**Class 8.**—Shawls not comprised in Class 7.

**Class 9.**—Yarn, thread, or warp, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced :

**Class 10.**—Woven fabrics, composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics ; excepting the articles included in Class 11 :

**Class 11.**—Woven fabrics, composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics being or coming within the description technically called furnitures, and the repeat of the design whereof shall be more than twelve inches by eight inches :

**Class 12.**—Woven fabrics, not comprised in any preceding Class :

**Class 13.**—Lace, and any article of manufacture or substance not comprised in any preceding class.

Condition of  
copyright.

Registration.

**IV.** Provided always, and be it enacted, that no person shall be entitled to the benefit of this act, with regard to any design in respect of the application thereof to ornamenting any article of manufacture, or any such substance, unless such design have before publication thereof been registered according to this act, and unless at the time of such registration such design have been registered in respect of the application thereof to some or one of the articles of manufacture or substances comprised in the above-mentioned classes, by specifying the number of the class in respect of which

such registration is made, and unless the name of such person shall be registered according to this act as a proprietor of such design, and unless after publication of such design every such article of manufacture, or such substances to which the same shall be so applied, published by him, hath thereon, if the article of manufacture be a woven fabric for printing, at one end thereof, or, if of any other kind or such substance as aforesaid, at the end or edge thereof, or other convenient place thereon, the letters "R<sup>d</sup>." Marks denoting a registered design. together with such number or letter, or number and letter, and in such form as shall correspond with the date of the registration of such design according to the registry of designs in that behalf; and such marks may be put on any such article of manufacture or such substance, either by making the same in or on the material itself of which such article or such substance shall consist, or by attaching thereto a label containing such marks.

V. And be it enacted, that the author of any such new and original design shall be considered the proprietor thereof, unless he have executed the work on behalf of another person for a good or a valuable consideration, in which case such person shall be considered the proprietor, and shall be entitled to be registered in the place of the author; and every person acquiring for a good or a valuable consideration a new and original design, or the right to apply the same to ornamenting any one or more articles of manufacture, or any one or more such substances as aforesaid, either exclusively of any other person or otherwise, and also every person upon whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise. The term "proprietor" explained.

VI. And be it enacted, that every person purchasing or otherwise acquiring the right to the entire or partial use of any such design may enter his title in the register hereby provided, and any writing purporting to be a transfer of such design and signed by the proprietor thereof shall operate as an effectual transfer; and the Registrar shall, on request, and the production of such writing, or in the case of acquiring such right by any other mode than that of purchase on the production of any evidence to the satisfaction of the Registrar, insert the name of the new proprietor in the register; and the following may be the form of such transfer, and of such request to the Registrar: Transfer of copyright and register thereof.



of any article of manufacture, or any substance, artificial or natural, or partly artificial and partly natural :

No person shall publish, sell, or expose for sale any article of manufacture, or any substance, to which such design, or any fraudulent imitation thereof, shall have been so applied, after having received, either verbally or in writing, or otherwise, from any source other than the proprietor of such design, knowledge that his consent has not been given to such application, or after having been served with or had left at his premises a written notice signed by such proprietor or his agent to the same effect.

VIII. And be it enacted, that if any person commit any such act he shall for every offence forfeit a sum not less than five pounds and not exceeding thirty pounds to the proprietor of the design in respect of whose right such offence has been committed : and such proprietor may recover such penalty as follows ;

Recovery of penalties for piracy.

In England, either by an action of debt or on the case against the party offending, or by summary proceeding before two justices having jurisdiction where the party offending resides ; and if such proprietor proceed by such summary proceeding, any justice of the peace acting for the county, riding, division, city, or borough where the party offending resides, and not being concerned either in the sale or manufacture of the article of manufacture, or in the design to which such summary proceeding relates, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than eight days from the date thereof ; and every such summons shall be served on the party offending, either in person or at his usual place of abode ; and either upon the appearance or upon the default to appear of the party offending, any two or more of such justices may proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending, or upon the oath or affirmation of one or more credible witnesses, which such justices are hereby authorized to administer, may convict the offender in a penalty of not less than five pounds or more than thirty pounds, as aforesaid, for each offence, as to such justices doth seem fit ; but

the aggregate amount of penalties for offences in respect of any one design committed by any one person, up to the time at which any of the proceedings herein mentioned shall be instituted, shall not exceed the sum of one hundred pounds; and if the amount of such penalty or of such penalties, and the costs attending the conviction, so assessed by such justices, be not forthwith paid, the amount of the penalty or of the penalties, and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels of the offender, wherever the same happen to be in England; and the justices before whom the party has been convicted, or, on proof of the conviction, any two justices acting for any county, riding, division, city, or borough in England, where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale; and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand; and every information and conviction which shall be respectively laid or made in such summary proceeding before two justices under this act may be drawn or made out in the following forms respectively, or to the effect thereof, *mutatis mutandis*, as the case may require:

*Form of Information.*

‘ **B**E it remembered, that on the \_\_\_\_\_ at  
‘ in the county of \_\_\_\_\_ *A. B.* of \_\_\_\_\_ in  
‘ the county of \_\_\_\_\_ [*or C. D.* of \_\_\_\_\_ in the  
‘ county of \_\_\_\_\_ at the instance and on the behalf of  
‘ *A. B.* of \_\_\_\_\_ in the county of \_\_\_\_\_ ] cometh  
‘ before us \_\_\_\_\_ and \_\_\_\_\_ two of her  
‘ Majesty’s Justices of the Peace in and for the county of  
‘ \_\_\_\_\_, and giveth us to understand that the said *A. B.*  
‘ before and at the time when the offence hereinafter men-  
‘ tioned was committed, was the proprietor of a new and  
‘ original design for [*here describe the design*], and that within  
‘ twelve calendar months last past, to wit, on the \_\_\_\_\_ at  
‘ \_\_\_\_\_ in the county of \_\_\_\_\_ *E. F.* of  
‘ in the county of \_\_\_\_\_ did [*here describe the offence*],  
‘ contrary to the form of the act passed in the

‘ year of the reign of her present Majesty, intituled “ An Act  
 ‘ to consolidate and amend the Laws relating to the Copyright  
 ‘ of Designs for Ornamenting Articles of Manufacture.”’

*Form of Conviction.*

‘ **B**E it remembered, that on the                      day of  
 ‘     in the year of our Lord                      at  
 ‘ in the county of                      *E. F.* of                      in the  
 ‘ county aforesaid is convicted before us                      and  
 ‘                      two of her Majesty’s Justices of the Peace  
 ‘ for the said county, for that he the said *E. F.* on the  
 ‘ day of                      in the year                      at  
 ‘ in the county of                      did [*here describe the offence*]  
 ‘ contrary to the form of the statute in that case made and  
 ‘ provided ; and we the said justices do adjudge that the said  
 ‘ *E. F.* for his offence aforesaid hath forfeited the sum of  
 ‘                      to the said *A. B.*’

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

In Ireland, either by action in a Superior Court of Law at Dublin or by civil bill in the Civil Bill Court of the county or place where the offence was committed.



Proviso as to  
action for da-  
mages.

IX. Provided always, and be it enacted, that notwithstanding the remedies hereby given for the recovery of any such penalty as aforesaid, it shall be lawful for the proprietor in respect of whose right such penalty shall have been incurred (if he shall elect to do so) to bring such action as he may be entitled to for the recovery of any damages which he shall have sustained, either by the application of any such design or of a fraudulent imitation thereof, for the purpose of sale, to any articles of manufacture or substances, or by the publication, sale, or exposure to sale, as aforesaid, by any person, of any article or substance to which such design or any fraudulent imitation thereof shall have been so applied, such person knowing that the proprietor of such design had not given his consent to such application.

Registration  
may in some  
cases be can-  
celled or  
amended.

X. And be it enacted, that in any suit in equity which may be instituted by the proprietor of any design or the person lawfully entitled thereto, relative to such design, if it shall appear to the satisfaction of the judge having cognizance of such suit that the design has been registered in the name of a person not being the proprietor or lawfully entitled thereto, it shall be competent for such judge, in his discretion, by a decree or order in such suit to direct either that such registration be cancelled (in which case the same shall thenceforth be wholly void), or that the name of the proprietor of such design, or other person lawfully entitled thereto, be substituted in the register for the name of such wrongful proprietor or claimant, in like manner as is hereinbefore directed in case of the transfer of a design, and to make such order respecting the costs of such cancellation or substitution, and of all proceedings to procure and effect the same, as he shall think fit; and the Registrar is hereby authorized and required, upon being served with an official copy of such decree or order, and upon payment of the proper fee, to comply with the tenor of such decree or order, and either cancel such registration or substitute such new name, as the case may be.

Penalty for  
wrongfully  
using marks  
denoting a re-  
gistered design.

XI. And be it enacted, that unless a design applied to ornamenting any article of manufacture or any such substance as aforesaid be so registered as aforesaid, and unless such design so registered shall have been applied to the ornamenting such article or substance within the United Kingdom of Great Britain and Ireland, and also after the copyright of such design in relation to such article or substance shall have expired, it shall be unlawful

to put on any such article or such substance, in the manner hereinbefore required with respect to articles or substances whereto shall be applied a registered design, the marks herein before required to be so applied, or any marks corresponding therewith or similar thereto; and if any person shall so unlawfully apply any such marks, or shall publish, sell, or expose for sale any article of manufacture, or any substance with any such marks so unlawfully applied, knowing that any such marks have been unlawfully applied, he shall forfeit for every such offence a sum not exceeding five pounds, which may be recovered by any person proceeding for the same by any of the ways hereinbefore directed with respect to penalties for pirating any such design.

XII. And be it enacted, that no action or other proceeding for any offence or injury under this act shall be brought after the expiration of twelve calendar months from the commission of the offence; and in every such action or other proceeding the party who shall prevail shall recover his full costs of suit or of such other proceeding.

Limitation of actions.

XIII. And be it enacted, that in the case of any summary proceeding before any two justices in England such justices are hereby authorized to award payment of costs to the party prevailing, and to grant a warrant for enforcing payment thereof against the summoning party, if unsuccessful, in the like manner as is hereinbefore provided for recovering any penalty with costs against any offender under this act.

Justices may order payment of costs in cases of summary proceeding.

XIV. And for the purpose of registering designs for articles of manufacture, in order to obtain the protection of this act, be it enacted, that the lords of the committee of Privy Council for the consideration of all matters of trade and plantations may appoint a person to be a Registrar of Designs for ornamenting articles of manufacture, and, if the lords of the said committee see fit, a Deputy Registrar, Clerks, and other necessary officers and servants; and such Registrar, Deputy Registrar, Clerks, Officers, and Servants, shall hold their offices during the pleasure of the lords of the said committee; and the Commissioners of the Treasury may from time to time fix the salary or remuneration of such Registrar, Deputy Registrar, clerks, officers, and servants; and, subject to the provisions of this act, the lords of the said committee may make rules for regulating the execution of the duties of the office of the said Registrar; and such Registrar shall have a seal of office.

Registrar, &c. of designs to be appointed.

Registrar's  
duties.

XV. And be it enacted, that the said Registrar shall not register any design in respect of any application thereof to ornamenting any articles of manufacture or substances, unless he be furnished, in respect of each such application, with two copies, drawings, or prints of such design, accompanied with the name of every person who shall claim to be the proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on his business, or other place of address, and the number of the class in respect of which such registration is made; and the Registrar shall register all such copies, drawings, or prints, from time to time successively, as they are received by him for that purpose; and on every such copy, drawing, or print he shall affix a number corresponding to such succession; and he shall retain one copy, drawing, or print, which he shall file in his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give ready access to the copies of designs so registered, he shall class such copies of designs, and keep a proper index of each class.

Certificate of  
registration of  
design.

XVI. And be it enacted, that upon every copy, drawing, or print of an original design so returned to the person registering as aforesaid, or attached thereto, and upon every copy, drawing, or print thereof received for the purpose of such registration, or of the transfer of such design being certified thereon or attached thereto, the Registrar shall certify under his hand that the design has been so registered, the date of such registration, and the name of the registered proprietor, or the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on his business, or other place of address, and also the number of such design, together with such number or letter or number and letter, and in such form as shall be employed by him to denote or correspond with the date of such registration; and such certificate made on every such original design, or on such copy thereof, and purporting to be signed by the Registrar or Deputy Registrar, and purporting to have the seal of office of such Registrar affixed thereto, shall in the absence of evidence to the contrary, be sufficient proof, as follows,

Of the design, and of the name of the proprietor therein mentioned, having been duly registered; and

Of the commencement of the period of registry; and

Of the person named therein as proprietor being the proprietor;  
and

Of the originality of the design; and

Of the provisions of this act, and of any rule under which the certificate appears to be made, having been complied with:

And any such writing purporting to be such certificate shall, in the absence of evidence to the contrary, be received as evidence, without proof of the handwriting of the signature thereto, or of the seal of office affixed thereto, or of the person signing the same being the Registrar or Deputy Registrar.

XVII. And be it enacted, that every person shall be at liberty to inspect any design whereof the copyright shall have expired, paying only such fee as shall be appointed by virtue of this act in that behalf; but with regard to designs whereof the copyright shall not have expired, no such design shall be open to inspection, except by a proprietor of such design or by any person authorized by him in writing, or by any person specially authorized by the Registrar, and then only in the presence of such Registrar or in the presence of some person holding an appointment under this act, and not so as to take a copy of any such design or of any part thereof, nor without paying for every such inspection such fee as aforesaid: provided always, that it shall be lawful for the said Registrar to give to any person applying to him, and producing a particular design, together with the registration mark thereof, or producing such registration mark only, a certificate stating whether of such design there be any copyright existing, and if there be, in respect to what particular article of manufacture or substance such copyright exists, and the term of such copyright, and the date of registration, and also the name and address of the registered proprietor thereof.

Inspection of registered designs.

XVIII. And be it enacted, that the Commissioners of the Treasury, shall from time to time fix fees to be paid for the services to be performed by the Registrar, as they shall deem requisite, to defray the expenses of the said office, and the salaries or other remuneration of the said Registrar and of any other persons employed under him, with the sanction of the Commissioners of the Treasury, in the execution of this act: and the balance, if any, shall be carried to the consolidated fund of the United Kingdom, and be paid accordingly into the receipt of her Majesty's Exchequer at Westminster; and the Commissioners of the Treasury may regu-

Application of fees of registration.

late the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for, and they may also remit or dispense with the payment of such fees in any cases, where they may think it expedient so to do: provided always, that the fee for registering a design to be applied to any woven fabric, mentioned or comprised in classes 7, 9, or 10, shall not exceed the sum of one shilling, that the fee for registering a design to be applied to a paper hanging shall not exceed the sum of ten shillings; and that the fee, to be received by the Registrar for giving a certificate relative to the existence or expiration of any copyright in any design printed on any woven fabric, yarn, thread, or warp, or printed, embossed, or worked on any paper hanging, to any person exhibiting a piece end of a registered pattern, with the registration mark thereon, shall not exceed the sum of two shillings and sixpence.

Penalty for  
extortion.

XIX. And be it enacted, that if either the Registrar or any person employed under him either demand or receive any gratuity or reward, whether in money or otherwise, except the salary or remuneration authorized by the Commissioners of the Treasury, he shall forfeit for every such offence fifty pounds to any person suing for the same by action of debt in the Court of Exchequer at Westminster; and he shall also be liable to be either suspended or dismissed from his office, and rendered incapable of holding any situation in the said office, as the Commissioners of the Treasury see fit.

Interpretation  
of act.

XX. And for the interpretation of this act, be it enacted, that the following terms and expressions, so far as they are not repugnant to the context of this act, shall be construed as follows: (that is to say,) the expression "Commissioners of the Treasury" shall mean the Lord High Treasurer for the time being, or the Commissioners of Her Majesty's Treasury for the time being, or any three or more of them; and the singular number shall include the plural as well as the singular number; and the masculine gender shall include the feminine gender as well as the masculine gender.

Alteration of  
act.

XXI. And be it enacted, that this act may be amended or repealed by any act to be passed in the present Session of Parliament.

## SCHEDULES referred to by the foregoing Act.

## SCHEDULE (A.)

DATE OF ACTS.	TITLE.
27 Geo. 3, c. 38. (1787.)	An Act for the encouragement of the arts of designing and printing linens, cottons, calicoes, and muslins, by vesting the properties thereof in the designers, printers, and proprietors for a limited time.
29 Geo. 3, c. 19. (1789.)	An Act for continuing an act for the encouragement of the arts of designing and printing linens, cottons, calicoes, and muslins, by vesting the properties thereof in the designers, printers, and proprietors for a limited time.
34 Geo. 3, c. 23. (1794.)	An Act for amending and making perpetual an act for the encouragement of the arts of designing and printing linens, cottons, calicoes, and muslins, by vesting the properties thereof in the designers, printers, and proprietors for a limited time.
2 Vict. c. 13. (1839.)	An Act for extending the copyright of designs for calico printing to designs for printing other woven fabrics.

## SCHEDULE (B.)

DATE OF ACT.	TITLE.
2 Vict. c. 17. (1839.)	An Act to secure to proprietors of designs for articles of manufacture the copyright of such designs for a limited time.

## SCHEDULE (C.)

DATE OF ACTS.	TITLE.
38 Geo. 3, c. 71. (1798.)	An Act for encouraging the art of making new models and casts of busts and other things therein mentioned.
54 Geo. 3, c. 56. (1814.)	An Act to amend and render more effectual an act for encouraging the art of making new models and casts of busts and other things therein mentioned, and for giving further encouragement to such arts

6 &amp; 7 Vict. c. 65.

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

5 & 6 Vict.  
c. 100.

Whereas by an act passed in the fifth and sixth years of the reign of her present Majesty, intituled "An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture," there was granted to the proprietor of any new and original design, with the exceptions therein mentioned, the sole right to apply the same to the ornamenting of any article of manufacture or any such substance as therein described during the respective periods therein mentioned: and whereas it is expedient to extend the protection afforded by the said act to such designs hereinafter mentioned, not being of an ornamental character, as are not included therein: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that this act shall come into operation on the first day of September one thousand eight hundred and forty-three.

Commence-  
ment of act.

Grant of  
copyright.

II. And with regard to any new or original design for any article of manufacture having reference to some purpose of utility, so far as such design shall be for the shape or configuration of such article, and that whether it be for the whole of such shape or configuration or only for a part thereof, be it enacted, that the proprietor of such design not previously published within the United Kingdom of Great Britain and Ireland or elsewhere shall have the sole right to apply such design to any article, or make or sell any article according to such design, for the term of three years, to be computed from the time of such design being registered according to this act: provided always, that this enactment shall not extend to such designs as are within the provisions of the said act, or of two other acts passed respectively in the thirty-eighth and fifty-fourth years of the reign of his late Majesty King George the Third and intituled respectively, "An Act for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned, and An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts, and other things therein mentioned."

Proviso.

38 G. 3, c. 71.

54 G. 3, c. 56.

III. Provided always, and be it enacted, that no person shall be entitled to the benefit of this act unless such design have before publication thereof been registered according to this act, and unless the name of such person shall be registered according to this act as a proprietor of such design, and unless after publication of such design every article of manufacture made by him according to such design, or on which such design is used, hath thereon the word "registered," with the date of registration.

Conditions of copyright.

IV. And be it enacted, that unless a design applied to any article of manufacture be registered either as aforesaid or according to the provisions of the said first mentioned act, and also after the copyright of such design shall have expired, it shall be unlawful to put on any such article the word "registered," or to advertise the same for sale as a registered article; and if any person shall so unlawfully publish, sell, or expose or advertise for sale any such article of manufacture, he shall forfeit for every such offence a sum not exceeding five pounds nor less than one pound, which may be recovered by any person proceeding for the same by any of the remedies hereby given for the recovery of penalties for pirating any such design.

Penalty for wrongfully using marks denoting a registered design.

V. And be it enacted, that all such articles of manufacture as are commonly known by the name of floor cloths or oil cloths, shall henceforth be considered as included in class six in the said first-mentioned act in that behalf mentioned, and be registered accordingly.

Floor or oil cloths included in class six.

VI. And be it enacted, that all and every the clauses and provisions contained in the said first-mentioned act, so far as they are not repugnant to the provisions contained in this act, relating respectively to the explanation of the term proprietor, to the transfer of designs, to the piracy of designs, to the mode of recovering penalties, to actions for damages, to cancelling and amending registrations, to the limitation of actions, to the awarding of costs, to the certificate of registration, to the fixing and application of fees of registration, and to the penalty for extortion, shall be applied and extended to this present act as fully and effectually and to all intents and purposes, as if the said several clauses and provisions had been particularly repeated and re-enacted in the body of this act.

Certain provisions of 5 & 6 Vict. c. 100, to apply to this act.

VII. And be it enacted, that so much of the said first-mentioned act as relates to the appointment of a Registrar of Designs

Appointment of Registrar, &c.



for ornamenting articles of manufacture, and other officers, as well as to the fixing of the salaries for the payment of the same, shall be and the same is hereby repealed; and for the purpose of carrying into effect the provisions as well of this act as of the said first-mentioned act, the Lords of the Committee of the Privy Council for the consideration of all matters of trade and plantations may appoint a person to be Registrar of Designs for articles of manufacture, and, if the lords of the said committee see fit, an Assistant Registrar and other necessary officers and servants; and such Registrar, Assistant Registrar, officers, and servants shall hold their offices during the pleasure of the lords of the said committee; and such Registrar shall have a seal of office; and the Commissioners of Her Majesty's Treasury may from time to time fix the salary or other remuneration of such Registrar, Assistant Registrar, and other officers and servants; and all the provisions contained in the said first-mentioned act, and not hereby repealed, relating to the Registrar, Deputy Registrar, clerks and other officers and servants thereby appointed and therein named, shall be construed and held to apply respectively to the Registrar, Assistant Registrar, and other officers and servants to be appointed under this act.

Registrar's  
duties.

VIII. And be it enacted, that the said Registrar shall not register any design for the shape or configuration of any article of manufacture as aforesaid unless he be furnished with two exactly similar drawings or prints of such design, with such description in writing as may be necessary to render the same intelligible according to the judgment of the said Registrar, together with the title of the said design, and the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode, or place of carrying on business, or other place of address; and every such drawing or print, together with the title and description of such design, and the name and address of the proprietor aforesaid, shall be on one sheet of paper or parchment, and on the same side thereof; and the size of the said sheet shall not exceed twenty-four inches by fifteen inches; and there shall be left on one of the said sheets a blank space on the same side on which are the said drawings, title, description, name, and address, of the size of six inches by four inches, for the certificate herein mentioned; and the said drawings or prints shall be made on a proper geometric scale; and the said description shall set forth such part or parts of the

Drawings.

said design (if any) as shall not be new or original; and the said Registrar shall register all such drawings or prints from time to time as they are received by him for that purpose; and on every such drawing or print he shall affix a number corresponding to the order of succession in the register, and he shall retain one drawing or print which he shall file at his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give a ready access to the designs so registered he shall keep a proper index of the titles thereof.

IX. And be it enacted, that if any design be brought to the said Registrar to be registered under the said first-mentioned act, and it shall appear to him that the same ought to be registered under this present act, it shall be lawful for the said Registrar to refuse to register such design otherwise than under the present act and in the manner hereby provided; and if it shall appear to the said Registrar that the design brought to be registered under the said first-mentioned act or this act is not intended to be applied to any article of manufacture, but only to some label, wrapper, or other covering in which such article might be disposed for sale, or that such design is contrary to public morality or order, it shall be lawful for the said Registrar, in his discretion, wholly to refuse to register such design: provided always, that the Lords of the said Committee of Privy Council may, on representation made to them by the proprietor of any design so wholly refused to be registered as aforesaid, if they shall see fit, direct the said Registrar to register such design, whereupon and in such case the said Registrar shall be and is hereby required to register the same accordingly.

X. And be it enacted, that every person shall be at liberty to inspect the index of the titles of the designs, not being ornamental designs, registered under this act, and to take copies from the same, paying only such fees as shall be appointed by virtue of this act in that behalf; and every person shall be at liberty to inspect any such design, and to take copies thereof, paying such fee as aforesaid; but no design whereof the copyright shall not have expired shall be open to inspection, except in the presence of such Registrar, or in the presence of some person holding an appointment under this act, and not so as to take a copy of such design, nor without paying such fee as aforesaid.

XI. And, for the interpretation of this act, be it enacted, that the following terms and expressions, so far as they are not repug-

Discretionary power as to registry vested in the Registrar.

Proviso.

Inspection of index of titles of designs, &c.

Interpretation of act.

nant to the context of this act, shall be construed as follows; (that is to say,) the expression "Commissioners of the Treasury" shall mean the Lord High Treasurer for the time being, or the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland for the time being, or any three or more of them; and the singular number shall include the plural as well as the singular number, and the masculine gender shall include the feminine gender as well as the masculine gender.

XII. And be it enacted, that this act may be amended or repealed by any act to be passed in the present Session of Parliament.

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6 & 7 Vict. c. 68.

*An Act for regulating Theatres.*

[22nd August, 1843.]

Whereas it is expedient that the laws now in force for regulating theatres and theatrical performances be repealed, and other provisions be enacted in their stead: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that an act passed in the third year of the reign of King James the First, intituled "An Act to restrain the Abuses of Players;" and so much of an act passed in the tenth year of the reign of King George the Second for the more effectual preventing the unlawful playing of interludes within the precincts of the two universities in that part of Great Britain called England, and the places adjacent, as is now in force; and another act passed in the tenth year of the reign of King George the Second, intituled "An Act to explain and amend so much of an Act made in the Twelfth Year of the Reign of Queen Anne, intituled 'An Act for reducing the Laws relating to Rogues, Vagabonds, Sturdy Beggars, and Vagrants into One Act of Parliament, and for the more effectual punishing such Rogues, Vagabonds, Sturdy Beggars, and Vagrants, and sending them whither they ought to be sent, as relates to common Players of Interludes;" and another act passed in the twenty-eighth year of the reign of King George the Third, inti-

Repeal of  
3 Jac. 1, c. 21.

Part of 10  
Geo. 2, c. 19.

10 Geo. 2,  
c. 28.

tuled "An Act to enable Justices of the Peace to license Theatrical Representations occasionally, under the Restrictions therein contained," shall be repealed: provided always, that any license now in force granted by the Lord Chamberlain, or granted by any justices of the peace under the provisions of the last-recited act, shall continue in force for the times for which the same were severally granted, or until revoked by the authority by which they were severally granted.

28 Geo. 3,  
c. 30.

Proviso as to  
licenses now  
in force.

II. And be it enacted, that, except as aforesaid, it shall not be lawful for any person to have or keep any house or other place of public resort in Great Britain, for the public performance of stage plays, without authority by virtue of letters patent from her Majesty, her heirs and successors, or predecessors, or without license from the Lord Chamberlain of her Majesty's household for the time being, or from the justices of the peace as hereinafter provided; and every person who shall offend against this enactment shall be liable to forfeit such sum as shall be awarded by the Court in which or the justices by whom he shall be convicted, not exceeding twenty pounds for every day on which such house or place shall have been so kept open by him for the purpose aforesaid, without legal authority.

All theatres  
for the per-  
formance of  
plays must be  
licensed.

III. And be it enacted, that the authority of the Lord Chamberlain for granting licenses shall extend to all theatres (not being patent theatres) within the parliamentary boundaries of the cities of London and Westminster, and of the boroughs of Finsbury and Marylebone, the Tower Hamlets, Lambeth, and Southwark, and also within those places where her Majesty, her heirs and successors, shall, in their royal persons, occasionally reside: provided always, that, except within the cities and boroughs aforesaid, and the boroughs of New Windsor in the county of Berks, and Brighthelmstone in the county of Sussex, licenses for theatres may be granted by the justices as hereinafter provided, in those places in which her Majesty, her heirs and successors, shall occasionally reside; but such licenses shall not be in force during the residence there of her Majesty, her heirs and successors; and during such residence it shall not be lawful to open such theatres as last aforesaid (not being patent theatres) without the license of the Lord Chamberlain.

What licenses  
shall be  
granted by  
the Lord  
Chamberlain.

IV. And be it enacted, that for every such license granted by the Lord Chamberlain a fee, not exceeding ten shillings for each

Fee for Lord  
Chamberlain's  
license.

calendar month during which the theatre is licensed to be kept open, according to such scale of fees as shall be fixed by the Lord Chamberlain, shall be paid to the Lord Chamberlain.

Licenses may  
be granted by  
Justices.

V. And be it enacted, that the justices of the peace within every county, riding, division, liberty, cinque port, city, and borough in Great Britain beyond the limits of the authority of the Lord Chamberlain, in which application shall have been made to them for any such license as is herein-after mentioned, shall, within twenty-one days next after such application shall have been made to them in writing signed by the party making the same, and countersigned by at least two justices acting in and for the division within which the property proposed to be licensed shall be situate, and delivered to the clerk to the said justices, hold a special session in the division, district, or place for which they usually act, for granting licenses to houses for the performance of stage plays, of the holding of which session seven days' notice shall be given by their clerk to each of the justices acting within such division, district, or place; and every such license shall be given under the hands and seals of four or more of the justices assembled at such special session, and shall be signed and sealed in open Court, and afterwards shall be publicly read by the clerk, with the names of the justices subscribing the same.

Fee for Jus-  
tices license.

VI. And be it enacted, that for every such license granted by the justices a fee, not exceeding five shillings for each calendar month during which the theatre is licensed to be kept open, according to such scale of fees as shall be fixed by the justices, shall be paid to the clerk of the said justices.

To whom  
licenses shall  
be granted.

VII. And be it enacted, that no such license for a theatre shall be granted by the Lord Chamberlain or justices to any person except the actual and responsible manager for the time being of the theatre in respect of which the license shall be granted; and the name and place of abode of such manager shall be printed on every play bill announcing any representation at such theatre; and such manager shall become bound himself in such penal sum as the Lord Chamberlain or justices shall require, being in no case more than five hundred pounds, and two sufficient sureties, to be approved by the said Lord Chamberlain or justices, each in such penal sum as the Lord Chamberlain or justices shall require, being in no case more than one hundred pounds, for the due observance of the rules which shall be in force at any time during

the currency of the license for the regulation of such theatre, and for securing payment of the penalties which such manager may be adjudged to pay for breach of the said rules, or any of the provisions of this act.

VIII. And be it enacted, that in case it shall appear to the Lord Chamberlain that any riot or misbehaviour has taken place in any theatre licensed by him, or in any patent theatre, it shall be lawful for him to suspend such license or to order such patent theatre to be closed for such time as to him shall seem fit; and it shall also be lawful for the Lord Chamberlain to order that any patent theatre or any theatre licensed by him shall be closed on such public occasions as to the Lord Chamberlain shall seem fit; and while any such license shall be suspended, or any such order shall be in force, the theatre to which the same applies shall not be entitled to the privilege of any letters patent or license, but shall be deemed an unlicensed house.

Rules for the theatres under the control of the Lord Chamberlain.

IX. And be it enacted, that the said justices of the peace at a special licensing session, or at some adjournment thereof, shall make suitable rules for insuring order and decency at the several theatres licensed by them within their jurisdiction, and for regulating the times during which they shall severally be allowed to be open, and from time to time, at another special session, of which notice shall be given as aforesaid, may rescind or alter such rules: and it shall be lawful for any one of her Majesty's principal Secretaries of State to rescind or alter any such rules, and also to make such other rules for the like purpose, as to him shall seem fit: and a copy of all rules which shall be in force for the time being shall be annexed to every such license; and in case any riot or breach of the said rules in any such theatre shall be proved on oath before any two justices usually acting in the jurisdiction where such theatre is situated, it shall be lawful for them to order that the same be closed for such time as to the said justices shall seem fit; and while such order shall be in force the theatre so ordered to be closed shall be deemed an unlicensed house.

Rules for enforcing order in the theatres licensed by the Justices.

X. Provided always, and be it enacted, that no such license shall be in force within the precincts of either of the universities of Oxford or Cambridge, or within fourteen miles of the city of Oxford or town of Cambridge, without the consent of the Chancellor or Vice Chancellor of each of the said universities re-

Proviso for the Universities of Oxford and Cambridge.

spectively; and that the rules for the management of any theatre which shall be licensed with such consent within the limits aforesaid shall be subject to the approval of the said Chancellor or Vice Chancellor respectively; and in case of the breach of any of the said rules, or of any condition on which the consent of the Chancellor or Vice Chancellor to grant any such license shall have been given, it shall be lawful for such Chancellor or Vice Chancellor respectively to annul the license, and thereupon such license shall become void.

Penalty on persons performing in unlicensed places.

XI. And be it enacted, that every person who for hire shall act or present, or cause, permit, or suffer to be acted or presented, any part in any stage play, in any place not being a patent theatre or duly licensed as a theatre, shall forfeit such sum as shall be awarded by the Court in which or the justices by whom he shall be convicted, not exceeding ten pounds for every day on which he shall so offend.

No new plays or additions to old ones to be acted until submitted to the Lord Chamberlain.

XII. And be it enacted, that one copy of every new stage play, and of every new act, scene, or other part added to any old stage play, and of every new prologue or epilogue, and of every new part added to an old prologue or epilogue, intended to be produced and acted for hire at any theatre in Great Britain, shall be sent to the Lord Chamberlain of her Majesty's household for the time being, seven days at least before the first acting or presenting thereof, with an account of the theatre where and the time when the same is intended to be first acted or presented, signed by the master or manager, or one of the masters or managers, of such theatre; and during the said seven days no person shall for hire act or present the same, or cause the same to be acted or presented; and in case the Lord Chamberlain, either before or after the expiration of the said period of seven days, shall disallow any play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, it shall not be lawful for any person to act or present the same, or cause the same to be acted or presented, contrary to such disallowance.

Fees to be paid for examination of plays, &c.

XIII. And be it enacted, that it shall be lawful for the Lord Chamberlain to charge such fees for the examination of the plays, prologues, and epilogues, or parts thereof, which shall be sent to him for examination, as to him from time to time shall seem fit, according to a scale which shall be fixed by him, such fee not being in any case more than two guineas, and such fees shall be

paid at the time when such plays, prologues, and epilogues, or parts thereof, shall be sent to the Lord Chamberlain; and the said period of seven days shall not begin to run in any case until the said fee shall have been paid to the Lord Chamberlain, or to some officer deputed by him to receive the same.

XIV. And be it enacted, that it shall be lawful for the Lord Chamberlain for the time being, whenever he shall be of opinion that it is fitting for the preservation of good manners, decorum, or of the public peace so to do, to forbid the acting or presenting any stage play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, anywhere in Great Britain, or in such theatres as he shall specify, and either absolutely or for such time as he shall think fit.

The Lord Chamberlain may forbid any play.

XV. And be it enacted, that every person who for hire shall act or present, or cause to be acted or presented, any new stage play, or any act, scene, or part thereof, or any new prologue or epilogue, or any part thereof, until the same shall have been allowed by the Lord Chamberlain, or which shall have been disallowed by him, and also every person who for hire shall act or present, or cause to be acted or presented, any stage play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, contrary to such prohibition as aforesaid, shall for every such offence forfeit such sum as shall be awarded by the Court in which or the justices by whom he shall be convicted, not exceeding the sum of fifty pounds; and every license (in case there be any such) by or under which the theatre was opened, in which such offence shall have been committed, shall become absolutely void.

Penalty for acting plays before they are allowed or after they have been disallowed.

XVI. And be it enacted, that in every case in which any money or other reward shall be taken or charged, directly or indirectly, or in which the purchase of any article is made a condition for the admission of any person into any theatre to see any stage play, and also in every case in which any stage play shall be acted or presented in any house, room, or place in which distilled or fermented exciseable liquor shall be sold, every actor therein shall be deemed to be acting for hire.

What shall be evidence of acting for hire.

XVII. And be it enacted, that in any proceedings to be instituted against any person for having or keeping an unlicensed theatre, or for acting for hire in an unlicensed theatre, if it shall be proved that such theatre is used for the public performance of

Proof of license in certain cases to lie on the party accused.



stage plays, the burden of proof that such theatre is duly licensed or authorized shall lie on the party accused, and until the contrary shall be proved such theatre shall be taken to be unlicensed.

Proceedings begun before the passing of this act may be discontinued.

XVIII. And be it enacted, that after the passing of this act it shall be lawful for any person against whom any action or information shall have been commenced, for the recovery of any forfeiture or pecuniary penalty incurred under the said act of the tenth year of the reign of King George the Second, to apply to the Court in which such action or information shall have been commenced, if such Court shall be sitting, or if such Court shall not be sitting to any Judge of either of the Superior Courts at Westminster, for an order that such action or information shall be discontinued, upon payment of the costs thereof incurred to the time of such application being made, such costs to be taxed according to the practice of such Court; and every such Court or Judge (as the case may be,) upon such application, and proof that sufficient notice has been given to the plaintiff or informer, or to his attorney, of the application, shall make such order as aforesaid; and upon the making such order, and payment or tender of such costs as aforesaid, such action or information shall be forthwith discontinued.

Penalties how to be recoverable.

XIX. And be it enacted, that all the pecuniary penalties imposed by this act for offences committed in England may be recovered in any of Her Majesty's Courts of Record at Westminster, and for offences committed in Scotland by action or summary complaint before the Court of Session or Justiciary there, or for offences committed in any part of Great Britain in a summary way before two justices of the peace for any county, riding, division, liberty, city, or borough where any such offence shall be committed, by the oath or oaths of one or more credible witness or witnesses, or by the confession of the offender, and in default of payment of such penalty together with the costs, the same may be levied by distress and sale of the offender's goods and chattels, rendering the overplus to such offender, if any there be above the penalty, costs, and charge of distress; and for want of sufficient distress the offender may be imprisoned in the common gaol or house of correction of any such county, riding, division, liberty, city, or borough for any time not exceeding six calendar months.

Appeal.

XX. And be it enacted, that it shall be lawful for any person

who shall think himself aggrieved by any order of such justices of the peace to appeal therefrom to the next general or quarter session of the peace to be holden for the said county, riding division, liberty, city, or borough, whose order therein shall be final.

XXI. And be it enacted, that the said penalties for any offence against this act shall be paid and applied in the first instance toward defraying the expenses incurred by the prosecutor, and the residue thereof (if any) shall be paid to the use of Her Majesty, her heirs and successors. Appropriation of penalties.

XXII. Provided always, and be enacted, that no person shall be liable to be prosecuted for any offence against this act unless such prosecution shall be commenced within six calendar months after the offence committed. Limitation of actions.

XXIII. And be it enacted, that in this act the word "stage-play" shall be taken to include every tragedy, comedy, farce, opera, burletta, interlude, melodrama, pantomime, or other entertainment of the stage, or any part thereof: provided always, that nothing herein contained shall be construed to apply to any theatrical representation in any booth or show which by the justices of the peace, or other persons having authority in that behalf, shall be allowed in any lawful fair, feast, or customary meeting of the like kind. Interpretation of act.

XXIV. And be it enacted, that this act shall extend only to Great Britain. Limits of the act.

XXV. And be it enacted, that this act may be amended or repealed by any act to be passed in this session of Parliament. Act may be amended this session.

7 & 8 Vict. c. 12.

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

Whereas by an act passed in the session of Parliament held in the first and second years of the reign of her present Majesty, 1 & 2 Vict. intituled "An Act for securing to Authors in certain Cases the Benefit of International Copyright" (and which act is hereinafter, c. 69.

for the sake of perspicuity, designated as "the International Copyright Act"), her Majesty was empowered by Order in Council to direct that the authors of books which should after a future time, to be specified in such Order in Council, be published in any foreign country, to be specified in such Order in Council, and their executors, administrators, and assigns, should have the sole liberty of printing and reprinting such books within the British dominions for such term as her Majesty should by such Order in Council direct, not exceeding the term which authors, being British subjects, were then (that is to say), at the time of passing the said act, entitled to in respect of books first published in the United Kingdom; and the said act contains divers enactments securing to authors and their representatives the copyright in the books to which any such Order in Council should extend: and whereas an act was passed in the session of Parliament held in the fifth and sixth years of the reign of her present Majesty, intituled "An Act to amend the Law of Copyright" (and which act is hereinafter, for the sake of perspicuity, designated as "the Copyright Amendment Act"), repealing various acts therein mentioned relating to the copyright of printed books, and extending, defining, and securing to authors and their representatives the copyright of books: and whereas an act was passed in the session of Parliament held in the third and fourth years of the reign of his late Majesty King William the Fourth, intituled "An Act to amend the Laws relating to Dramatic Literary Property" (and which act is hereinafter, for sake of perspicuity, designated as "the Dramatic Literary Property Act"), whereby the sole liberty of representing or causing to be represented any dramatic piece in any place of dramatic entertainment in any part of the British dominions, which should be composed and not printed or published by the author thereof or his assignee, was secured to such author or his assignee; and by the said act it was enacted, that the author of any such production which should thereafter be printed and published, or his assignee, should have the like sole liberty of representation until the end of twenty-eight years from the first publication thereof: and whereas by the said Copyright Amendment Act the provisions of the said Dramatic Literary Property Act and of the said Copyright Amendment Act were made applicable to musical compositions; and it was thereby also enacted, that the sole liberty of representing or performing, or

5 & 6 Vict.  
c. 45.

3 & 4 Wm. 4,  
c. 15.

causing or permitting to be represented or performed, in any part of the British dominions, any dramatic piece or musical composition, should endure and be the property of the author thereof and his assigns for the term in the said Copyright Amendment Act provided for the duration of the copyright in books, and that the provisions therein enacted in respect of the property of such copyright should apply to the liberty of representing or performing any dramatic piece or musical composition; and whereas under or by virtue of the four several acts next hereinafter mentioned; (that is to say), an act passed in the eighth year of the reign of 8 G. 2, c. 13. his late Majesty King George the Second, intituled "An Act for the Encouragement of the Arts of designing, engraving, and etching historical and other Prints, by vesting the Properties thereof in the Inventors or Engravers during the time therein mentioned;" an act passed in the seventh year of his late Majesty 7 G. 3, c. 38. King George the Third, intituled "An Act to amend and render more effectual an Act made in the Eighth Year of the reign of King George the Second, for Encouragement of the Arts of designing, engraving, and etching historical and other Prints; and for vesting in and securing to Jane Hogarth, Widow, the Property in certain Prints;" an act passed in the seventeenth year of the 17 G. 3. c. 57. reign of his late Majesty King George the Third, intituled "An Act for more effectually securing the Property of Prints to Inventors and Engravers, by enabling them to sue for and recover Penalties in certain Cases;" and an act passed in the session of 6 & 7 Wm. 4, c. 59. Parliament held in the sixth and seventh years of the reign of his late Majesty King William the Fourth, intituled "An Act to extend the Protection of Copyright in Prints and Engravings to Ireland;" (and which said four several acts are hereinafter, for the sake of perspicuity, designated as the Engraving Copyright Acts); every person who invents or designs, engraves, etches, or works in mezzotinto or chiaro oscuro, or from his own work, design, or invention causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro oscuro any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and every person who engraves, etches, or works in mezzotinto or chiaro oscuro, or causes to be engraved, etched, or worked, any print taken from any picture, drawing, model, or sculpture, either ancient or modern, notwithstanding such print

shall not have been graven or drawn from the original design of such graver, etcher, or draftsman, is entitled to the copyright of such print for the term of twenty-eight years from the first publishing thereof; and by the said several Engraving Copyright Acts it is provided that the name of the proprietor shall be truly engraved on each plate, and printed on every such print, and remedies are provided for the infringement of such copyright: and whereas under and by virtue of an act passed in the thirty-eight year of the reign of his late Majesty King George the Third, intituled "An Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned,"

8 G. 3, c. 71.

54 G. 3, c. 56. and of an act passed in the fifty-fourth year of the reign of his late Majesty King George the Third, intituled "An Act to amend and render more effectual an Act of his present Majesty, for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned, and for giving further encouragement to such Arts" (and which said acts are, for the sake of perspicuity, hereinafter designated as the Sculpture Copyright Acts), every person who makes or causes to be made any new and original sculpture, or model or copy or cast of the human figure, any bust or part of the human figure clothed in drapery or otherwise, any animal or part of any animal combined with the human figure or otherwise, any subject, being matter of invention in sculpture, any alto or basso relievo, representing any of the matters aforesaid, or any cast from nature of the human figure or part thereof, or of any animal or part thereof, or of any such subject representing any of the matters aforesaid, whether separate or combined, is entitled to the copyright in such new and original sculpture, model, copy, and cast, for fourteen years from first putting forth and publishing the same, and for an additional period of fourteen years in case the original maker is living at the end of the first period; and by the said acts it is provided that the name of the proprietor, with the date of the publication thereof, is to be put on all such sculptures, models, copies, and casts, and remedies are provided for the infringement of such copyright: and whereas the powers vested in her Majesty by the said International Copyright Act are insufficient to enable her Majesty to confer upon authors of books first published in foreign countries copyright of the like duration, and with the like remedies for the infringement thereof, which are conferred and provided by the said Copyright Amend-

ment act with respect to authors of books first published in the British dominions; and the said International Copyright Act does not empower her Majesty to confer any exclusive right of representing or performing dramatic pieces or musical compositions first published in foreign countries upon the authors thereof, nor to extend the privilege of copyright to prints and sculpture first published abroad; and it is expedient to vest increased powers in her Majesty in this respect, and for that purpose to repeal the said International Copyright Act, and to give such other powers to her Majesty, and to make such further provisions, as are hereinafter contained: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the said recited act herein designated as the International Copyright Act shall be and the same is hereby repealed.

Repeal of  
International  
Copyright Act.

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

Her Majesty,  
by Order in  
Council, may  
direct, that  
authors, &c.,  
of works first  
published in  
foreign  
countries shall  
have copyright  
therein within  
her Majesty's  
dominions.

III. And be it enacted, that in case any such order shall apply to books, all and singular the enactments of the said Copyright Amendment Act, and of any other act for the time being in force with relation to the copyright in books first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation [as to the duration of the copyright as shall be therein contained,] apply to and be in force in respect of the books to which such order shall

If the order ap-  
plies to books,  
the copyright  
law as to books  
first published  
in this country  
shall apply to  
the books to  
which the order  
relates, with  
certain excep-  
tions.

extend, and which shall have been registered as hereinafter is provided, in such and the same manner as if such books were first published in the United Kingdom, save and except such of the said enactments, or such parts thereof, as shall be excepted in such order, and save and except such of the said enactments as relate to the delivery of copies of books at the British Museum, and to or for the use of the other libraries mentioned in the said Copyright Amendment Act.

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

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

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

V. And be it enacted, that it shall be lawful for her Majesty, by any order of her Majesty in Council, to direct that the authors of dramatic pieces and musical compositions which shall after a future time, to be specified in such order, be first publicly represented or performed in any foreign country to be named in such order, shall have the sole liberty of representing or performing in any part of the British dominions such dramatic pieces or musical compositions during such period as shall be defined in such order, not exceeding the period during which authors of dramatic pieces and musical compositions first publicly represented or performed in the United Kingdom may for the time be entitled by law to the sole liberty of representing and performing the same: and from and after the time so specified in any such last-mentioned order the enactments of the said Dramatic Literary Property Act and of the

said Copyright Amendment Act, and of any other act for the time being in force with relation to the liberty of publicly representing and performing dramatic pieces or musical compositions, shall, subject to such limitation as to the duration of the right conferred by any such order as shall be therein contained, apply to and be in force in respect of the dramatic pieces and musical compositions to which such order shall extend, and which shall have been registered as hereinafter is provided, in such and the same manner as if such dramatic pieces and musical compositions had been first publicly represented and performed in the British dominions, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

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

Particulars to be observed as to registry and to delivery of copies.



compositions in manuscript, the title to the same, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the right of representing or performing the same, and the time and place of the first representation or performance thereof in the country named in the Order in Council under which the benefit of the act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London; and as regards prints, the title thereof, the name and place of abode of the inventor, designer, or engraver thereof, the name of the proprietor of the copyright therein, and the time and place of the first publication thereof in the foreign country named in the Order in Council under which the benefits of the act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London, and a copy of such print, upon the best paper upon which the largest number or impressions of the print shall have been printed for sale, shall be delivered to the officer of the Company of Stationers at the Hall of the said company; and as regards any such article of sculpture or any such other work of art as aforesaid, a descriptive title thereof, the name and place of abode of the maker thereof, the name of the proprietor of the copyright therein, and the time and place of its first publication in the foreign country named in the Order in Council under which the benefit of this act shall be claimed shall be entered in the said register book of the said Company of Stationers in London; and the officer of the said Company of Stationers receiving such copies so to be delivered as aforesaid shall give a receipt in writing for the same, and such delivery shall to all intents and purposes be a sufficient delivery under the provisions of this act.

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

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

The provisions of the Copyright Amendment Act as regards entries in the register

VIII. And be it enacted, that the several enactments in the said Copyright Amendment Act contained with relation to keeping the said register book, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof,

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

book of the  
Company of  
Stationers, &c.  
to apply to  
entries under  
this act.

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

As to expung-  
ing or varying  
entry grounded  
in wrongful  
first publica-  
tion.

X. And be it enacted, that all copies of books wherein there shall be any subsisting copyright under or by virtue of this act, or of any Order in Council made in pursuance thereof, printed or reprinted in any foreign country except that in which such books were first published, shall be and the same are hereby absolutely

Copies of books  
wherein copy-  
right is subsist-  
ing under this  
act, printed  
in foreign  
countries other  
than those

wherein the book was first published prohibited to be imported.

prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright thereof, or his agent authorized in writing, and if imported contrary to this prohibition, the same and the importers thereof shall be subject to the enactments in force relating to goods prohibited to be imported by any act relating to the Customs; and as respects any such copies so prohibited to be imported, and also as respects any copies unlawfully printed in any place whatsoever of any books wherein there shall be any such subsisting copyright as aforesaid, any person who shall in any part of the British dominions import such prohibited or unlawfully printed copies, or who, knowing such copies to be so unlawfully imported or unlawfully printed, shall sell, publish, or expose to sale or hire, or shall cause to be sold, published, or exposed to sale or hire, or have in his possession for sale or hire, any such copies so unlawfully imported or unlawfully printed, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought and prosecuted in the same Courts and in the same manner, and with the like restrictions upon the proceedings of the defendant, as are respectively prescribed in the said Copyright Amendment Act with relation to actions thereby authorized to be brought by proprietors of copyright against persons importing or selling books unlawfully printed in the British dominions.

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

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

Second or subsequent editions.

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

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

XIII. And be it enacted, that the respective terms to be specified by such Orders in Council respectively for the continuance of the privilege to be granted in respect of works to be first published in foreign countries may be different for works first published in different foreign countries and for different classes of such works; and that the times to be prescribed for the entries to be

made in the register book of the Stationers' Company; and for the deliveries of the books and other articles to the said officer of the Stationers' Company, as hereinbefore is mentioned, may be different for different foreign countries and for different classes of books or other articles.

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

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

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

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

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

Orders in Council to be laid before Parliament.

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

Orders in Council may be revoked.

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

Translations.

XIX. And be it enacted, that neither the author of any book, nor the author or composer of any dramatic piece or musical composition, nor the inventor, designer, or engraver of any print, nor the maker of any article of sculpture, or of such other work of art as aforesaid, which shall after the passing of this act be first published out of her Majesty's dominions, shall have any copyright therein respectively, or any exclusive right to the public representation or performance thereof, otherwise than such (if any) as he may become entitled to under this act.

Authors of works first published in foreign countries not entitled to copyright except under this act.

Interpretation  
clause.

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

Act may be  
repealed this  
session.

XXI. And be it enacted, that this act may be amended or repealed by any act to be passed in this present session of Parliament.

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## 10 &amp; 11 Vict. c. 95.

*An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.*

[22nd July, 1847.]

Whereas by an act passed in the session of Parliament holden in the fifth and sixth years of her present Majesty, intituled "An Act to amend the Law of Copyright," it is amongst other things enacted, that it shall not be lawful for any person not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed or published in any part of the United Kingdom wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions: and whereas by an act passed in the session of Parliament holden in the eighth and ninth years of the reign of her present Majesty, intituled "An Act to regulate the Trade of the British Possessions abroad," books wherein the copyright is subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, are absolutely prohibited to be imported into the British possessions abroad: and whereas by the said last cited act it is enacted, that all laws, bye-laws, usages, or customs in practice, or endeavoured or pretended to be in force or practice in any of the British possessions in America, which are in anywise repugnant to the said act or to any act of Parliament made or to be made in the United Kingdom, so far as such act shall relate to and mention the said possessions, are and shall be null and void to all intents and purposes whatsoever: Now be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that in case the Legislature or proper legislative authorities in any British possession shall be disposed to make due provision for securing or protecting the rights of British authors in such possession, and shall pass an act or make an ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be

5 & 6 Vict.  
c. 45.

8 & 9 Vict.  
c. 93.

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

into the colonies in certain cases.

submitted to her Majesty, and in case her Majesty shall be of opinion that such act or ordinance is sufficient for the purpose of securing to British authors reasonable protection within such possession, it shall be lawful for her Majesty, if she think fit so to do, to express her royal approval of such act or ordinance, and thereupon to issue an Order in Council declaring that so long as the provisions of such act or ordinance continue in force within such colony the prohibitions contained in the aforesaid act, and hereinbefore recited, and any prohibitions contained in the said acts or any other acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards such colony; and thereupon such act or ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council, anything in the said last-recited act or in any other act to the contrary notwithstanding.

Orders in Council to be published in *Gazette*.

Orders in Council and the Colonial Acts or Ordinances to be laid before Parliament.

Act may be amended, &c.

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

III. And be it enacted, that this act may be amended or repealed by any act to be passed in the present session of Parliament.

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12 & 13 Vict. c. 109.

*An Act to amend an Act to regulate certain Offices in the Petty Bag in the High Court of Chancery, the Practice of the Common Law Side of that Court, and the Enrolment Office of the said Court.*  
[1st August, 1849.]

11 & 12 Vict.  
c. 94.

Whereas an Act was passed in the last session of Parliament, intituled "An Act to regulate certain Offices in the Petty Bag in

the High Court of Chancery, the Practice of the Common Law Side of that Court, and the Enrolment Office of the said Court:” and whereas it is expedient to repeal some of the provisions of the said act, and to enact other provisions in lieu thereof: Be it therefore enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the said recited act, except so much thereof as relates to abolishing the offices of the senior, second, and third clerks of the Petty Bag of the said High Court of Chancery, and providing compensation to the said senior and second clerks, to the appointment of an officer of the said Court to be and be called “The Clerk of the Petty Bag,” and to the appointment of Francis George Abbott as such clerk of the Petty Bag, shall be and the same is hereby repealed: provided nevertheless, that the repeal of the said act shall not revive any of the offices or authorize the taking of any fees thereby abolished, or invalidate or affect any appointment, proceeding, enrolment, act, matter, or thing already made or done, or any proceeding already commenced or instituted, under the said act, but all such appointments, proceedings, enrolments, acts, matters, and things shall be as good, valid, and effectual, to all intents and purposes, as if the said act had not been repealed, and all such proceedings shall be carried on, prosecuted and conducted (in any case in which the same may be inconsistent with the provisions of or not provided for in this act) in the same manner as they would have been carried on, prosecuted, or conducted if the said act had not been repealed.

Recited act repealed.

II. And be it enacted, that the clerk of the Petty Bag for the time being shall execute and perform the duties of his office in person and not by deputy: provided always, that whenever the clerk of the Petty Bag for the time being, by reason of sickness or other unavoidable cause, shall be unable to perform the duties of or shall have occasion to be absent from the business of his office, it shall be lawful for such clerk, by any writing under his hand, with the approbation of the Master of the Rolls, in writing under his hand, to appoint to be his deputy such person, and for such time, to be limited in such appointment and approbation, as the Master of the Rolls shall or may approve of as fit and proper for that purpose: provided also, that whenever the said clerk for the time being shall from any cause be unable to execute

Clerk of the Petty Bag to execute his duties in person, except in case of sickness, &c., when he may appoint a deputy, with consent of the Master of the Rolls.



or perform or be absent from the attendance upon the duties of his office, without having appointed or renewed the appointment of a deputy in manner aforesaid, it shall be lawful for the Master of the Rolls, by any writing under his hand, to appoint such person to be and act as the deputy of such clerk; during such inability or absence of the said clerk for the time being as the said Master of the Rolls shall think fit; and every deputy appointed in manner aforesaid, and who shall accept of such appointment, shall during the time for which he shall be appointed have and possess all and every of the same or the like powers and authorities as the clerk of the said Petty Bag for the time being, and shall perform and be subject to all and every of the like duties and regulations as the said clerk for the time being; and every deputy appointed in manner aforesaid shall be paid such sum out of the salary of his principal as the Master of the Rolls shall by any writing under his hand direct; and the appointment and approbation of every such deputy as aforesaid shall be filed of record, and preserved in the office of the Petty Bag, or such other office as the Master of the Rolls shall order or direct.

Clerk of Petty Bag to hold office during good behaviour, and on vacancy to be filled up by the Master of the Rolls.

III. And be it enacted, that whenever and so soon as any vacancy shall occur in the office of the said Francis George Abbott or any future clerk of the Petty Bag, whether by death, resignation, removal or otherwise, the Master of the Rolls shall, by some writing under his hand, appoint some fit and proper person to be clerk of the Petty Bag, every person so appointed being a person who for the space of five years has been an attorney of one of her Majesty's Superior Courts of Common Law, or a solicitor of the High Court of Chancery, and has during that period actually practised as such attorney or solicitor, and for whose appointment no pecuniary or other consideration whatsoever shall be directly or indirectly paid, given, or received; and the said Francis George Abbott, and every qualified person so appointed as aforesaid, shall hold his office during good behaviour, and shall or may be removed from his office by the Master of the Rolls, with the consent and approbation of the Lord Chancellor, for such misconduct or other cause as by him shall be deemed sufficient to justify such removal; and every such appointment of a clerk as aforesaid, and every order for the removal of a clerk from his office, shall be filed of record in the said office, or such other office of the said Court as the said Master of the Rolls shall order or direct.

Clerk of the Petty Bag to

IV. And be it enacted, that the clerk of the Petty Bag for the

time being appointed by or in pursuance of the said recited act or of this act shall have, possess, and exercise all and every of the powers, authorities, rights, and privileges which before the passing of the said recited act have been held, possessed, or exercised by the said senior, second, and third clerks; and the said clerk of the Petty Bag for the time being shall also perform and be subject and liable to all and every of the services, duties and regulations which the said senior, second, and third clerks, or any of them, but for the passing of the said recited act, would have been bound to perform or be subject or liable to: provided always, that the said clerk of the Petty Bag for the time being shall not by virtue of his office be an attorney of the said Court, and shall not, directly or indirectly, by himself or together with any partner, in his own name or in the name of any other person, practise, be, or act as the attorney, or the agent of any attorney, of any person whomsoever, in, about, or for the purpose of any action, suit, writ, proceeding, matter, or thing in the said office of the Petty Bag, or upon or in the Common Law side of the said Court of Chancery.

perform all the duties and be subject to all the regulations of the senior and other clerks, but not to be an attorney of the Court.

V. And be it enacted, that no person to be appointed to the office of clerk of the Petty Bag at any time after the said Francis George Abbott shall have ceased to hold the said office shall at any time whilst he shall continue to hold the said office, either directly or indirectly, by himself or together with any partner or person, in his own name or in the name of any other person, practise or act as an attorney or solicitor, or as the agent of the attorney or solicitor, in any Court of Law or Equity: provided also, that in case the salary payable to the said Francis George Abbott in pursuance of this act shall at any time hereafter be increased so as to amount to eight hundred pounds per annum, then and in such case the said Francis George Abbott shall not at any time whilst he shall continue to hold the said office, either directly or indirectly, by himself or together with any partner or person, or other person, in his own name or in the name of any other person, practise or act as an attorney or solicitor, or as the agent of any attorney or solicitor, in any Court of Law or Equity.

Clerk of the Petty Bag not to act as attorney or solicitor.

VI. And be it enacted, that out of the fund standing to the credit of the Accountant General of the Court of Chancery intituled "The Suitors' Fee Fund Account" there shall be paid (but subject and without prejudice to the payment of all salaries and sums of money which by any act or acts now in force are directed or

Salary of Clerk of Petty Bag.

authorized to be paid thereout) by the Governor and Company of the Bank of England, by virtue of any order or orders to be made from time to time by the Lord Chancellor, to the said clerk of the Petty Bag the yearly sum or salary of six hundred pounds, such yearly sum or salary to be payable free from all taxes, deductions, and abatements whatsoever out of the same or any part thereof, the said salary to commence and be computed from the first day of January, one thousand eight hundred and forty-nine, and to be payable and paid by equal quarterly payments on the first day of January, the first day of April, the first day of July, and the first day of October in every year: provided always, that in case the Lord Chancellor shall, with the advice and assistance of the Master of the Rolls for the time being, at any time or times hereafter, transfer to the said office of the Petty Bag any further or other portion of the business of or in the said Court of Chancery, or shall assign any business or service for the suitors of the said Court of Chancery to be done or transacted by the said clerk of the Petty Bag, then and in every such case it shall be lawful for the said Lord Chancellor (if he shall think fit) to order and direct that the salary of the said clerk of the Petty Bag shall be increased to such amount, not exceeding eight hundred pounds per annum, and shall be payable and paid out of the said fund intituled "The Suitors' Fee Fund Account" (but subject as aforesaid), as the Lord Chancellor shall think proper and reasonable, having due regard to the whole of the duties to be performed by such clerk; and that in the event of the death, resignation, or removal of the said Francis George Abbott, or of any officer appointed under this act, in the interval between any of the quarterly days of payment on which his salary is hereby made payable, the officer so resigning or being removed, or the executors or administrators of the officer so dying, shall be entitled to receive and shall be paid such proportionate part of his said salary as shall have accrued from the next preceding quarterly day of payment to the day of such death, resignation, or removal, and the person who shall be appointed to succeed any such officer so dying, resigning, or being removed as aforesaid shall be entitled to receive and be paid such portion of the said salary as shall accrue from the day of his appointment to the next succeeding quarterly day of payment.

Clerk of  
Petty Bag  
may appoint

VII. And be it enacted, that the Clerk of the Petty Bag may appoint to assist him in the business of his office such clerk or

clerks as the Master of the Rolls shall from time to time by any order direct, and may from time to time remove any such clerk, and fill up all vacancies in the office of such clerks, whether occasioned by death, resignation, or removal; and that every such clerk shall be entitled under this act to such salary as the Lord Chancellor shall, with such advice and assistance as aforesaid, by any order direct; provided that if there shall be only one such clerk his salary shall not exceed the sum of two hundred and fifty pounds per annum, and that if such clerks shall be more than one at the same time the amount of such salaries shall not in any one year exceed the sum which, if equally divided between them, would admit of a salary of two hundred and fifty pounds for each such clerk, and that such salary or salaries shall be paid and payable out of the said fund intituled "The Suitors' Fee Fund Account," by virtue of any order or orders to be made from time to time by the Lord Chancellor, the said salary or salaries to commence and be computed from the said first day of January one thousand eight hundred and forty-nine, and to be payable and paid by equal quarterly payments on the said quarterly days as hereinbefore mentioned.

such clerks to assist him, as the Master of the Rolls may direct, to be paid by salary.

VIII. And be it enacted, that it shall be lawful for the Lord Chancellor, by virtue of any order made for that purpose, to order payment, at such times and in such manner, and out of the said fund intituled "The Suitors' Fee Fund Account," (but subject as aforesaid), of all such sums as shall appear to him to be reasonable and proper to be paid for the writing and copying of office copies of records, and ingrossing patents, writs, and other documents to be prepared in the said office, and for the drawing and copying of plans attached to such office copies, and for books, stationery, coals, candles, and other necessary articles for the said Petty Bag Office, and for payment of wages to a laundress and office keeper for the care and cleaning of the said Petty Bag Office, and for all expenses incident to the discharge of the duties of the said office.

Salaries and expenses to be paid out of the Suitors' Fee Fund.

IX. And be it enacted, that if any officer or clerk of the said Court, appointed or to be appointed under or by virtue of the said recited act or of this act, shall, for anything done or pretended to be done relating to his office or employment, or under colour of doing anything relating to his office or employment, or for forbearing to do any act properly appertaining thereto, demand or accept, or allow any person whatsoever to take for him or on his account, or for or on

Penalty on officers for taking gratuities, &c.

account of or in trust for him, or any other person named by him, any gratuity, perquisite, or reward, or anything of value other than and except the lawful fees of his office for which he is accountable, and the salary or remuneration allowed or to be allowed to such officer or clerk, it shall be lawful for the Master of the Rolls, with the consent and approbation of the Lord Chancellor, and he is hereby empowered and required, in every such case, upon his being satisfied that any such officer or clerk charged with any such offence is guilty thereof, to remove him from his office or employment; and every person so removed shall be and he is hereby rendered incapable for ever thereafter of holding any office, situation, or employment in any of the Courts of Law or Equity in the United Kingdom, or of otherwise serving her Majesty, her heirs or successors, in any manner whatsoever; and every order for removing any such officer or clerk as aforesaid shall be filed of record in such office as the Master of the Rolls shall order or direct.

Power to Lord Chancellor and Master of the Rolls to regulate the transfer of business from time to time.

X. And be it enacted, that it shall be lawful for the Lord Chancellor, with the advice and assistance of the Master of the Rolls for the time being, from time to time to transfer any of the business heretofore done in the said office of the clerk of the Petty Bag to any other officer of the High Court of Chancery, and to transfer any portion of the business of any other office of the High Court of Chancery to the office of the clerk of the Petty Bag, and thereupon the officers respectively charged with the duties of such offices to which such business shall be transferred shall do and perform the duties consequent on such transfer in like manner as if the same had been theretofore performed in such office to which the same shall be transferred, subject to such regulations, as to the payment of fees and otherwise, as the Lord Chancellor, with the advice and assistance of the Master of the Rolls, shall order or direct.

Seal of office to be provided and kept, and may be cancelled or altered from time to time.

XI. And be it enacted, that a seal shall be provided and kept for the said Court, which shall be and be called the Chancery Common Law Seal, and such seal shall be in such form as the Lord High Chancellor, with the advice and assistance of the Master of the Rolls, shall or may from time to time order or direct; and the said Lord Chancellor, with such advice and assistance as aforesaid, shall or may from time to time order or direct that any seal for the time being so provided or kept as aforesaid shall be cancelled or laid aside, and another seal substituted, kept, and used in lieu thereof;

and all Courts, tribunals, judges, justices, officers, and other persons whomsoever, shall take notice of the said seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof, all and every of such writs, proceedings, instruments, documents, and writings whatsoever which shall purport or appear to be sealed or stamped with the said Chancery Common Law Seal for the time being, in like manner as if the same had been sealed with the Great Seal.

XII. And be it enacted, that the clerk of the Petty Bag shall, upon request, and payment of the proper fees payable in respect thereof, indorse or write upon every specification which at any time heretofore has been enrolled in the Petty Bag Office (provided the enrolment shall then be in his custody), and upon every deed, instrument in writing, and document which at any time heretofore has been or at any time hereafter shall be enrolled in the Petty Bag Office, a certificate stating that such specification, deed, instrument in writing, or document has been or was enrolled in the said Petty Bag Office, and the day of such enrolment, and shall cause such certificate to be sealed or stamped with the said Chancery Common Law Seal; and every such certificate purporting or appearing to be so sealed or stamped shall be admitted and received in evidence as well before either House of Parliament as also before any committee thereof and also by and before all Courts, tribunals, judges, justices, and other persons whomsoever without further proof, and as sufficient *prima facie* evidence that the specification, deed, instrument in writing, or document therein mentioned was duly enrolled in the Petty Bag Office on the day mentioned in such certificate.

XIII. And be it enacted, that every office copy issued from the Petty Bag Office shall be sealed with the said Chancery Common Law Seal for the time being; and every document sealed with such Seal and purporting to be a copy of any record or other document of any description, shall be deemed to be a true copy of any record or other document, and shall, without further proof, be admissible and admitted and received in evidence, as well before either House of Parliament as also before any committee thereof, and also by and before all Courts, tribunals, judges, justices, officers, and other persons whomsoever, in like manner and to the same extent and effect as the original record or other document would or might be

Certificates  
of enrolment  
in the Petty  
Bag Office.

Copies of  
documents  
sealed to be  
received as  
evidence with-  
out further  
proof.

admissible or admitted or received if tendered in evidence, as well for the purpose of proving the contents of such record or other document, as also proving such record or other document to be a record or document of or belonging to the said Court of Chancery, but not further or otherwise.

Writs, &c.,  
issued out of  
Petty Bag  
Office to be  
sealed with  
the Chancery  
common-law  
seal.

XIV. And be it enacted, that all rules and orders issued out of the Petty Bag Office, and all such writs, records, instruments, documents, proceedings, and writings as are or have been usually issued or delivered out of the Petty Bag Office, and made under or sealed with the Great Seal, except the Congé d'élire, Royal Assent, Patent of Assistance, and Writs of Restitution of Temporalities on the election of an archbishop or bishop, special commissions of inquiry, writs of mittimus to the Lord Chancellor of Ireland, exemplifications, and writs of summons and writs of election issued on the calling of a new Parliament, shall be made under or sealed or stamped with the said Chancery Common Law Seal for the time being; and every writ, record, document, instrument, proceeding, and writing which shall or may be made under or sealed or stamped with the said Chancery Common Law Seal for the time being shall be of the like validity, and shall have the same force and effect as if the same had been or were made or sealed with the Great Seal.

Specifications  
to be enrolled  
in the Enrol-  
ment Office.

5 & 6 Wm. 4,  
c. 83.

XV. And be it enacted, that every specification or instrument in writing for describing or ascertaining any invention, and to be enrolled in Chancery in pursuance of letters patent under the Great Seal, shall be enrolled in the Enrolment Office of the Court of Chancery; and every disclaimer and memorandum of alteration to be enrolled in pursuance of an act passed in the sixth year of the reign of his late Majesty King William the Fourth, entitled "An Act to amend the Law touching Letters Patent for Inventions," shall also be enrolled in the said Enrolment Office, whether the specification of the invention to which such disclaimer or memorandum of alteration shall relate shall or shall have been enrolled in the said Enrolment Office; and the enrolment of every such disclaimer and memorandum of alteration in the said Enrolment Office shall be and be deemed to be the enrolment thereof in the proper office in pursuance of the provisions of the said act.

For enlarging  
offices of the  
Six Clerks.  
15 Geo. 3,  
c. 56.

XVI. And whereas by an act passed in the fifteenth year of the reign of King George the Third, intituled "An Act for applying the Funds provided for rebuilding the Offices of the Six Clerks of

the King's Court of Chancery by an Act made in the Fourteenth Year of the Reign of His present Majesty, intituled 'An Act for rebuilding the Office of the Six Clerks of the King's Court of Chancery, and for erecting Offices for the Register and Accountant General of the said Court, for the better preserving the Records, Decrees, Orders, and Books of Account, kept in such Offices,' in building Offices for the said Six Clerks in the Garden of Lincoln's Inn, instead of rebuilding the present Six Clerks' Office in Chancery Lane, and for other Purposes," a piece of ground belonging to the Honorable Society of Lincoln's Inn, containing in length from east to west on the south side thereof fifty-four feet six inches of assize, abutting south on a piece of ground then sold by the said society for the purpose of the Six Clerks' Office and an Enrolment Office being erected thereon, east on Chancery Lane, north on the north wall of the garden of the said society, and west on ground belonging to the said society, was vested in the said Six Clerks, to hold to them and their successors for ever, but it was thereby provided and enacted (amongst other things) that no building whatsoever should be erected within thirty feet of the western boundary of such piece of ground: And whereas by an act passed in the fifth and sixth years of the reign of her present Majesty, intituled "An Act for abolishing certain Offices of the High Court of Chancery in England," the ground and hereditaments by the last-recited act vested in the Six Clerks were vested in the Accountant General of the said Court of Chancery, and his successors in the said office for ever: And whereas the said Enrolment Office now forms the southern boundary of that portion of the said piece of ground whereon no building was to be erected as aforesaid, and which portion has ever since remained and still is vacant: And whereas it has become requisite, for the due performance of the business of such office, that the same should be enlarged; but such enlargement cannot be conveniently effected without building upon such vacant piece of ground: And whereas the said society have consented to the same being built upon, in manner hereinafter mentioned: Be it therefore enacted, that it shall be lawful for the Lord High Chancellor to cause to be erected on that part of the said vacant piece of ground adjoining to the said Enrolment Office a room or building according to the plan and dimensions following: that is to say, the height thereof is not to exceed twelve feet, the length thereof is not to exceed

5 & 6 Vict.  
c. 103.



twenty-three feet, and the width thereof is not to exceed sixteen feet, the flue or chimney shaft of the building is to be carried at the back, and to form part of and to be uniform with and not to exceed in height the stack of chimnies now standing at the north end of the said Enrolment Office, and the windows thereof are to face the north, and no flue, chimney, or windows are to be made on any other side or part thereof, and the western wall thereof is to be not less than four feet from the western boundary of the said piece of ground: Provided nevertheless, that, save as aforesaid, the provisions and restrictions contained in the said recited act of the fifteenth year of the reign of King George the Third respecting the said piece of ground shall continue in force, to all intents and purposes and in like manner as if this act had not been passed; and it shall be lawful for the Lord Chancellor, by virtue of any order made for that purpose, to order payment, at such times and in such manner, and out of the said fund entitled "The Suitors' Fee Fund Account," but subject as aforesaid, of all such sums as shall appear to him to be reasonable and proper to be paid for or in respect of the erection of such room or building as aforesaid.

Seal as approved by Master of the Rolls to be provided for the Enrolment Office.

XVII. And whereas it is expedient to facilitate the proof of the due enrolment of specifications, deeds, and other instruments in the said Enrolment Office, and also of copies of the enrolments thereof: Be it therefore enacted, that such a seal or stamp as the Master of the Rolls shall approve of shall be provided and kept in the said Enrolment Office; and from time to time, when the Master of the Rolls shall think fit, a new seal or stamp shall be provided in place of any seal or stamp for the time being kept and used in the said office, and whenever any new seal or stamp shall be so provided the old seal shall be forthwith cancelled; and the seal for the time being kept and used in the said Enrolment Office in pursuance of this act shall be and be called the Seal of the Enrolment Office in Chancery, and all Courts and other tribunals, judges, justices, officers, and other persons whomsoever, shall take notice of the said seal of the Chancery Enrolment Office, and shall take notice of and receive in evidence every instrument and writing purporting or appearing to be sealed or stamped therewith, without proof that the same has been so sealed or stamped.

Certificates of enrolment

XVIII. And be it enacted, that the clerk of the said Enrolment

Office, or his deputy or assistant, shall, upon request, and payment of the proper fees payable in respect thereof, indorse or write upon every deed, specification, instrument in writing, and document which at any time heretofore has been or at any time hereafter shall be enrolled in the said Enrolment Office, a certificate that such deed, specification, instrument in writing, or document has been or was enrolled in Chancery, and the day on which such enrolment was made, and shall cause such certificate to be sealed or stamped with the said seal of the Chancery Enrolment Office; and every such certificate purporting or appearing to be so sealed or stamped shall be admitted and received in evidence by all Courts and other tribunals, judges, justices, and others, without further proof, and as sufficient *prima facie* evidence that the deed, specification, document, or instrument in writing therein mentioned was duly enrolled in the Court of Chancery on the day and at the time mentioned in such certificate.

to be given,  
and when  
sealed, shall  
be admitted  
as evidence.

XIX. And be it enacted, that every document or writing sealed or stamped or purporting or appearing to be sealed or stamped with the said seal of the Chancery Enrolment Office, and purporting to be a copy of any enrolment or other record, or of any other document or writing of any description whatsoever, including any drawings, maps, or plans thereunto annexed or indorsed thereon, shall be deemed to be a true copy of such enrolment, record, document, or writing, and of such drawing, map, or plan (if any) thereunto annexed, and shall, without further proof, be admissible and admitted evidence, as well before either House of Parliament as also before any committee thereof, and also by and before all Courts, tribunals, judges, justices, officers, and other persons whomsoever, in like manner and to the same extent and effect as the original enrolment, record, document, or writing could or might be admissible or admitted in evidence, as well for the purpose of proving the contents of such enrolment, record, document, or writing, and the drawing, map, or plan (if any) thereunto annexed, as also proving such enrolment, record, document, or writing to be an enrolment, record, document, or writing of or belonging to the said Court of Chancery, and that such enrolment, record, document, or writing was made, acknowledged, prepared, filed, or entered on the day and at the time when the original enrolment, record, document, or writing shall purport to have been made, acknowledged, prepared, filed, or entered.

Copies of  
enrolments  
stamped with  
seal of Enrol-  
ment Office to  
be admitted  
in evidence.

Punishment  
for forging  
or altering  
any seal or  
document.

**XX.** And be it enacted, that if any person shall falsely make, forge, or counterfeit any seal made, provided, used, or kept in pursuance of this act for or in the said Court or any office thereof, or shall falsely make or alter any seal so as to resemble, purport, or appear to be a seal made, provided, used, or kept in pursuance of this act or for or in the said Court or any office thereof, or shall use or tender in evidence or utter any impression made by any seal so falsely made, forged, counterfeited, or altered as aforesaid, knowing the same to have been so falsely made, forged, counterfeited, or altered as aforesaid, or shall forge or shall unlawfully and falsely make or alter any writ, record, document, instrument, proceeding, or writing of or belonging to or made or prepared in or issuing out of, or appearing or purporting to be of or belonging to or made or prepared in or issuing out of, any such office as aforesaid, or out of the said Court of Chancery, or shall use or tender in evidence or utter any writ, record, document, instrument, proceeding, or writing so unlawfully or falsely made or altered as aforesaid, knowing the same to have been so unlawfully or falsely made or altered, or shall unlawfully and falsely seal or stamp with any seal made, prepared, kept, or used for or in any of the said offices, or for or in the said Court of Chancery, any writ, record, document, instrument, proceeding, or writing purporting or appearing to be or resembling, or intended to purport or appear to be or resemble, a writ, record, document, instrument, proceeding, or writing of or belonging to or made or prepared in or issuing out of any of the said offices or the said Court of Chancery, or shall fraudulently use or tender in evidence or utter any writ, record, document, instrument, proceeding, or writing so unlawfully or falsely sealed or stamped as aforesaid, then and in every such case every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence, and being thereof lawfully convicted, shall be adjudged guilty of felony.

Power to  
Lord Chan-  
cellor, &c., to  
fix a table of  
fees.

**XXI.** And be it enacted, that it shall and may be lawful for the Lord Chancellor, with the advice and assistance of the Master of the Rolls, and he is hereby required, from time to time, to establish and ordain a table of fees to be thereafter taken by the said clerk of the Petty Bag, and for the Lord Chancellor, with such advice and assistance as aforesaid, from time to time afterwards to vary and modify the same as he shall think fit, and the

fees so for the time being established or ordained shall be deemed and taken to be the lawful fees of the Petty Bag Office: provided always, that no fees whatever shall be demanded or received by the clerk of the Petty Bag, or by any person employed by him in the said office, for or in respect of any act, duty, or service required to be done, performed, or rendered by him, them, or any of them in the course of any proceedings carried on in the said office directly at her said Majesty's instance, suit, and charge, except such fees as have been heretofore payable out of the Hanaper for the writs of summons and writs of election and other fees on the calling of a new Parliament; and the said clerk of the Petty Bag, and the several persons employed by him in the said office, are hereby authorized and required to perform and render such acts, duties, and services as may be required in the course of such last-mentioned proceedings, without payment of any fee whatsoever in respect thereof, except as aforesaid.

No fees to be taken in respect of duties performed at Her Majesty's suit.

XXII. And be it enacted, that nothing herein contained shall prohibit the said clerk of the Petty Bag from receiving the annual payments or allowances heretofore receivable by the clerks of the Petty Bag from the Hanaper, or any sum or sums of money which shall from time to time become payable out of the fees on the admission of solicitors, by virtue of any order or orders to be made in respect thereof; and all such monies shall be taken to be fees received by the said clerk in his office, or by virtue thereof, to be accounted for as herein-after mentioned.

Clerk of Petty Bag to receive and pay over certain monies.

XXIII. And be it enacted, that the said clerk of the Petty Bag shall cause a true and accurate account to be kept of all fees received in his office or by virtue thereof, and shall pay the full and just amount of such fees into the Bank of England, to be placed to the account there standing in the name of the Accountant General intituled "The Suitors' Fee Fund Account," at such times and under such regulations as the Lord Chancellor, with the advice and assistance of the Master of the Rolls, shall by any order direct.

Clerk of Petty Bag to keep accounts of fees received, and pay the same into the Suitors' Fee Fund.

XXIV. And be it enacted, that every person who has heretofore been admitted a solicitor of the said Court of Chancery, and who is now a solicitor of the said Court, shall by virtue of his admission and this act become and be an attorney of the said Court and every person hereafter to be admitted a solicitor of the said Court shall by virtue of such admission become an attorney of the

Solicitors to be entitled to practise as attorneys in the common law side of Chancery.

said Court, and the solicitor of her Majesty, the solicitor of each of the several public boards of this realm, and every person so to become an attorney of the said Court as aforesaid, shall be allowed and entitled to practice as an attorney on the Common Law side of the said Court of Chancery, any law or usage to the contrary notwithstanding, upon payment, nevertheless of such fees as shall or may be payable in respect of the business transacted by the said attornies; and all such documents, proceedings, writings, acts, duties, services, matters, and things as before the passing of the said recited act were or ought to be prepared, conducted, done, or performed by the said senior, second, and third clerks of the Petty Bag respectively, as the attornies of or for their clients respectively, shall or may from and after the passing of this act be prepared, conducted, done, and performed by such clients respectively in their own proper persons, or by some person who shall become or be admitted and actually be an attorney of the said Court by virtue of this act, and not by any other person whomsoever.

Same costs to be allowed as in courts of common law.

XXV. And be it enacted, that every attorney or party practising on the Common Law side of the Court of Chancery shall be entitled to charge and be paid and allowed such costs, fees, and charges for the transaction of business on the Common Law side of the said Court as is or are allowed to attornies or parties for business of a similar nature in her Majesty's Superior Courts of Common Law.

Writs may be tested in term time or in vacation.

XXVI. And be it enacted, that every writ of any description whatsoever hereafter to be issued out of the said office of the Petty Bag shall or may be issued or tested on any day, not being a Sunday, Good Friday, or Christmas Day, whether such day shall be in Term time or in Vacation; and every such writ so issued or tested on any day in Vacation, and which, according to any present law or usage or practice of or in the said Court of Chancery, ought to be tested on some day in Term time, shall be of the like validity, force, and effect as if the day of the issuing or testing of such writ was actually a day in Term time.

Writs may be made returnable in term time or in vacation.

XXVII. And be it enacted, that every writ of any description whatsoever hereafter to be issued out of the said office of the Petty Bag, whether the same shall or may be returnable in the same Court or in any other Court of her Majesty's Superior Courts of Common Law, shall or may be made returnable and returned on any

day certain to be in such writ mentioned (not being a Sunday, Good Friday, or Christmas day), whether such day shall be in Term time or in Vacation, or forthwith after the execution thereof; and every such writ which shall be made returnable or returned on any day in Vacation, and which according to any present law or usage or practice of or in the said office of the Petty Bag, ought to be made returnable or to be returned on some day in Term time, shall be of the like validity, force, and effect as if the day upon which the same writ shall or may be returned or made returnable was actually a day in Term time: provided always, that in every case in which any particular period of time ought to elapse between the teste and return of any writ, such writ if made returnable forthwith after the execution thereof, shall be returned immediately after the execution thereof, and after such period shall have elapsed.

**XXVIII.** And be it enacted, that every rule, order, pleading, judgment, execution, proceeding, act, business, matter, and thing to be made, entered, intituled, filed, given, issued, taken, transacted, done, or performed in or by the said Court of Chancery at any time after the passing of this act, shall or may be so made, taken, transacted, done, or performed on any day, not being a Sunday, Good Friday, or Christmas day, whether such day shall be in Term time or in Vacation; and every such rule, order, pleading, judgment, execution, proceeding, act, business, matter, and thing as aforesaid, which shall be so made, entered, intituled, filed, given, issued, taken, transacted, done, or performed in Vacation, or in any day in Term time or in Vacation, and which, according to any present law, or any present practice or usage of the said office of the Petty Bag, can or ought only to be made, entered, intituled, filed, given, issued, taken, transacted, done or performed in Term time, or as in Term time, or as on any or some particular day or days in Term time, shall be of the like validity, force, and effect as if the day upon which the same shall or may be so made, entered, intituled, filed, given, issued, taken, transacted, done, or performed, was actually a day in Term time, and as if the same was actually made, entered, intituled, filed, given, issued, taken, transacted, done, or performed in Term time, and not in Vacation, and the day or one of the days in Term time required by any such law, practice, or usage as aforesaid.

Proceedings  
of the Court  
may be either  
in Term time  
or in Vacation.

Writs of scire facias may be directed to sheriff of any county.

XXIX. And be it enacted, that any writ of *scire facias* for repealing, cancelling, or vacating any letters patent or charter, which shall or may at any time hereafter be issued in any action at the suit of her Majesty, hereafter to be commenced, shall or may be directed and sent to the sheriff of any county in England or Wales, although the record upon which such writ shall be founded or issued may be or remain in the county of Middlesex or any other county, and that it shall not be necessary that any such writ which at any time hereafter may be issued and directed to the sheriff of any such county as aforesaid shall be a *testatum* writ, or founded upon any previous writ directed or sent to the sheriff of Middlesex or any other county.

Declarations to be delivered, and not filed.

XXX. And be it enacted, that in case any defendant in any action, suit or proceeding already or hereafter to be commenced shall appear on the Common Law side of the Court of Chancery, in person or by attorney, to answer in such action, suit, or proceeding, it shall not be necessary to file any declaration, but the plaintiff or prosecutor, or his attorney, shall deliver the declaration to such defendant or his attorney, and shall also at the same time, in any action of *scire facias* to repeal letters patent for inventions, deliver to such defendant or his attorney the notice of objections (if any) required by the provisions of an act passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled "An Act to amend the Law touching Letters Patent for Inventions," and it shall not be necessary at any time hereafter to file any notice of objections required by the said last-mentioned act, but only to deliver the same to the defendant or his attorney, as required by this act; and that on the traverse of an inquisition found the traverse shall be filed in the Petty Bag Office, and the traverser or his attorney shall deliver a copy thereof to the opposite party or his attorney.

5 & 6 Wm. 4,  
c. 83.

Pleadings to be delivered, and not filed.

XXXI. And be it enacted, that in any such action, suit, or proceeding as aforesaid no demurrer, or any plea or pleading subsequent to the declaration or traverse, shall be filed in the said office of the Petty Bag or otherwise in the said Court of Chancery; and that in every such action, suit, or proceeding every such demurrer, plea, and subsequent pleading shall be delivered by the party demurring or pleading, or his attorney, to the opposite party or his attorney, and that the issue in any such action, suit or proceeding

shall be delivered only, and not filed, and shall or may be made up and delivered by either party or his attorney to the opposite party or his attorney.

**XXXII.** And be it enacted, that in case any issue respecting any matter of fact to be tried by the country has at any time heretofore been or shall at any time hereafter be joined in any action, suit or proceeding on the Common Law side of the Court of Chancery, then and in every such case the record shall be made up and filed in the office of the Petty Bag; and it shall and may be lawful to try such issue in fact in any one of the three Courts of Queen's Bench, Common Pleas, or Exchequer of Pleas; and in every such case the writ of *venire facias juratores* for summoning a jury to try such issue shall or may be made returnable and returned in such of the said three Courts as the issue is intended to be tried in; and a transcript of the said record in Chancery, containing such issue, shall or may thereupon be sent or taken into the Court in which such writ of *venire facias* shall be made returnable, in like manner as records containing issues may now be sent or taken from the Common Law side of the said Court of Chancery into the Court of Queen's Bench, and it shall not be necessary to issue any writ of *mittimus* or other writ for the sending or taking such transcript into either of the said Courts; and in case such writ of *venire facias* shall be made returnable in either of the said Courts of Common Pleas or Exchequer of Pleas, such Court shall, upon the transcript of the said record being brought into such Court, proceed to try such issue either at bar or at *nisi prius*, as such Court shall think fit, and in like manner as such issue would or might have been tried in the Court of Queen's Bench in case such writ of *venire facias* had been made returnable in that Court, and the said transcript, or the original record, had been taken or deemed to be taken by the Lord Chancellor into that Court; and upon any such transcript as aforesaid being taken or brought into either of the said Courts of Common Pleas or Exchequer of Pleas such Court shall or may issue such writs, make such rules, and proceed therein in all respects for the trial or other lawful determination of the issue therein contained, in like manner as the Court of Queen's Bench could or might have done if such transcript or the original record had been taken into the Court of Queen's Bench, and with full power to set aside or vacate any trial,

Issues may be tried in any of the Superior Courts.



verdict, or other proceeding, in like manner as could or might have been done by the said Court of Queen's Bench.

Record of issue to be filed in the office of the Petty Bag.

XXXIII. And be it enacted, that in case any issue or issues in law, or issues both in fact and in law, shall be joined in any action, suit, or proceeding on the Common Law side of the Court of Chancery, then and in such case the record of such issue or issues shall be made up and filed in the office of the Petty Bag, and a transcript of the said record shall or may thereupon be sent or taken into any one of the three Courts of Queen's Bench, Common Pleas, or Exchequer; and such Courts shall, upon the transcript being brought into any such Court, proceed to hear and determine the same, in like manner as issues in law or issues in law and fact from the Common Law side of the said Court of Chancery have heretofore been heard and determined in the Court of Queen's Bench.

Superior Courts of common law to have same powers as in actions pending in their Courts.

XXXIV. And be it enacted, that the said Courts of Queen's Bench, Common Pleas, and Exchequer, and the Judges thereof respectively, shall have the same power and authority in respect of the transcript of any record brought before them as aforesaid, and the pleadings, issues, and matters therein contained, as they have in respect of the record in any action, suit or proceeding commenced or pending in such Court, and the pleadings, issues, and matters in such record contained: provided always, that nothing herein contained shall authorize the giving final judgment in any case in which the Court of Queen's Bench has not heretofore had such authority.

Superior Courts to give same judgment as Queen's Bench.

XXXV. And be it enacted, that upon the trial or determination of any such issue or issues as aforesaid had or completed in any action, suit, or proceeding from the Common Law side of the Court of Chancery, the Court in which such issue or issues shall be so tried or determined shall proceed to give judgment thereon, and execute such judgment, in like manner as could or might have been done by the Court of Queen's Bench before the passing of the said recited act or of this act.

A transcript of proceedings in Courts of common law may be taken into Chancery.

XXXVI. And be it enacted, that upon the trial or determination of any issue or issues by the said Superior Courts of Common Law, or upon any rule or order being made or judgment given in any action, suit, or proceeding in which the transcript of the record shall be brought before them as aforesaid, a transcript of

such judgment, rule, or order, and of the proceedings of the Court of Common Law upon such issue or issues, may be taken into the said Court of Chancery, to the end that judgment may be given or such other proceeding had in Chancery, according to the law and custom of England; and no writ of mittimus or other writ shall be necessary for the purpose of remanding or taking a transcript of the proceedings in the Superior Courts of Common Law into the said Court of Chancery.

XXXVII. And be it enacted, that in all cases where any party shall be entitled to the costs of any such issues, or of any other proceedings or matters provided for by this act, in any of the said Courts, such costs shall be taxed and regulated by one of the Masters of the said Court respectively, who shall endorse his allocatur on the rule or order, as the case may be, or upon the postea, before the same shall be taken or returned into the Court of Chancery as aforesaid. Costs to be taxed

XXXVIII. And be it enacted, that every writ which shall or may, at any time after this act shall come into operation, lawfully issue out of the said office of the Petty Bag, under the said Chancery Common Law Seal, and every record and proceeding whatsoever on the Common Law side of the said Court of Chancery, shall be prepared, engrossed, and issued by the party requiring or conducting the same, subject nevertheless to such rules and regulations as shall or may be made and for the time being in force, by virtue of this act or otherwise, for regulating the practice of the Common Law side of the said Court of Chancery, and also subject to the payment of such lawful fees as shall or may be payable for or in respect thereof; and upon payment of such fees, and complying with such rules, such writs, records, and proceedings shall (when necessary, and if lawful and regular), be duly sealed. Writs and proceedings to be prepared by parties or their attorneys.

XXXIX. And be it enacted, that in every action, suit, and proceeding now pending or which at any time hereafter shall be commenced or pending in the said Court of Chancery on the Common Law side thereof, it shall be lawful for the Superior Courts of Common Law, and the Judges thereof respectively, and they are hereby respectively required, to hear and determine all such matters or applications arising in or incident to any such action, suit, or proceeding as aforesaid, as before the passing of Judges may dispose of matters raising or incident to any action on the common-law side of the Court of Chancery.

this act might have been heard and determined by the Lord Chancellor and the Master of the Rolls, or either of them, and also to transact, do, and perform all such business, matters, and things, in, about, touching, or concerning any action, suit, or proceeding on the Common Law side of the said Court of Chancery as by virtue of any orders or regulations for the time being in force by virtue of this act may be transacted, done, or performed by such Judge; subject nevertheless and according to the provisions of this act, and the laws, rules, and regulations for the time being in force for the regulation of the said Court and the practice and proceedings thereof.

Master of the Rolls may make orders for the custody, &c., of the records.

**XL.** And be it enacted, that it shall and may be lawful for the Master of the Rolls to make such rules, orders, and regulations from time to time for the transfer, care, and custody of the records, enrolments, indexes, books, documents, or other proceedings now or hereafter to be filed, lodged, or be in the said office of the Petty Bag, or in the custody of the said clerk of the said office, and the endorsement thereof, and the filing of writs and other proceedings, and all other matters and things relating to the matters aforesaid, as to the Master of the Rolls shall seem fit and proper.

General rules and orders may be made.

**XLI.** And be it enacted, that it shall be lawful for the Lord Chancellor, with the advice and assistance of the Master of the Rolls, from time to time hereafter to make such alterations, orders, rules, and regulations as he shall, with such advice and assistance as aforesaid, think fit, in and respecting the said office of the Petty Bag, and the business and practice thereof, the duties of the said clerk, and the transaction, management, and conduct of the business thereof, and also in and respecting the modes of suing out, preparing, engrossing, issuing, sealing, signing, serving, executing, and returning writs, process, rules, notices, and other instruments issuing out of or authorized or required by the said Court or the practice thereof, and also from time to time to rescind, alter, or vary such alterations, orders, rules, and regulations: provided always, that no such alterations, orders, rules, or regulations as aforesaid shall be contrary to or inconsistent with the provisions of this act.

Officers privilege of suing abolished.

**XLII.** And be it enacted, that no person whomsoever who now is or at any time hereafter shall be an officer of the said Court of

Chancery shall at any time after the passing of this act have or be entitled as such officer to any privilege of suing or being sued on the Common Law side of the said Court of Chancery.

**XLIII.** Provided always, and be it enacted, that nothing hereinbefore contained shall hinder or prevent any action or suit already commenced by or against any officer of the said Court of Chancery from being prosecuted, and that the parties in or to every such action or suit shall or may, by themselves or by their attornies respectively (to be by them respectively appointed), prosecute and defend such action or suit, and that judgment shall or may be given in such action or suit, or such action or suit otherwise disposed of, in like manner as if this act had not been passed; subject nevertheless to such rules, orders, and regulations as shall or may be made in pursuance of this act.

Proviso as to existing actions by or against officers.

**XLIV.** And be it enacted, that every person, party to any action, suit, or proceeding now pending in the said Court of Chancery on the Common Law side thereof, shall, before taking any fresh step in or about any such action, suit, or proceeding, cause to be entered in a book to be kept in the said Petty Bag Office, if he intends to act in person and not by attorney therein, his own name and address, and if he intends to act by attorney and not in person, then the name and address of his attorney; and if any such person or attorney resides more than three miles from the said office, some place within that distance shall be mentioned and entered in the said book, at or to which pleadings, notices, and other proceedings may be left or sent for such person or his attorney; and every attorney shall, before he acts as the attorney of any person in the said Court, cause to be entered in such book as aforesaid his name and also his address, or some place at or to which pleadings, notices, or other proceedings may be left for or sent to him.

Parties or attornies to cause names to be entered in a book at the Petty Bag Office.

**XLV.** And be it enacted, that any affidavit, affirmation, or declaration to be sworn or made or taken, and read or used, in the said Court, shall or may be sworn, made, or taken by or before the Clerk of the Petty Bag for the time being, who is hereby authorized and required to administer, receive, or take the necessary and proper oath, affirmation, or declaration to every person desirous of swearing, making, or taking any such affidavit, affirmation, or declaration as aforesaid; and every person who shall wilfully and corruptly swear, affirm, or declare falsely in any such

Affidavits may be sworn before Clerk of Petty Bag.

affidavit, affirmation, or declaration shall be guilty of perjury, and shall be prosecuted and punished accordingly.

Saving the jurisdiction of Lord Chancellor and Master of the Rolls.

XLVI. And be it enacted, that nothing in this act expressed or contained shall take away or in anywise diminish or prejudice the jurisdiction or any of the powers, rights, or privileges of the Lord Chancellor, as Judge of the said Court of Chancery, or otherwise howsoever, or the jurisdiction or any of the powers, rights, or privileges of the Master of the Rolls, as the Keeper of the Records of the said Court, or as a Master or Judge of the said Court, or otherwise.

Forms of writs to be settled and approved by Lord Chancellor, &c.

XLVII. And be it enacted, that it shall be lawful for the Lord Chancellor, with the advice and assistance of the Master of the Rolls, from time to time to ordain, settle, and approve of the form of any description of writ or writs which may be deemed necessary to be issued for the purpose of giving effect to any description of judgment, order, proceeding, or matter of or pending in or to be taken in the said Court of Chancery, or for the furtherance of the business of or originating in the said Court of Chancery.

Courts of common law to take cognizance of writs.

XLVIII. And be it enacted, that every of Her Majesty's Courts of Common Law, and all other Courts, Judges, Officers, and others, shall take cognizance of all and every of the writs and proceedings so brought before them as aforesaid, and give effect thereto in such manner as may be requisite, and, if necessary, the Judges of such Courts respectively shall and they are hereby required to make such rules and regulations for the practice of their respective Courts thereupon as to them respectively shall seem fitting, which shall be signed by the Judge or by the major part in number of the Judges of the said Courts respectively, and if there be more than one Judge of any such Court the Chief Judge of such Court (if there be a Chief Judge) shall be one.

Monies paid into Court for Her Majesty's use shall continue to be received as heretofore, &c.

XLIX. And be it enacted, that all monies paid into the said Court for Her Majesty's use shall continue to be received as heretofore by the said Clerk of the Petty Bag, and the several accounts of fines, issues, amerciements, penalties, and recognizances set, lost, imposed, or forfeited to or for the use of Her Majesty in the said office of the Petty Bag, required by any act now in force to be rendered and made by the said Clerk of the Petty Bag, and all other acts, duties, and services now done, performed, and rendered by the said Clerk of the Petty Bag

touching the receipt and payment of monies to or for the use of Her Majesty, and the accounts to be rendered thereof, shall continue to be done, performed, and rendered as heretofore by the said Clerk of the Petty Bag.

L. And be it enacted, that in the construction of this act the expression "Her Majesty" shall extend to, include, and mean, not only Her present most Excellent Majesty, but also her heirs and successors; the expression "Lord High Chancellor," and also the expression "Lord Chancellor," shall extend to, include, and mean, as well the Lord High Chancellor of Great Britain for the time being as also the Lord Keeper of the Great Seal for the time being, and also the Lords Commissioners for the time being for the custody of the Great Seal of this realm, and the major part in number of such Commissioners; and that the expression "Court of Chancery" shall mean the High Court of Chancery held before the said Lord Chancellor or Lords Commissioners, or major part of the said Lords Commissioners; the expression "Great Seal" shall mean the Great Seal of the United Kingdom of Great Britain and Ireland; and the expression "Master of the Rolls" shall mean the Master of the Rolls for the time being; and also that words importing persons only shall extend to corporations; that words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number; save and except where there shall or may be something in the subject or the context repugnant to or inconsistent with any such construction as aforesaid.

Construction  
of terms in  
this act.

LI. And be it enacted, that in citing or referring to this act in other acts of Parliament, notices, written instruments, or otherwise, it shall be sufficient to use the expression "The Petty Bag Office and Enrolment in Chancery Amendment Act, 1849."

Short title.

LII. And be it enacted, that this act may be amended or repealed by any act to be passed during the present session of Parliament.

Act may be  
amended, &c.

13 &amp; 14 Vict. c. 65.

*An Act for enabling Town Councils to establish Public Libraries and Museums.*

[14th August, 1850.]

Whereas it is expedient to promote the establishment and extension of public libraries, and to give greater facilities than now exist for the establishing and extending public museums of art and science, in municipal boroughs, for the instruction and recreation of the people: be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that an act passed in a session of Parliament held in the eighth and ninth years of the reign of Her present Majesty, intituled "An Act for encouraging the Establishment of Museums in large Towns," shall from and after the passing of this act be repealed; and that it shall be lawful for the Mayor, upon the request of the Town Council of any municipal borough (the population of which, according to the last account taken thereof by authority of Parliament, exceeds ten thousand persons), to ascertain whether the provisions of this act shall be adopted for such borough, in manner following; that is to say, by causing a notice to be affixed on or near the door of the town hall of the said borough, and on or near the door of every church or chapel within the said borough, and to be inserted in some newspaper published in such borough, or, if there be none such, in some newspaper published in the county in which such borough is situate, and circulating in such borough, specifying on what day, not earlier than ten days after the affixing and publication of such notices, and at what place or places within the said borough, the burgesses are required to signify their votes for or against the adoption of this act; which votes shall be received on such day, commencing at nine of the clock in the forenoon and ending at four of the clock in the afternoon of such day; and the said notice shall be to the effect of Form, No. 1, in the Schedule hereto annexed.

8 & 9 Vict.  
c. 43, repealed,  
and this act  
may be adopted  
in any muni-  
cipal borough.

Mayor to ap-  
point places  
for taking the  
votes.

II. And be it enacted, that the mayor shall appoint places and persons for taking the said votes, and they shall be there taken by such persons, and such questions may be put to each voter, and

with such liability in case of a false answer, as at elections under the act to provide for the regulation of municipal corporations in England and Wales; and the declaration of vote of the voters shall be to the effect of Form, No. 2, in the said Schedule.

III. And be it enacted, that every burgess who shall be enrolled on the Burgess Roll for the time being of such borough shall be entitled to vote for or against the adoption of this act, and no person who shall not be enrolled on such Burgess Roll for the time being shall be entitled so to vote; and the mayor, in the presence of two or more members of the town council of such borough, shall examine the votes, and shall, by public notice in manner herein-after mentioned, declare whether two-thirds of the votes given have been given in favour of the adoption of the said act; and the adoption or non-adoption of this act shall be decided by such number of votes as aforesaid; and notice of the adoption of this act by the borough shall be forthwith given by affixing the same at or near the door of the town hall of the said borough, to the effect of Form, No. 3, in the said Schedule; and if it shall be determined in manner aforesaid that the provisions of this act shall be adopted for such borough, then it shall be lawful for the town council to purchase or take on rent, with or without payment of fine, any lands or buildings for the purpose of forming public libraries or museums of art and science, or both, and to erect, alter, and extend any buildings for such purpose, and to maintain and keep the same in good repair; and that for the purchase, building, extending, altering, and repairing such lands and buildings, and payment of such rent and fines, and for other purposes of this act, and for the payment of any principal money and interest borrowed under the authority of this act, it shall be lawful for the council to levy, with and as part of the borough rate, or by a separate rate to be levied in like manner as the borough rate, such sums of money as shall be from time to time needed: provided always, that the whole amount of rate levied for the purposes of this act do not in any one year amount to more than one halfpenny in the pound on the annual value of the property in the borough rateable to the borough rate.

Burgesses on the burgess roll entitled to vote.

IV. And be it enacted, that out of the monies to be raised under the provisions of this act it shall be lawful for the town council, or for such committees as they shall appoint for all or any such purposes, from time to time to purchase and provide such fuel,

Town councils provide the things necessary for the enjoyment of such museums



and libraries,  
and to appoint  
proper officers.

lighting, fixtures, furniture, and other similar matters, for the convenient and useful occupation and enjoyment of such libraries, museums, and premises, and to appoint such officers and servants, with salaries and remuneration, and to make such rules and regulations for the safety and use of the said libraries and museums, and for the admission of visitors and others, as to them shall seem fit; and that any such committee may be appointed for such times only and composed of such persons (whether members of the council or not) as the council may think fit, and may at any time be dissolved by the said council.

Council, with  
approbation  
of Treasury,  
may borrow  
money on  
credit of the  
borough rates,  
&c.

V. And be it enacted, that for the purchase of such lands, and the erecting, extending, altering, and repairing of such buildings, it shall be lawful for the council of any such municipal borough as aforesaid, from time to time, with the approval of the Commissioners of Her Majesty's Treasury, to borrow at interest such sums of money as may be required for the same, on the security of the said yearly amount of borough rate authorized by this act.

Buildings for  
museums and  
libraries, and  
the property  
therein, to be  
held by the  
council of the  
borough in  
trust for the  
benefit of the  
inhabitants.

VI. And be it enacted, that the lands and buildings so purchased, erected, extended, or altered as aforesaid, and also all books, maps, and specimens of art and science which may be presented to, and all fixtures, furniture, and articles of every description which may be presented to or purchased for, any such library or museum, or to or for the said council for the purposes of such library or museum, or to or for any committee appointed by them, shall be vested in and held upon trust for ever by the mayor, aldermen, and burgesses of the borough in which such library or museum shall be situated, and shall be managed by the council of the borough (or by a committee or committees appointed by them), and kept in fit and proper order, for the benefit of the inhabitants of the borough and others resorting thereto.

Admission to  
museums, &c.,  
to be free.

VII. And be it enacted, that admission to such libraries and museums shall be free of all charge.

If burgesses  
determine not  
to adopt this  
act, it shall  
not be again  
proposed for  
two years.

VIII. And be it enacted, that if the burgesses shall determine in the manner aforesaid against the adoption of this act, it shall not be lawful within two years after such determination again to take the votes of the burgesses of the said borough in manner aforesaid for the purpose of ascertaining whether the provisions of this act shall be adopted for such borough.

Museums  
begun or  
established

IX. And be it enacted, that, notwithstanding the repeal of the said act hereby repealed, all museums established or begun under

the provisions of the said repealed act may be lawfully maintained, completed, and managed by the ways and means in this act provided, in all respects as if such museums had been established and begun under the sanction and provisions of this act. under repealed act to be maintained, &c.

X. And be it enacted, that in citing this act in other acts of Parliament and in legal instruments it shall be sufficient to use the expression "Public Libraries' Act, 1850." Short title of act.

XI. And be it enacted, that this act may be amended or repealed by any act to be passed in this session of Parliament. Act may be amended, &c.

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## SCHEDULE.

### No. 1.

IN pursuance of the provisions of an act of Victoria, chapter for enabling Town Councils to establish Public Libraries and Museums, the burgesses of this borough are hereby required, on the day of to signify by a declaration, either printed or written, or partly printed and partly written, and to be delivered to the mayor or his deputy at the places under mentioned, their votes for or against the adoption of the afore-said act.

(Signed) A. B., Mayor.

N. B.—The situation, division, and allotments of the different places for delivering the said votes are as follows: [*Here insert the place or places at which the Burgesses are to vote, in like manner as in elections under the Act to provide for the Regulation of Municipal Corporations in England and Wales.*]

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### No. 2.

I do hereby vote [for or against, as the case may be,] the adoption of the act of the year of the reign of Queen Victoria, chapter , for enabling Town Councils to establish Public Libraries and Museums.

(Signed) A. B.

[Here insert the name of the street, lane, or other place in which the property for which the voter appears to be rated on the Burgess Roll is situated.]

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No. 3.

Notice is hereby given, that this borough has adopted the provisions of an act of the                      Victoria, chapter                      , for enabling Town Councils to establish Public Libraries and Museums, and that the numbers of the majority and minority of votes given for or against the adoption of the said act are as follow; that is to say,                      votes for the adoption of the said act, and                      votes against it.

Dated this

day of

A. D.

(Signed)

A. B., Mayor.

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13 & 14 Vict. c. 104.

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

Whereas it is expedient to extend and amend the acts relating to the Copyright of Designs: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same :

I. That the Registrar of Designs, upon application by or on behalf of the proprietor of any design not previously published within the United Kingdom of Great Britain and Ireland or elsewhere, and which may be registered under the Designs' Act, 1812, or under the Designs' Act, 1843, for the provisional registration of such design under this act, and upon being furnished with such copy, drawing, print, or description in writing or in print as in the judgment of the said Registrar shall be sufficient

Certain designs may be registered provisionally for one year.

to identify the particular design in respect of which such registration is desired, and the name of the person claiming to be proprietor, together with his place of abode or business, or other place of address, or the style or title of the firm under which he may be trading, shall register such design in such manner and form as shall from time to time be prescribed or approved by the Board of Trade; and any design so registered shall be deemed "provisionally registered," and the registration thereof shall continue in force for the term of one year from the time of the same being registered as aforesaid; and the said Registrar shall certify, under his hand and seal of office, in such form as the said Board shall direct or approve, that the design has been provisionally registered, the date of such registration, and the name of the registered proprietor, together with his place of abode or business, or other place of address.

II. That the proprietor of any design which shall have been provisionally registered shall, during the continuance of such registration, have the sole right and property in such design; and the penalties and provisions of the said Designs' Act, 1842, for preventing the piracy of designs, shall extend to the acts, matters, and things next hereinafter enumerated, as fully as if those penalties and provisions had been re-enacted in this act, and expressly extended to such acts, matters, and things respectively; that is to say,

1. To the application of any provisionally registered design, or any fraudulent imitation thereof, to any article of manufacture or to any substance.
2. To the publication, sale, or exposure for sale of any article of manufacture or any substance to which any provisionally registered design shall have been applied.

III. That during the continuance of such provisional registration neither such registration nor the exhibition or exposure of any design provisionally registered, or of any article to which any such design may have been or be intended to be applied, in any place, whether public or private, in which articles are not sold or exposed or exhibited for sale, and to which the public are not admitted gratuitously, or in any place which shall have been previously certified by the Board of Trade to be a place of public exhibition within the meaning of this act, nor the publication of any account or description of any provisionally registered design

Benefits conferred by provisional registration.

The exhibition of provisionally registered designs in certain places not to defeat copyright, &c.

exhibited or exposed or intended to be exhibited or exposed in any such place of exhibition or exposure in any catalogue, paper, newspaper, periodical, or otherwise, shall prevent the proprietor thereof from registering any such design under the said Designs' Acts at any time during the continuance of the provisional registration, in the same manner and as fully and effectually as if no such registration, exhibition, exposure, or publication had been made; provided that every article to which any such design shall be applied, and which shall be exhibited or exposed by or with the license or consent of the proprietor of such design, shall have thereon or attached thereto the words "provisionally registered," with the date of registration.

Sale of articles to which provisionally registered designs, &c. have been applied to defeat copyright, but design itself may be sold.

IV. That if during the continuance of such provisional registration the proprietor of any design provisionally registered shall sell, expose, or offer for sale any article, substance, or thing to which any such design has been applied, such provisional registration shall be deemed to have been null and void immediately before any such sale, offer, or exposure shall have been first made; but nothing herein contained shall be construed to hinder or prevent such proprietor from selling or transferring the right and property in any such design.

Extension of period of provisional registration by Board of Trade.

V. That the Board of Trade may by order in writing with respect to any particular class of designs, or any particular design, extend the period for which any design may be provisionally registered under this act, for such term not exceeding the additional term of six months as to the said Board may seem fit; and whenever any such order shall be made, the same shall be registered in the office for the Registration of Designs, and during the extended term the protection and benefits conferred by this act in case of provisional registration shall continue as fully as if the original term of one year had not expired.

Registration of sculpture, models, &c.

VI. That the Registrar of Designs, upon application by or on behalf of the proprietor of any sculpture, model, copy, or cast within the protection of the Sculpture Copyright Acts, and upon being furnished with such copy, drawing, print, or description, in writing or in print, as in the judgment of the said Registrar shall be sufficient to identify the particular sculpture, model, copy, or cast in respect of which registration is desired, and the name of the person claiming to be proprietor, together with his place of abode or business or other place of address, or the name,

style, or title of the firm under which he may be trading, shall register such sculpture, model, copy, or cast in such manner and form as shall from time to time be prescribed or approved by the Board of Trade for the whole or any part of the term during which copyright in such sculpture, model, copy, or cast may or shall exist under the Sculpture Copyright Acts; and whenever any such registration shall be made, the said Registrar shall certify under his hand and seal of office, in such form as the said Board shall direct or approve, the fact of such registration, and the date of the same, and the name of the registered proprietor, or the style or title of the firm under which such proprietor may be trading, together with his place of abode or business or other place of address.

VII. That if any person shall, during the continuance of the copyright in any sculpture, model, copy, or cast which shall have been so registered as aforesaid, make, import, or cause to be made, imported, exposed for sale, or otherwise disposed of, any pirated copy or pirated cast of any such sculpture, model, copy, or cast, in such manner and under such circumstances as would entitle the proprietor to a special action on the case under the Sculpture Copyright Acts, the person so offending shall forfeit for every such offence a sum not less than five pounds and not exceeding thirty pounds to the proprietor of the sculpture, model, copy, or cast whereof the copyright shall have been infringed; and for the recovery of any such penalty the proprietor of the sculpture, model, copy, or cast which shall have been so pirated shall have and be entitled to the same remedies as are provided for the recovery of penalties incurred under the Designs' Act, 1842: provided always, that the proprietor of any sculpture, model, copy, or cast which shall be registered under this act shall not be entitled to the benefit of this act, unless every copy or cast of such sculpture, model, copy, or cast which shall be published by him after such registration shall be marked with the word "registered," and with the date of registration.

VIII. That designs for the ornamenting of ivory, bone, papier maché, and other solid substances not already comprised in the classes numbered 1, 2, or 3 in the Designs' Act, 1842, shall be deemed and taken to be comprised within the class numbered 4 in that act, and such designs shall be so registered accordingly.

Benefits conferred by registration of sculpture, &c.

Designs for ornamenting ivory, &c., may be registered under Designs' Act, 1842, for three years.

Board of Trade may extend copyright in ornamental designs.

IX. That the Board of Trade may from time to time order that the copyright of any class of designs or any particular design registered or which may be registered under the Designs' Act, 1842, may be extended for such term, not exceeding the additional term of three years, as the said Board may think fit, and the said Board shall have power to revoke or alter any such order as may from time to time appear necessary; and whenever any order shall be made by the said Board under this provision, the same shall be registered in the office for the Registration of Designs; and during the extended term the protection and benefits conferred by the said Designs' Act shall continue as fully as if the original term had not expired.

Regulations for the registration of designs may be made by Board of Trade.

X. That the Board of Trade may from time to time make, alter, and revoke rules and regulations with respect to the mode of registration, and the documents and other matters and particulars to be furnished by persons effecting registration and provisional registration under the said acts and this act: provided always, that all such rules and regulations shall be published in the "*London Gazette*," and shall forthwith upon the issuing thereof be laid before Parliament, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the commencement of the then next session; and such rules and regulations, or any of them, shall be published or notified by the Registrar of Designs in such other manner as the Board of Trade shall think fit to direct.

Registrar of designs may dispense with drawings, &c. in certain cases.

XI. That if in any case in which the registration of a design is required to be made under either of the said Designs' Acts it shall appear to the Registrar that copies, drawings, or prints as required by those acts cannot be furnished, or that it is unreasonable or unnecessary to require the same, the said Registrar may dispense with such copies, drawings, or prints, and may allow in lieu thereof such specification or description in writing or in print as may be sufficient to identify and render intelligible the design in respect of which registration is desired; and whenever registration shall be so made in the absence of such copies, drawings, or prints, the registration shall be as valid and effectual to all intents and purposes as if such copies, drawings, or prints had been furnished.

Public books and documents.

XII. That in order to prevent the frequent and unnecessary

removal of the public books and documents in the office for the registration of designs, no book or document in the said office shall be removed for the purpose of being produced in any Court or before any justice of the peace, without a special order of a Judge of the Court of Chancery, or of one of Her Majesty's Superior Courts of Law, first had and obtained by the party who shall desire the production of the same.

in the Designs' Office not to be removed without Judge's order.

XIII. That if application shall be made to a Judge of any of Her Majesty's Courts of Law at Westminster by any person desiring to obtain a copy of any registration, entry, drawing, print, or document, of which such person is not entitled as of right to have a copy, for the purpose of being used in evidence in any cause, or otherwise howsoever, and if such Judge shall be satisfied that such copy is *bonâ fide* intended for such purpose as aforesaid, such Judge shall order the Registrar of Designs to deliver such copy to the party applying, and the Registrar of Designs shall, upon payment for the same of such fee or fees as may be fixed according to the provisions of the said Designs' Act in this behalf, deliver such copy accordingly.

Judges may order copies of documents to be furnished to be given in evidence.

XIV. That every copy of any registration, entry, drawing, print, or document delivered by the Registrar of Designs to any person requiring the same shall be signed by the said Registrar, and sealed with his seal of office; and every document sealed with the said seal, purporting to be a copy of any registration, entry, drawing, print, or document, shall be deemed to be a true copy of such registration, entry, drawing, print, or document, and shall, without further proof, be received in evidence before all Courts in like manner and to the same extent and effect as the original book, registration, entry, drawing, print, or document would or might be received if tendered in evidence, as well for the purpose of proving the contents, purport, and effect of such book, registration, entry, drawing, print, or document, as also proving the same to be a book, registration, entry, drawing, print, or document of or belonging to the said office, and in the custody of the Registrar of Designs.

Copies of documents delivered by the Registrar to be sealed, and to be evidence.

XV. That the several provisions contained in the said Designs' Acts (so far as they are not repugnant to the provisions of this act) relating to the transfer of designs, to cancelling and amending registration, to the refusal of registration in certain cases, to the

Certain provisions of Designs' Acts, 1842 and 1843, extended to this Act.



mode of recovering penalties, to the awarding and recovery of costs, to actions for damages, to the limitation of actions, to the certificate of registration, to penalties for wrongfully using marks, to the fixing and application of fees for registration, and to the penalty for extortion, shall apply to the registration, provisional registration, and transfer of designs, sculptures, models, copies, and casts, and to the designs, sculptures, models, copies, and casts entitled to protection under this act, and to matters under this act, as fully and effectually as if those provisions had been re-enacted in this act with respect to designs, sculptures, models, copies, and casts registered and provisionally registered under this act; and the forms contained in the Designs' Act, 1842, may for the purposes of this act be varied so as to meet the circumstances of the case.

Interpretation  
of terms.

XVI. That in the interpretation of this act the following terms and expressions shall have the meanings hereinafter assigned to them, unless such meanings shall be repugnant to or inconsistent with the context or subject-matter; that is to say,

The expression "Designs' Act, 1842," shall mean an act passed in the sixth year of the reign of her present Majesty, intituled "An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture:"

The expression "Designs' Act, 1843," shall mean an act passed in the seventh year of her present Majesty, intituled "An Act to amend the Laws relating to the Copyright of Designs:"

The expression "Sculpture Copyright Acts" shall mean two acts passed respectively in the thirty-eighth and fifty-fourth years of the reign of King George the Third, and intituled respectively "An Act for encouraging the Art of making new Models and Casts of Busts and other Things herein mentioned;" and "An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned:"

The expression "The Board of Trade" shall mean the Lords of the Committee of Privy Council for the Consideration of all Matters of Trade and Plantations:

The expression "Registrar of Designs" shall mean the Regis-

trar or Assistant Registrar of Designs for Articles of Manufacture :

The expression "Proprietor" shall be construed according to the interpretation of that word in the said Designs' Act, 1842: And words in the singular number shall include the plural, and words applicable to males shall include females.

XVII. That in citing this act in other acts of Parliament, and Short title. in any instrument, document, or proceeding, it shall be sufficient to use the words and figures following, that is to say, "The Designs' Act, 1850."

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**ORDERS OF THE COURT OF CHANCERY,  
RELATIVE TO THE PETTY BAG OFFICE AND  
ENROLMENT ACT, 1849, THE 12 & 13 VICT. c. 109.**

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**PETTY BAG OFFICE.**

The following Orders on the common law side of the Court of Chancery were made on the 29th of December, 1848, and amended since the last statute, by Order dated the 3rd of August, 1849:—

*Introductory.*

1. All former rules and orders regulating the practice and proceedings in the Petty Bag Office, so far as the same are now in force, and are consistent with the said act of Parliament and with these Orders, are to remain in full force and effect.

2. These Orders as to all suits, matters, and proceedings now pending or hereafter to be commenced, are (so far as the same are applicable to the state of such matters and proceedings) to take effect on the 1st day of January, 1849.

*Official Attendance and Vacations.*

3. In the office of the Petty Bag.

1. The office is to be open and closed on the same days,—and

2. The vacations are to be observed at the same time,—and

3. The clerk is to attend in the office during the same hours,

As are for the same purposes and in relation to the same matters appointed by the general rules of the Court of Chancery in the office of the Clerks of Records and Writs, subject nevertheless to such alterations as, for some special reasons, may be at any time made by the Lord Chancellor, with the advice and assistance of the Master of the Rolls.

*Clerk of the Petty Bag.*

4. The Clerk of the Petty Bag is to have the care and custody of the Chancery Common Law Seal, and is to use and employ the same for sealing such several writs, and all such documents and writings as are by the said act authorized to be sealed with the same seal.

5. Affidavits, affirmations, and declarations to be used in any proceeding on the common law side of the Court are to be sworn, affirmed, or declared before the Clerk of the Petty Bag, or before a Master Extra-

ordinary of the High Court of Chancery, and are to be filed in the office of the Petty Bag.

6. Every writ, rule, or document issued or delivered out of the Petty Bag Office, is to be tested or dated on the day on which the writ is sealed, or the rule or other document is made.

7. Every writ returned by the sheriff is to be immediately filed, and thereupon the day and hour of the filing are to be indorsed on the writ.

8. The Clerk of the Petty Bag, upon receiving the return of the transcript of the verdict of the jury, and proceedings or judgment of any Court of common law upon any issue in law or in fact, is to file the same in the Petty Bag Office, and is to cause an entry to be made of such verdict and proceedings or judgment, and such transcript is to be annexed to the original record in the Petty Bag Office, and thereupon the judgment of the Court of Chancery is to be entered on, or annexed to, the same record, in conformity with the judgment of the Court from which the transcript is returned.

*Attorney.*

9. Every solicitor, whose name is duly enrolled as such in the High Court of Chancery, may act as an attorney in any action, suit, matter, or proceeding pending on the common law side of the same Court, and is to be therein named and treated as the attorney of the party by whom he is retained.

10. Any party changing or ceasing to employ his attorney in the course of any action, suit, or proceeding, is to cause an entry of such change or cessation of employment to be made and entered with the Clerk of the Petty Bag, and to cause notice of such change or cessation of employment and of such entry to be served on every party to the action, suit, or proceeding, and until such entry and notice shall have been made and served, the former attorney is to be deemed and taken for all purposes of the action, suit, or proceeding, to be and remain the attorney of the party (a).

*Scire Facias.*

13. The proceedings and trial in an action of *scire facias* may take place and be had in such one of her Majesty's superior Courts of common law as may be chosen by the party applying to have the writ sealed.

14. A writ of *scire facias* to revoke letters patent is not to be sealed; 1. until the fiat of the Attorney General is filed in the Petty Bag Office; 2. until the name of some one of her Majesty's superior Courts of common law is indorsed or written thereon; 3. until a true copy of the writ and of any drawings or plans annexed thereto (to be verified by affidavit) has been filed in the Petty Bag Office.

15. If such writ has been sealed before the 1st day of January, 1849, and the record of the action has not been carried or transmitted into the Court of Queen's Bench, the name of some one of her Majesty's superior Courts of common law is to be indorsed on the writ, and a memorandum thereof entered with the Clerk of the Petty Bag Office before any subsequent proceeding is taken in the action.

16. The trial and any proceedings in an action of *scire facias* are to take place in the Court of common law, the name of which is indorsed or written on the writ.

(a) Sections 11 & 12 are abrogated by Order of 3rd August, 1849.

17. A bond of indemnity against costs, to be incurred in the prosecution of an action of *scire facias*, may (if so desired by the Attorney General) be taken in the name of the Clerk of the Petty Bag, but the same is not to be deposited or filed in the office of the Petty Bag, unless the intended obligors, and the sums for which they are to give security, be named by the Attorney General.

18. A bond of indemnity filed or deposited in the Petty Bag Office may, at the request of the Attorney General, be put in suit under such circumstances, and upon such terms and conditions, as the Lord Chancellor or the Master of the Rolls may approve of.

19. An appearance is to be entered by or on behalf of any defendant who has been summoned by the sheriff within eight days after the writ of *scire facias* has been returned and filed.

*Fees.*

The Clerk of the Petty Bag is, until further order, to receive and take the several fees which are set forth in the schedule hereunder written, and is to account for the same and pay the amount thereof into the Suitors' Fee Fund, in the same manner, and at the same times, as the Clerks of Records and Writs receive, account for, and pay the fees received by them in their office.

The schedule above referred to follows, from which the portion relating to *Scire Facias* is here extracted :

*Fees to be received by the Clerk of the Petty Bag.*

	£	s.	d.
For attending with records or other documents in any Court or place (besides expenses to be retained by the officer to his own use), per diem - - - - -	2	2	0
For filing the returns to all special commissions, articles of the peace on a <i>supplicavit</i> , and commissions and writs of every kind returned and filed in this office - - -	0	2	6
Drawing and signing the certificate under the officer's hand, of any return being filed in this office where no office copy is taken - - - - -	0	2	6
For sealing every original writ of <i>scire facias</i> to revoke letters patent or commission on petition of right -	5	0	0
For sealing every alias or <i>testatum scire facias</i> -	2	10	0
For sealing every <i>scire facias</i> on recognizance or traverse	1	0	0
For examining and filing every bond of indemnity against costs and affidavits - - - - -	1	0	0
For filing a traverse to an inquisition - - - - -	2	0	0
Entering appearance for every defendant - - - - -	0	10	0
For entering every rule requiring entry only - - - - -	0	7	0
For drawing up and entering every other rule - - - - -	0	10	0
For drawing up and entering a special order - - - - -	2	0	0
For signing every judgment or entry of <i>nolle prosequi</i> - - - - -	1	0	0
For filing a record of issue on a <i>scire facias</i> to revoke letters patent or traverse, and sealing the transcript -	5	0	0
Ditto on a <i>scire facias</i> on recognizance, or on a bill against an officer of the Court - - - - -	2	0	0
For drawing and entering an order to vacate letters patent	2	0	0

## Appendix to Supplement.

	£	s.	d.
For filing order for delivery out of bond - - -	0	10	0
For swearing every deponent to an affidavit - - -	1	0	6
For every exhibit thereto - - -	0	2	6
For taxing a bill of costs for every side - - -	0	1	0
For filing every affidavit - - -	0	1	0
For office copy of affidavit, per folio - - -	0	0	4
On filing every bill against an officer of the Court - - -	0	10	0
For preparing, engrossing, and perfecting the exemplification of any record, if one skin only - - -	5	5	0
For every additional skin - - -	1	6	8
For every search for a præcipe or writ filed - - -	0	1	0
For searching the calendar for every year - - -	0	1	0
For inspection of any record besides the search - - -	0	2	6
For the office copy of any record, per folio - - -	0	0	4
For certificate of examination under the officer's hand and the office seal - - -	0	3	4
For the re-examination of the copy of any record, if short - - -	0	3	6
If long, per folio - - -	0	0	1
For sealing every writ of <i>scire facias</i> (except those specially mentioned) - - -	0	10	0
For resealing every writ - - -	0	2	6

COTTENHAM, C.  
LANGDALE, M. R.

### ORDERS ISSUED BY THE ATTORNEY GENERAL RELATIVE TO PATENTS AND THEIR SPECIFICATION.

The Attorney General, with the consent and concurrence of the Solicitor General, hereby gives notice, that from and after the 15th day of January, 1851,—1. Every outline description and drawing deposited with the Attorney and Solicitor General must be signed and dated by the person applying for the patent, or by his agent. 2. Every person who shall have deposited an outline description or drawing of his invention shall be at liberty at any time previously to the enrolment of the specification to cancel any portion of such outline description or drawing; and for this purpose to deposit a fresh outline description or drawing of his invention, omitting the cancelled part. 3. Every person who shall have entered a *caveat* against the granting of any patent, and shall, upon the hearing of his opposition, induce the Attorney or Solicitor General not to make any report upon the application for the patent, shall deposit with the Attorney or Solicitor General an outline description or drawing of his invention in respect of which he opposes the granting of the said patent, such outline description or drawing to be approved by the Attorney or Solicitor General. 4. After the specification shall have been enrolled, any person shall be at liberty, on the production of a certificate of the enrolment or after two days' notice and payment of 1s., to inspect the outline description or drawing so deposited with the Attorney or Solicitor General, as aforesaid, of the invention in respect of which the specification shall have been so enrolled as aforesaid, and any person shall be at liberty to obtain an office copy of such outline description from the office of the Attorney or Solicitor General, on payment of the accustomed charges.

JOHN ROMILLY.

## REGISTRATION OF DESIGNS.

REGISTRATION OFFICE,  
Dec. 2nd, 1850.

*Rules and Regulations for the Provisional and Complete Registration of Designs, made, and published in the Gazette of the 22nd of November, 1850, by order of the Right Honorable the Lords of the Committee of the Privy Council for Trade, by virtue of the power vested in them by "The Designs' Act," 1850.*

I. ALL persons desirous of effecting registration or provisional registration of any design, must furnish to the Registrar (except in any case in which, under the 11th section of the Designs' Act, 1850, he may dispense with any of such particulars) two copies, drawings, or prints of such design, and, if such design is intended for exhibition at any place, certified by the Lords of the said Committee to be a place of public exhibition within the meaning of the Designs' Act, 1850, then a third copy, drawing, or print also.

Registration, provisional ditto; two copies required. A third if for exhibition.

II. In the case of paper hangings, calico prints, and other furnitures of such a nature as to admit of being conveniently pasted in a book, portions of such furnitures may, with the permission of the Registrar, be received for the purpose of registration, instead of the copies, drawings, and prints before mentioned.

Paper hangings and cotton prints may be registered instead of drawings.

III. Upon the face of the sheet containing such copy, drawing, or print, or if a portion of the article to be registered be furnished to the Registrar, as before provided, then, upon a sheet of paper attached thereto, or delivered therewith, must be set forth the name of every person claiming to be the proprietor of the design, or the style or title of the firm under which he trades, together with his place of abode, or place of carrying on his business, or other place of address; and also in the cases after mentioned the following further particulars (except where the Registrar may dispense with any thereof as aforesaid); that is to say:

Name and address of proprietor to be given with design.

1. If the registration of such design be sought in respect of the application thereof to ornamenting any article of manufacture or substance, there must, if the registration sought be complete registration, be set forth the number of the class or classes described in section 3 of the Designs' Act, 1842, in respect of which the registration is made; or

On complete registration of ornamental designs: class to be set forth.

2. If such design be for the shape or configuration of any article of manufacture having reference to some purpose of utility, the drawings or prints must be made on a proper geometric scale, and there must be set forth the title of the design, and such description thereof, in writing, as may be necessary to render the same intelligible, and the description must distinguish such parts of the design (if any) as are not new or original, and every such drawing or print, together with the title or description of such design, and the name and address of the proprietor must be on one sheet of paper or parchment, and on the same side thereof, and the size of such sheet must not exceed 24 inches by 15 inches, and there must be left on one of such sheets a

On registration of useful designs: drawing to geometrical scale; title and description, setting forth old and new parts: dimensions of drawings—space for certificate.

blank space, on the same side on which are such drawing, title, description, name, and address, of the size of 6 inches by 4 inches, for the certificate herein-after mentioned.

Registration of sculpture. Copy or description, with name and address of proprietor required.

IV. All persons desirous of effecting registration of any sculpture, model, copy, or cast, within the protection of two several Acts, passed respectively in the 38th and 54th years of the reign of King George the Third, and intituled respectively, "An Act for encouraging the Art of making new Models and Casts of Busts and other things therein mentioned," and "An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts and other things therein mentioned," which two Acts are in the said Designs' Act, 1850, called the "Sculpture Copyright Acts," must furnish to the Registrar such copy, drawing or print, or such description, writing, or print, as in the judgment of the Registrar shall be sufficient to identify the particular sculpture, model, copy, or cast, in respect of which registration is desired, and the name of the person claiming to be the proprietor, together with his place of abode or business, or other place of address, or the name, style, or title, of the firm under which he trades.

Registrar's duties in registering. Index to be kept.

V. The Registrar shall affix a number upon every such copy, drawing, print, or description of any design, sculpture, model, copy, or cast, so to be furnished to him as aforesaid, denoting the order in which the same has been received by him, and a corresponding number upon the duplicate and triplicate copy, drawing, print, or description, directed to be furnished to him as aforesaid; and he shall register every such copy, drawing, print, or description, in the order in which it is received by him, by entering the number thereof, and also the title or class thereof, in a book to be kept by him for that purpose; and he shall keep a proper index of all the designs, sculptures, models, and copies or casts so registered, according to the titles thereof, or arranged in such classes as to afford ready access to the same.

Copy to be filed; copy to be returned; certificate of registration; third copy for exhibition.

VI. Whenever any such registration is made, the Registrar shall retain and file in his office one of the copies, drawings, prints, or descriptions hereinbefore required to be furnished to him, and he shall return the other thereof (when two only are furnished) to the person by whom the same was furnished, having first affixed thereon or attached thereto a certificate, whereby he shall certify under his hand and seal of office, the fact of such registration, and the date, and the name of the registered proprietor, or the style or title of the firm under which he trades, together with his place of abode or business, or other place of address; and he shall cause the remaining copy, drawing, print, or description (when three have been furnished), having the certificate of provisional registration affixed thereon, to be deposited in the place of public exhibition so to be certified as aforesaid.

Registration of transfers; certificate.

VII. Persons desirous of having the transfer of any registered design registered, must furnish to the Registrar the written transfer of such design, or other sufficient evidence of their title, together with a written request to register, to the effect set forth in the 6th section of the Designs' Act, 1842, and the Registrar shall thereupon insert the name of the new proprietor in the register. If a certificate of the transfer be desired, the certificate copy of the design, or an exact copy thereof, must



be furnished to the Registrar for the purpose of having such certificate affixed thereon; and the Registrar shall accordingly affix thereon a certificate under his hand and seal of office, containing the like particulars as are herein required in the case of a certificate of the registration of a design.

VIII. Any person desirous of ascertaining whether with respect to any particular design there be any copyright existing, must produce to the Registrar such design, together with the registration mark thereof; or he may produce such registration mark only; or in the case of a design provisionally registered, the number thereof; and thereupon the Registrar shall give to such person a certificate under his hand and seal of office, stating whether there be any copyright of such design existing, and if there be, then in respect to what particular article of manufacture or substance such a copyright exists, and the term of such copyright, and the number and date of the registration thereof, and also the name and place of abode or business, or other address of the registered proprietor thereof.

Searches:  
certificate.

IX. All the services herein-before directed to be performed by the Registrar are to be performed on payment of such fees as may be from time to time fixed by the Lords Commissioners of Her Majesty's Treasury.

Fees.

*By Order of the Registrar,*  
J. H. BOWEN,  
*Chief Clerk.*

**TABLE OF FEES.**

**USEFUL OR NON-ORNAMENTAL DESIGNS.**

*Provisional Registration (a).*

	Fee
	s.
Registering design - - - - -	10
Certifying former registration ( <i>to proprietor of design</i> ) - - -	5
Registering and certifying transfer - - - - -	10
Cancellation or substitution ( <i>according to decree, or order in Chancery</i> )	5

*Complete Registration.*

	Stamp.	Fee.	Total.
	£	£	£
Registering design - - - - -	5	5	10
Certifying former registration ( <i>to proprietor of design</i> )	5	1	6
Registering and certifying transfer - - - - -	5	1	6
Cancellation or substitution ( <i>according to decree, or order in Chancery</i> ) - - - - -	-	1	1

*Inspections, &c., of Provisional and Complete Registrations.*

	Fee.
	s.
Inspecting register, index of titles and names, for each quarter or part of quarter of an hour - - - - -	1

(a) With regard to the Exhibition of 1851, in Hyde Park, the following important directions were issued:—When the designs registered have been certified as having been deposited in the building of the Exhibition, the fees will be returned; and on and after the 1st of February, 1851, instead of proceeding to the Designs' Office in Somerset House, exhibitors will be enabled to effect registration at the building of the Exhibition in Hyde Park, without payment of any fees whatever.

## Appendix to Supplement.

Inspecting designs, unexpired copyright, each design, for each quarter or part of quarter of an hour - - - - -	2
Inspecting designs, expired copyright, each volume do. do. do.	1
Taking copies of designs, unexpired copyright, ( <i>according to Judge's order,</i> ) for each hour or part of an hour, each copy - -	2
Taking copies of designs, expired copyright, for each hour or part of an hour, each copy - - - - -	1

## ORNAMENTAL DESIGNS.

*Provisional Registration.*

	Each Design.	
	s.	d.
Registration in all classes - - - - - 1 year	1	0
Transfer - - - - -	5	0
Certifying former registration ( <i>to proprietor of design</i> ) -	1	0
Cancellation or substitution ( <i>according to decree, or order in Chancery</i> ) - - - - -	5	0

*Complete Registration.*

Registering Designs.				Copyright.		Fee.		
Class	1	-	-	3 years	each design	£	s.	d.
	1	-	-	3 years	each design	3	0	0
	2	-	-	ditto	"	1	0	0
	3	-	-	ditto	"	1	0	0
	4	-	-	ditto	"	1	0	0
	5	-	-	ditto	"	0	10	0
	6	-	-	ditto	"	1	0	0
	7	-	-	9 months	"	0	1	0
	8	-	-	3 years	"	1	0	0
	9	-	-	9 months	"	0	1	0
	10	-	-	ditto	"	0	1	0
	11	-	-	3 years	"	0	5	0
	12	-	-	12 months	"	0	5	0
	Damasks for	-	-	3 years	"	1	0	0
	13	-	-	12 months	"	0	5	0
In all the 13 Classes - - - - -						7	0	0
In Classes 1, 2, 3, and 4, inclusive - - - - -						5	0	0
In Classes 5 to 13 inclusive - - - - -						3	0	0

*Registration of Sculpture:—*

	Fee.		
	£	s.	d.
Each design - - - - -	5	0	0

*Complete Registration and Registration of Sculpture:—*

Transfer - - - - -	} Same as Registration fee, but for Class 1, and Sculpture, each design.	1	0	0
Certifying former registration ( <i>to proprietor</i> ) - - - - -				
Cancellation or substitution ( <i>according to decree or order in Chancery</i> ) - - - - -				

*Inspections, &c., of Provisional and Complete Registrations and Sculpture:—* £ s. d.

Search . . . . .	0	2	0
Inspection of all the designs of which the copyright has expired, each quarter or part of quarter of an hour, each class	0	1	0
Taking copies of expired designs, each hour or part of an hour, each copy . . . . .	0	1	0
Taking copies of unexpired designs, ( <i>according to Judge's order</i> ) for each hour or part of an hour, each copy . . . . .	0	2	0
Damasks in Class 12 may be registered at once, or at any time during the existence of the original copyright of one year for an additional term of two years.			
Fee for the whole term of 3 years . . . . .	1	0	0
“ extended term of 2 years . . . . .	0	16	0
Office copies of a design will be charged for according to the nature of the design.			

**COPYRIGHT OF DESIGNS FOR ORNAMENTING ARTICLES OF MANUFACTURE.**

By provisional registration under the Designs' Act, 1850, (13 & 14 Vict. c. 104,) a copyright of one year (which may be further extended for six months by order of the Board of Trade) is given to the author or proprietor of original designs for ornamenting any article of manufacture or substance. During such terms the proprietor of the design may sell the right to apply the same to an article of manufacture, but must not, under the penalty of nullifying the copyright, sell any article with the design applied thereto, until after complete registration, which must be effected *prior to the expiration* of the provisional registration.

By complete registration under the Designs' Act, 1842, (5 & 6 Vict. c. 100), a copyright or property is given to the author or proprietor of any new or original design for ornamenting any article of manufacture or substance for the various terms specified in the following classes:—

<i>Class.</i>	<i>Article.</i>	<i>Copyright.</i>	<i>Registration Fees.</i>	
			£.	s.
1.	Articles composed wholly or chiefly of metal	3 years	-	3 0
2.	Articles do. do. do. wood	3 „	-	1 0
3.	Articles do. do. do. glass	3 „	-	1 0
4.	Articles do. do. do. earthenware, bone, papier maché, or other solid substances, not comprised in classes, 1, 2, and 3 . . . . .	3 „	-	1 0
5.	Paper hangings . . . . .	3 „	-	0 10
6.	Carpets, floor cloths, and oil cloths . . . . .	3 „	-	1 0
7.	Shawls, (patterns printed) . . . . .	9 months	-	0 1
8.	Shawls, (patterns not printed) . . . . .	3 years	-	1 0
9.	Yarn, thread, or warp, (printed) . . . . .	9 months	-	0 1
10.	Woven fabrics, (patterns printed, except those included in class 11) . . . . .	9 „	-	0 1

## Appendix to Supplement.

Class.	Articles.	Copyright	Registration Fees.	
			£	s.
11.	Woven fabrics, furnitures (patterns printed, the repeat exceeding 12 inches by 8 inches) - - - - -	3 years	0	5
12.	Woven fabrics, (patterns not printed) -	12 months	0	5
	Do. damasks, copyright extended to - - - - -	3 years	1	0
13.	Lace, and all other articles - - - - -	12 months	0	5

## TABLE OF FEES.

## PROVISIONAL REGISTRATION.

		Each Design.	
		s.	d.
Registration in all classes	- - - - - 1 year	1	0
Transfer	- - - - -	5	0
Certifying former registration (to proprietor of design)	- - - - -	1	0
Cancellation or substitution (according to decree or order in Chancery)	- - - - -	5	0

## Complete Registration.

Registering Design.		Copyright.		Fees.	
				£	s. d.
Class 1	- - - - -	3 years each design		3	0 0
" 2	- - - - -	ditto	"	1	0 0
" 3	- - - - -	ditto	"	1	0 0
" 4	- - - - -	ditto	"	1	0 0
" 5	- - - - -	ditto	"	0	10 0
" 6	- - - - -	ditto	"	1	0 0
" 7	- - - - -	9 months	"	0	1 0
" 8	- - - - -	3 years	"	1	0 0
" 9	- - - - -	9 months	"	0	1 0
" 10	- - - - -	ditto	"	0	1 0
" 11	- - - - -	3 years	"	0	5 0
" 12	- - - - -	12 months	"	0	5 0
" 13	- - - - -	12 months	"	0	5 0
	Damasks for	3 years	"	1	0 0
" 13	- - - - -	12 months	"	0	5 0
In all the 13 classes		- - - - -	-	7	0 0
In classes 1, 2, 3, and 4, inclusive		- - - - -	-	5	0 0
In classes 5 to 13 inclusive		- - - - -	-	3	0 0

## Registration of Sculpture.

Each design	- - - - -	5	0	0
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## Complete Registration and Registration of Sculpture :—

Transfer	- - - - -	} Same as Registration fee, but for class 1, and sculpture, each design.	} 1	} 0	} 0
Certifying former Registration (to Proprietor)	- - - - -				
Cancellation or substitution (according to decree or order in Chancery)	- - - - -				

*Inspections, &c., of Provisional and Complete Registrations and Sculpture:—*

	£	s.	d.
Search - - - - -	0	2	0
Inspection of all the designs of which the copyright has expired, each quarter or part of quarter of an hour, each class - - - - -	0	1	0
Taking copies of expired designs, each hour or part of an hour, each copy - - - - -	0	1	0
Taking copies of unexpired designs, ( <i>according to Judge's order,</i> ) for each hour or part of an hour, each copy -	0	2	0

Damasks in class 12 may be registered at once, or at any time during the existence of the original copyright of one year for an additional term of two years.

	£	s.	d.
Fee for the whole term of three years .	1	0	0
“ extended term of two years	0	16	0

Office copies of a design will be charged for according to the nature of the design.

By the Designs' Act of 1850, a protection of a nature similar to that granted for designs for ornamenting articles of manufacture by the act of 1842, is granted to sculptures, models, copies or casts of the whole or part of the human figure, or of animals, for the term, or unexpired part of the term, during which copyright in such sculpture, models, copies, or casts may or shall exist under the Sculpture Copyright Act, and the fee for registering the same is 5*l.*

To obtain this protection it is necessary—

- 1st. That the design *should not have been published*, either within the United Kingdom of Great Britain and Ireland or elsewhere, previous to its registration.
- 2nd. That after provisional registration, every copy of the design *should have thereon, or attached thereto*, the words “Provisionally Registered,” and the date of registration.
- 3rd. That after complete registration, every article of manufacture published by the proprietor thereof, to which such design shall have been applied, *should have thereon, or attached thereto*, a particular mark, which will be exhibited on the certificate of registration.
- 4th. That after registration of Sculpture, every copy thereof *should have thereon, or attached thereto*, the word “Registered,” and the date of registration.

These conditions being observed, the right of the proprietor is protected from piracy by a penalty of from 5*l.* to 30*l.* for each offence, each individual illegal publication or sale of a design constituting a separate offence. This penalty may be recovered by the aggrieved party either by action in the superior Courts, or by a summary proceeding before two magistrates.

If a design be executed by the author on behalf of another person, for a valuable consideration, the latter is entitled to be registered as the proprietor thereof; and any person purchasing either the exclusive or

partial right to use the design is in the same way equally entitled to be registered; and for the purpose of facilitating the transfer thereof, a short form (copies of which may be procured at the Designs' Office) is given in the act.

Any person who shall put the registration mark on any design not registered, or after the copyright thereof has expired, or when the design has not been applied within the United Kingdom, is liable to forfeit for every such offence 5*l.*

## ORNAMENTAL DESIGNS.

### DIRECTIONS FOR REGISTERING AND SEARCHING.

Persons proposing to register a design for ornamenting an article of manufacture, must bring or send to the Designs' Office:—

1. Two exactly similar *copies, drawings (or tracings), or prints* thereof, with the proper fees.
2. The name and address of the proprietor or proprietors, or the title of the firm under which he or they may be trading, together with their place of abode, or place of carrying on business, *distinctly written or printed.*
3. The number of the class in respect of which such registration is intended to be made, except it be for sculpture.

The aforesaid *copies* may consist of portions of the manufactured articles (*except carpets, oil cloths, and woollen shawls*), when such can be conveniently be done (as in the case of *paper hangings, calico prints, &c.*), which as well as

The *drawings or tracings* (not in pencil) or *prints* of the design, to be furnished when the article is of such a nature as not to admit of being pasted in a book, *must, whether coloured or not, be facsimiles of each other.*

*Should paper hangings or furnitures exceed 42 inches in length, by 23 inches in breadth, drawings will be required, but they must not exceed those dimensions (a).*

Applications for registering may be made in the following form:—

## ORNAMENTAL DESIGNS.

### *Application to Register.*

C. D. Works, November 10th, 1850.

You are hereby requested to register, provisionally (*b*), the accompanying — designs [*(c)* in class 1, (2, 3, 4, &c.),] [or for sculpture]

(*a*) These copies, drawings (or tracings), or prints, must consist of the entire design, without any addition or variation whatever, and no description will be admitted.

(*b*) If not provisionally, strike out the word "provisionally."

(*c*) Here insert "for sculpture," if for sculpture, or the class or classes.

in the name of [(a) A. B. of —, of —,] or, [A. B. of —, and C. D. of —, &c., trading under the style or firm of B. D. & Co., of —, of —, of —,] who claim to be the proprietors thereof, and to return the same [if sent by post,] directed to —, [if brought by hand,] to the bearer of the official acknowledgment for the same.

To the Registrar of Designs,  
Designs' Office, London.

(Signed) B. D. & Co.,  
by J. F.

The person bringing a design must take an acknowledgment for it, which will be delivered to him on payment of the proper fees. This acknowledgment must be produced on application for the certified copy, which will be returned in exchange for the same.

*Blank Forms may be obtained at the Office.*

A design may be registered in respect of one or more of the above classes, according as it is intended to be employed in one or more species of manufacture, but a separate fee must be paid on account of each separate class, and all such registrations must be made at the same time.

*If such design is intended for exhibition in any place duly certified by the Board of Trade to be a place of public exhibition, within the meaning of the Designs' Act, 1850, then a third such copy, drawing, (or tracing,) or print, must also be furnished.*

After the design has been registered, one of the two copies, drawings; (or tracings,) or prints, will be filed at the office, and the other returned to the proprietor, with a certificate annexed, on which will appear the *mark to be placed* on each article of manufacture to which the design shall have been applied.

*When three have been furnished, the remaining copy or drawing, &c., will be deposited in the place of public exhibition certified as aforesaid.*

If the design is for sculpture, no mark is required to be placed thereon after registration, but merely the words "registered" and the date of registration.

If the design is for provisional registration, no mark is required to be placed thereon after registration, but merely the words "provisionally registered" and the date of registration.

TRANSFERS.

In case of the transfer of a design, registered, whether provisionally or completely, a copy or the certified copy thereof must be transmitted to the Registrar, together with the forms of application, (which may be procured at the office), properly filled up and signed, the transfer will then be registered, and the certified copy returned.

EXTENSION OF COPYRIGHT.

The copyright may be extended in certain cases in provisional registration, for a term not exceeding the additional term of six months, and in complete registration for a term not exceeding the additional term of three years, as the Board of Trade may think fit.

In case of extension of copyright, the certified copy will have to be transmitted to the Registrar.

(a) Insert here the name and address of the proprietor, in the form in which it is to be entered on the certificate.

## SEARCHES.

All designs of which the copyright has expired may be inspected at the Designs' Office, on the payment of the proper fee ; but no design, the copyright of which is existing, is in general open to inspection. Any person, however may, by application at the office, and on production of the registration mark of any particular design, be furnished with a certificate of search, stating whether the copyright be in existence, and in respect to what particular article of manufacture it exists : also, the term of such copyright, and the date of registration, and the name and address of the registered proprietor thereof.

Any party may also, on the production of a piece of the manufactured article with the pattern thereon, together with the registration mark, be informed whether such pattern, supposed to be registered, is really so or not.

As this mark is not applied to a provisionally registered design, certificates of search for such designs will be given on the production of the design, or a copy of drawing thereof, or other necessary information with the date of registration.

*Persons bringing designs to be registered, on delivering them, must compare such designs together, count them, and see that the name and address, and number of class is correctly given, and examine their certificates previous to leaving the Office, to see that the name, &c., is correctly entered, as no error can afterwards be rectified.*

An acknowledgment of its receipt will be delivered, on payment of the fees, to the person bringing a design, and no certified copy of a design will be returned, except to the bearer of this acknowledgment, which must be produced on application at the office for the certified copy, and given in exchange for the same.

All communications for the registration of designs may be made either through the General Post Office, directed to "The Registrar of Designs, Designs' Office, London," or by any other mode of conveyance ; and provided the carriage be paid, and the proper fees, or a Post Office Order for the amount, payable at the Post Office, at No. 180, Strand, to JAMES HILL BOWEN, Esq., be inclosed, the designs will be duly registered, and the certified copies returned to the proprietors free of expense. *Postage stamps, orders upon bankers or other persons, country and Scotch bank notes, and light gold, cannot be received in payment of fees.*

The Designs' Office, No. 4, Somerset Place, Somerset House, is open every day, between the hours of ten in the morning, and four in the afternoon, during which time inquiries and searches may be made. Designs and transfers are registered from eleven until three, after which latter hour *no money can be received for the same.*

Directions for registering designs for articles of utility may be procured at the office.

By Order of the Registrar,  
J. H. BOWEN, *Chief Clerk.*



## COPYRIGHT OF DESIGNS FOR ARTICLES OF UTILITY.

By provisional registration under the Designs' Act, 1850, (13 & 14 Vict. c. 104), a copyright for one year, (which may be further extended for six months by order of the Board of Trade), is given to the author or proprietor of any new or original design *for the shape or configuration either of the whole or of part of any article of manufacture, such shape or configuration having reference to some purpose of utility*, whether such article be made in metal or any other substance. During such terms the proprietor of the design may sell the right to apply the same to an article of manufacture, but must not, under the penalty of nullifying the copyright, sell any article with the design applied thereto, until after complete registration, which must be effected *prior to the expiration of the provisional registration*.

By complete registration under the Designs' Act, 1843, (6 & 7 Vict. c. 65), a copyright of three years is given to the author or proprietor of any new or original design *for the shape or configuration either of the whole or of part of any article of manufacture, such shape or configuration having reference to some purpose of utility*, whether such article be made in metal or any other substance.

To obtain this protection, it is necessary—

- 1st. That the design should *not have been published* either within the United Kingdom of Great Britain and Ireland, or elsewhere, previous to its registration.
- 2nd. That after registration, or provisional registration, every article of manufacture made according to such design, or to which such design is applied, should have upon it the word "Registered," or "Provisionally Registered," *with the date of registration*.

In case of piracy of a design so registered, the same remedies are given, and the same penalties imposed (from 5*l.* to 30*l.* for each offence), as under the Ornamental Designs' Act, 1842, (5 & 6 Vict. c. 100), and all the provisions contained in the latter act relating to the transfer of *ornamental designs*, in case of purchase or devolution of a copyright, are made applicable to those *useful designs* registered under these acts.

In addition to this, a penalty of not more than 5*l.* nor less than 1*l.* is imposed upon all persons marking, selling, or advertising for sale any article as "Registered," unless the design for such article has been registered under one of the *above mentioned acts*.

**TABLE OF FEES FOR USEFUL OR NON-ORNAMENTAL  
DESIGNS.**

*Provisional Registration (a).*

	Fee. s.
Registering design - - - - -	10
Certifying former registration ( <i>to proprietor of design</i> ) - -	5
Registering and certifying transfer - - - - -	10
Cancellation or substitution ( <i>according to decree, or order in Chancery</i> )	5

*Complete Registration.*

	Stamp. £	Fee. £	Total. £
Registering design - - - - -	5	5	10
Certifying former registration ( <i>to proprietor of design</i> )	5	1	6
Registering and certifying transfer - - - - -	5	1	6
Cancellation or substitution ( <i>according to decree, or order in Chancery</i> ) - - - - -		1	1

*Inspections, &c., of Provisional and Complete Registrations.*

	Fee. s.
Inspecting register, index of titles and names, for each quarter or part of quarter of an hour - - - - -	1
Inspecting designs, unexpired copyright, each design do. do. do.	2
Inspecting designs, expired copyright, each volume do. do. do.	1
Taking copies of designs, unexpired copyright, ( <i>according to Judge's order</i> ), for each hour or part of an hour, each copy - - -	2
Taking copies of designs, expired copyright, for each hour or part of an hour, each copy - - - - -	1

Office copies of a design will be charged for according to the nature of the design.

**NOTICE.**

Parties are strongly recommended to read the act before determining to register their designs, in order that they may be satisfied as to the nature, extent, and comprehensiveness of the protection afforded by it; and further, that they come within the meaning and scope of the acts, of which facts the registration will not constitute any guarantee.

All communications for the registration of designs either for ornamental or useful purposes, may be made either through the General Post, directed to the "Registrar of Designs, Designs' Office, London," or by any other mode of conveyance; and provided the carriage be paid, and the proper fees, or a Post Office Order for the amount, payable at the Post Office, at No. 180, Strand, to James Hill Bowen, Esq., be inclosed, the designs will be duly registered, and the certified copies returned to the proprietor, free of expense. *Postage stamps, orders upon bankers or other persons, Scotch and country bank notes, and light gold, cannot be received in payment of fees.*

(a) As to these fees, see the note at page 201.

## USEFUL DESIGNS: DIRECTIONS FOR REGISTERING AND SEARCHING.

### *Registering.*

Persons proposing to register a design for purposes of utility must bring or send to the Designs' Office the following particulars :—

### *Particulars.*

- 1st. The title of the design.
- 2nd. Two exactly similar drawings or prints, thereof, made on a proper geometric scale, marked with letters, figures, or colours to be referred to as hereinafter mentioned.
- 3rd. The name and address of the proprietor or proprietors, or the title of the firm under which he or they may be trading, together with their place of abode, or place of carrying on business, *distinctly written or printed.*
- 4th. A statement of the purpose of utility to which the shape or configuration of the new parts of such design has reference.
- 5th. A description to render the same intelligible, distinguishing the several parts of the design by reference to the letters, figures, or colours aforesaid (a).
- 6th. A short and distinct statement of such part or parts (if any) as shall not be new or original, which may be in one of the forms following :—
  1. The parts of this design which are not new or original as regards the shape or configuration thereof, are all the parts except those marked (A. B. C. &c.), or coloured (blue, green, &c.)
  2. The parts of this design which are not new or original as regards the shape or configuration thereof, are all the parts taken separately, but (the parts [A. & B.] or coloured [blue, &c.]) as here combined form a new design (b).

Each drawing or print, together with the whole of the other particulars must be drawn, written or printed upon a separate sheet of paper or parchment, only one side of which must be drawn, written or printed upon. Such sheet must not exceed in size 24 inches by 15 inches, and on the same side as these particulars, there *must be left a blank space*, of the size of 6 inches by 4 inches, upon which the certificate of registration will be placed.

If the design is for provisional registration, an additional similar space may be left for the certificate of complete registration.

Should this be omitted, one fresh drawing, copy or print, will be required for complete registration.

(a) No description of the parts of the drawings which are old will be admitted, except such as may be absolutely necessary to render the purpose of utility of the shape of the new parts intelligible.

(b) The above particulars must be given in the aforesaid order under their several heads, and in distinct and separate paragraphs, which must be strictly confined to what is here required to be contained in each.

*If such design is intended for exhibition in any place duly certified by the Board of Trade to be a place of public exhibition within the meaning of the Designs' Act, 1850, then a third copy of the drawing or print, together with the whole of the other aforesaid particulars must also be furnished.*

Designs which are not in compliance with the above rules will not be received at the office.

As the Designs' Acts, 1843, (6 & 7 Vict. c. 65,) and 1850, (13 & 14 Vict. c. 104,) give protection only to the *shape or configuration* of articles of utility, and not to any *mechanical action, principle, contrivance, application or adaptation* (except in so far as these may be dependent upon, and inseparable from, the shape or configuration), or to the *material of which the article may be composed*: no design will be registered, the description of or statement respecting which shall contain any wording suggestive of the registration being for any such mechanical action, principle, contrivance, application or adaptation, or for the material of which the article may be composed.

With this exception and those mentioned in the act, 1843, clause 9, *all* designs, the drawings and descriptions of which are properly prepared and made out, will, on payment of the proper fee, be registered *without reference to the nature or extent of the copyright sought to be thereby acquired*; as proprietors of designs must use their own discretion in judging, whether or not the design proposed for registration be for the shape or configuration of an article of utility coming within the meaning and scope of the acts above mentioned.

After the design has been registered, one of the drawings will be filed at the office, and the other returned to the proprietor duly stamped and certified.

*When three have been furnished, the remaining copy will be deposited in the place of public exhibition certified as aforesaid.*

Parties bringing designs to this office before twelve o'clock, will be informed after three o'clock the same day whether they are approved of, and if so, they will be registered the following day, and provided the fee has been paid before half-past one o'clock on such day, the certified copies will be ready for delivery after three o'clock on that subsequent.

An acknowledgment of its receipt will be delivered, on payment of the fees, to the person bringing a design, and no certified copy of a design will be returned, except to the bearer of this acknowledgment, which must be produced on application at the office for the certified copy, and given in exchange for the same.

### *Transfers.*

In case of the *transfer* of a completely registered design, a copy thereof [or the certified copy, provided there is space sufficient thereon for the certificate,] made on one sheet of paper, with a blank space left for the certificate must be transmitted to the registrar, together with the *forms* of application (which may be procured at the office), properly filled up and signed; the transfer will then be registered, and the certified copy returned.

For the transfer of a design provisionally registered, the new copy will not be required, but the certified copy must be transmitted to the registrar with the above mentioned *forms*.

Persons bringing designs to be registered, on delivering their designs, and on examining their certificates, previous to leaving the office, *must see that the titles, names, &c., are correct, as no error can afterwards be rectified.*

*Searches.*

An index of the titles and names of the proprietors of all the registered designs for articles of utility is kept at the Designs' Office, and may be inspected by any person, and extracts made from it.

Designs, the copyright of which is *expired*, may be inspected and copied at the office.

Designs, the copyright of which is *unexpired*, may also be inspected, *but not copied*, except according to a Judge's order.

The Designs' Office, No. 4, Somerset House, is open every day, between the hours of 10 in the morning and 4 in the afternoon, during which time inquiries and searches may be made. Designs and transfers are registered from 11 until 3, after which latter hour *no money can be received for the same.*

Directions for registering ornamental designs may also be procured at the office.

By order of the Registrar,

J. H. BOWEN, *Chief Clerk.*

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With regard to forestalling, engrossing, and regrating, mentioned above at page 7 of "The Practical Treatise," it should be observed, that by the 7 & 8 Vict. c. 24, s. 1, it is enacted "That after the passing of this act, the several offences of badgering, engrossing, forestalling and regrating be utterly taken away and abolished, and that no information, indictment, suit, or prosecution shall lie either at common law or by virtue of any statute, or be commenced or prosecuted against any person for or by reason of any of the said offences or supposed offences."

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**AND ALSO**

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THE END.

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