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obtained, and the half of the sum so forfeited as well as the duties and charges accrued are paid, whereupon he shall deliver the goods to the proprietor of the copyright. In case of failure to obtain a decree of forfeiture, the goods shall be admitted to entry.

Effect of Act
of 1891 on
rights of
foreign-born
residents of
the United
States.

Some doubt has arisen in respect to the proper construction of section 13 of the Act so far as it may affect foreign-born residents of the United States who have not been naturalized. The section provides that the Act shall only apply to a citizen or subject of a foreign state or nation, when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens, "or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright by the terms of which agreement the United States of America may, at its pleasure, become a party to such agreement." The old law in relation to copyright extended to residents in the United States irrespective of nationality, and thousands of copyrights have been granted to citizens and subjects of various countries of Europe residing in the States. It seems clear that, except as to subjects of these countries, which may be included in the President's proclamations, they cannot now obtain protection in the United States unless naturalized, as residence only will no longer furnish them with a qualification.

Directions
issued to
American
authors.

On the 28th October, 1891, the Librarian of Congress issued the following circular letter (a) concerning the formalities to be observed by American authors in the countries to which the benefits of the law of the 3rd of March, 1891, extend :—

SIR,—In answer to your communication I must inform you that the arrangements between the United States and other countries concerning the international protection of copyright, now embraces Great Britain and her possessions, France, Belgium, and Switzerland.

(a) Translated from the Official Copyright Magazine, 1892.

An American citizen who desires to secure copyright in Great Britain must accomplish three conditions:—

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- (1.) Registration of the title at Stationers' Hall, London. Five shillings fee for an office copy of the entry.
- (2.) Simultaneous publication in Great Britain and her possessions on the one part, and in the United States on the other part.
- (3.) The delivery of five copies of the publication, of which one is destined for the British Museum, and the other four shall, on demand, be sent to four other libraries.

Registration of copyright in Canada must be effected with the Ministry of Agriculture at Ottawa: fee, one dollar for registration and fifty cents for a copy. The work must be published in Canada: two copies to be deposited (a).

(a) In spite of the provisions of the new United States Law of 1891, and Art. 4 of the Canadian Law of 1875, which provides that . . . any citizen of a country which has concluded with the United Kingdom an international treaty concerning literary and artistic property, who is the author of a book, &c., shall enjoy during 28 years from registration copyright, &c., the Department of Agriculture have at present refused to register the works of American citizens on the ground that the new American Law and the accompanying Proclamation of the President of the United States do not constitute an International Treaty within the meaning of the Act of 1875.

The Patent Review of Ottawa, after discussing this question at some length, comes to the opinion that the Canadian authorities are right in form, though wrong in substance.

Canadian law requires as a condition of registration that those who solicit it should be domiciled in Canada or in the British Possessions: consequently the benefits of the law do not extend to citizens of the United States. The proclamation of the President of the United States is founded on the first part of sect. 13 of the U. S. Law, which refers only to states granting to American citizens the same treatment as their own citizens receive, and therefore, as by Canadian law no protection is given to American citizens, his proclamation does not extend any protection to Canadian citizens. President Harrison in effect has acted as if the law in Canada were the same as in Great Britain, which it is not.

In form, therefore, the Canadian authorities are correct, but under the new United States Law Canadian citizens can register their works in the United States. In substance, is not this equivalent to a treaty?

It is also pointed out that it is very desirable in Canadian interests that an arrangement should be quickly arrived at. Simultaneous publication in British dominions is at present required for American works to obtain copyright, and it would be much more convenient for American publishers to arrange this simultaneous publication in Canada rather than

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Copyright in France can be secured by a foreigner by depositing two copies of the publication at the Ministry of the Interior at Paris. No fee or registration is required.

In order to ensure copyright in Belgium, a foreigner can have his work registered at the Department of Agriculture, Trade, and Public Works at Brussels.

In Switzerland, the registration of title at the Department of Trade and Commerce (*a*) is optional: fee, two francs. In case of registration, the deposit of one copy is required.

The Congress Librarian cannot undertake any registration or transaction in connection with foreign countries.

Treaty be-
tween Ger-
many and
United States.

On the 15th January, 1892, a treaty concerning the reciprocal protection of copyright was concluded, subject to ratification, between Germany and the United States. Its provisions are as follows:—

1. The citizens of the United States of America shall enjoy in the Empire of Germany the protection of copyright in works of literature and arts, and also in photographs against piracy, on the same legal basis which the subjects of the Empire are treated.

2. In return, the Government of the United States engages that the President of the Republic will make the proclamation provided for by Article 13 of the law of Congress of the 3rd March, 1891, with the view of extending the provisions of this law to German subjects, as soon as the Secretary of State shall have received the official communication of the ratification of the treaty by the legislation of the German Empire.

3. The present treaty shall be ratified at Washington as soon as possible.

It shall come into force three weeks after the exchange of ratification, and shall only apply to works not then

in England. Official Copyright Magazine of the Berne Convention, 1892. p. 11.

(*a*) Note by editor of the Official Copyright Magazine, 1892, p. 12, Registration now to be made at the Federal Office of intellectual property.

published. It shall remain in force until three months after it has been determined by either of the contracting parties (a).

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Various opinions have been expressed as to the effect of the recent American Copyright Act. It has been hailed by some as a measure of unmitigated good and a source of great gain to the English author, and, on the other hand, has been characterised as a contemptible and disreputable measure.

Effect of
recent
American
Copyright
Act.

To the unknown or unrisen author it will prove of practically no advantage, but to the well known and popular authors of the day will, no doubt, be the means of gain. The increase of a circle of readers, within a protected area, of 60,000,000 must have a material effect. The provision that the work in order to find protection in America must be printed from type set there, or from plates made therefrom, will, no doubt, have the effect of inducing the larger British publishing houses to open branches in New York or Boston or some other great centre, and the loss will fall upon the printers, type founders, ink manufacturers, and kindred trades in this country. As books printed in America will probably be sent over to this country in sheets, the binding trade will not be materially affected. It must be understood that though the condition of American manufacture is attached to the copyright in literary works and reproductions in the form of chromos, lithographs, and photographs, it is not made a condition of the more artistic forms of reproduction, and British artists, therefore, have the control of the copyright in their engravings or photogravures of their productions whether these engravings are manufactured in England or in the United States.

The section requires as we have seen the deposit with the Librarian of Congress of "two copies of every such copyright book, map, chart, dramatic or musical composition, engraving, &c." The proviso requiring such two copies to be printed, &c., within the United States

(a) Official Copyright Magazine, 1892, p. 46.

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applies only in terms to a "book, photograph, chromo, or lithograph," and does not apply to engravings—consequently it does not seem necessary that the plates from which the copies for deposit are taken should be engraved in the United States.

CHAPTER XIX.

ARRANGEMENTS BETWEEN AUTHORS AND PUBLISHERS.

A FEW remarks may, perhaps, be here advantageously offered on compacts, arrangements, and stipulations between authors and publishers, and we trust they may prove profitable both to the former and the latter.

Arrange-
ments
between
authors and
publishers.

In these days, when literature and commerce march in open array, and their pace is so rapid and great; when on the one hand a few authors write for fame, some for gain, and many for both; and on the other hand publishers regard their writings purely in a commercial point of view, estimating their worth (at least to them) by the amount of profit likely to accrue from the publication, two antagonistic parties frequently come in contact.

Authors who compose exclusively for fame are, on the assumption that they ever existed, rapidly becoming extinct, while those who write for gain are much on the increase. The spirit of the age is commerce, and almost every transaction of the present day is regarded in a commercial light (*a*).

Thus we have two parties in opposition: the one estimating the value of his work in proportion to his toil and labour in its composition, the other computing it in proportion as he conceives the public may become purchasers. The publisher could not undertake to requite or recompense the author according to the degree of exertion

(*a*) "Avarice," said Goldsmith, "is the passion of inferior natures; money, the pay of the common herd. The author who draws his quill merely to take a purse, no more deserves success than he who presents a pistol."—'An Inquiry into the Present State of Polite Learning,' chap. x.

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employed by him ; for what amount of drudgery and toil may not be expended upon a work which would not even cover the expenses of printing and publication ? Publishers invariably act like merchants, whose principle is to risk as little capital as possible, and to replace *that* with profit as early as feasible.

The reward
due to the
author.

The reward due to an author is thus justly referred to by Mr. Serjeant Talfourd : “ We cannot describe the abstract question between genius and money, because there exists no common properties by which they can be tested, if we were dispensing an arbitrary reward ; but the question how much the author ought to receive is easily answered : so much as his readers are delighted to pay him. When we say that he has obtained immense wealth by his writing, what do we assert, but that he has multiplied the sources of enjoyment to countless readers, and lightened thousands of else sad, or weary, or dissolute hours ? The two propositions are identical, the proof of the one at once establishing the other. Why, then, should we grudge it any more than we would reckon against the soldier, not the pension or the grant, but the very prize-money which attests the splendour of his victories, and in the amount of his gains proves the extent of ours ? Complaints have been made by one in the foremost rank in the opposition to this bill [a bill for the extension of copyright], the pioneer of the noble army of publishers, booksellers, printers, and bookbinders, who are arrayed against it, that in selecting the case of Sir Walter Scott as an instance in which the extension of copyright would be just, I had been singularly unfortunate, because that great writer received during the period of subsisting copyright an unprecedented revenue from the immediate sale of his works. But, sir, the question is not one of reward—it is one of justice. How would this gentleman approve of the application of a similar rule to his own honest gains ? From small beginnings, this very publisher has, in the fair and honourable course of trade, I doubt not, acquired a splendid fortune, amassed by the sale of works, the property of the public—of works, whose

authors have gone to their repose, from the fevers, the disappointments, and the jealousies which await a life of literary toil. Who grudges it to him? Who doubts his title to retain it? And yet this gentleman's fortune is all, every farthing of it, so much taken from the public, in the sense of the publishers' argument; it is all profits on books bought by that public, the accumulation of pence, which, if he had sold his books without profit, would have remained in the pockets of the buyers. On what principle is Mr. Tegg to retain what is denied to Sir Walter? Is it the claim of superior merit? Is it greater toil? Is it larger public service? His course, I doubt not, has been that of an honest, laborious tradesman; but what has been its anxieties compared to the stupendous labour, the sharp agonies, of him whose deadly alliance with those very trades whose members oppose me now, and whose noble resolution to combine the severest integrity with the loftiest genius, brought him to a premature grave,—a grave which, by the operation of the law, extends its chillness even to the results of those labours, and despoils them of the living efficacy to assist those whom he has left to mourn him? Let any man contemplate that heroic struggle, of which the affecting record has just been completed, and turn from the sad spectacle of one who had once rejoiced in the rapid creation of a thousand characters flowing from his brain and stamped with individuality, for ever straining the fibres of the mind till the exercise which was delight became torture, girding himself to the mighty task of achieving his deliverance from the load which pressed upon him, and with brave endeavour, but relaxing strength, returning to the toil, till his faculties give way, the pen falls from his hand on the unmarked paper, and the silent tears of half-conscious imbecility fall upon it—and to some prosperous bookseller in his counting-house, calculating the approach of the time (too swiftly accelerated) when he should be able to publish for his own gain, those works fatal to life; and then tell me, if we are to apportion the reward

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Contracts
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of the effort, where is the justice of the bookseller's claim? Had Sir Walter Scott been able to see, in the distance, an extension of his own right in his own productions, his estate and his heart had been set free; and the publishers and printers, who are our opponents now, would have been grateful to him for a continuation of labour and rewards which would have impelled and augmented their own" (a).

Contracts between authors and publishers should be in writing—the Statute of Frauds applies to literary as well as other contracts (b). In *Sweet v. Lee* (c), it appeared that the agreement for the publication of a dictionary of legal practice was contained in a memorandum, which was signed with the initials of the publisher and of the author, and was to the effect that the latter should receive £80 a year for five years, and £60 a year for the rest of his life if he should live longer than five years. This was held to be void under the Statute of Frauds; because, being a memorandum of an agreement not to be performed within a year, no consideration was expressed on the face of it, and it was without any signature other than the initials of the parties. The plaintiff, therefore, was not entitled to damages claimed to have been sustained by the failure of the defendant to perform his agreement to prepare a new edition. Nor, although the contract was void, could the plaintiff, having paid for several years the sums mentioned in the memorandum, recover the money so paid on the ground of failure of consideration.

What neces-

But the contract required to be in writing by the

(a) Speech in the Commons, April 25, 1838, 42 Parl. Deb. 560.

(b) But a contract by a printer to print, and find the paper for printing a number of copies of a work, is not a contract for the sale of goods within the 17th section of the Statute of Frauds as extended by the 9 Geo. 4, c. 14, s. 7; and the printer consequently may recover the price in an action for work, labour, and materials, where the contract is a verbal one: *Clay v. Yates*, 1 H. & N. 73. And a printer who is employed to print certain numbers, but not all consecutive numbers, of an entire work has a lien upon the copies not delivered for his general balance due for printing the whole of those numbers: *Blake v. Nicholson*, 3 M. & S. 167. But it seems that by the custom of trade a printer cannot recover for the printing of a work before the whole is completed and delivered: *Gillett v. Mawman*, 1 Taunt. 137; see also *Adlard v. Booth*, 7 C. & P. 108.

(c) 3 Man. & Gr. 452.

Statute of Frauds need not appear from one document, it may be collected from any number of documents. Thus, where a publisher proposed to publish by subscription an illustrated edition of Shakespeare, to appear in numbers at the price of three guineas a number, two guineas to be paid at the time of subscribing, and the remaining guinea on the delivery of each successive number; the prospectus stating "that one number at least should be published annually," and that the proprietors were confident that they should be able to "produce two numbers within the course of every year;" and the defendant, wishing to become a subscriber, wrote his name in a book kept for the purpose in the plaintiff's shop, entitled 'Shakesperian subscribers, their signatures;' printed copies of the prospectus lying at the same time in the plaintiff's shop, but neither prospectus nor book of subscribers containing any reference the one to the other, it was held that the contract of the defendant was not one to be performed within the space of a year from the making thereof, and therefore that, in order to be enforceable by action, it must be in writing. The defendant having refused to continue to take in the numbers of the book, an action was brought against him by the publisher; but it was held that the action could not be maintained for want of a written agreement or memorandum signed by the party to be charged therewith, as required by the 4th section of the Statute of Frauds. The prospectus contained the terms of the agreement, and if it could be coupled with the book of subscribers in which the defendant had signed his name, it would be a sufficient memorandum of the agreement to satisfy the statute, but as it contained no reference to the book, nor the book to it, there was no connection in sense between them which would enable the court to couple them together, and treat them as one document; and parol evidence to establish such a connection was inadmissible (a). "If,"

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sary to satisfy
the Statute of
Frauds.

(a) *Boydell v. Drummond*, 11 East, 142; *Mavor v. Pyne*, 11 Moore 2; 3 Bing. 285.

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said Le Blanc, J. "there had been anything in the book which had referred to the particular prospectus, that would have been sufficient; if the title to the book had been the same with that of the prospectus, it might, perhaps, have done; but as the signature now stands, without reference of any sort to the prospectus, there was nothing to prevent the plaintiff from substituting any prospectus, and saying that it was the prospectus exhibited in his shop at the time, to which the signature related; the case, therefore, falls directly within this branch of the Statute of Frauds."

An action maintainable for not supplying a work agreed to be furnished.

If an author agree in writing to supply a bookseller or publisher with a manuscript of a work to be printed by the latter, an action for damages can be maintained for refusing to furnish the same (a), provided the work be one which, if published, would not be libellous (b), or would not subject the author to punishment (c).

Should the work be stopped the author must be paid for work already done.

Where, however the author was engaged for a certain sum to write an article to appear, among others, in a work called the 'The Juvenile Library,' and before he had completed his article, and before any portion of it had been published, the work in which it was to have appeared was discontinued, Lord Chief Justice Tindal held that the publishers were not entitled to claim the completion of the article in order that it might be published in a separate form for general readers, but were bound to

(a) *Gale v. Leckie*, 2 Stark, N. P. C. 107; the Court of Chancery, however, could not compel him: *Clarke v. Price*, 2 Wills. C. C. 157.

(b) *Lyne v. Sampson Low & Marston*, 'Times,' 17th Feb., 1873.

(c) *Gale v. Leckie*, *supra*, and see *Brook v. Wentworth*, 3 Anstr. 881; *Cowan v. Milburn*, L. R. 2 Ex. 230; 36 L. J. (Ex.) 124; 16 L. T. (N.S.) 290. A contract for the publication of a book which it is unlawful to publish is not valid. But where this defence is set up, and the work is not produced, and no evidence of its character is offered, the jury are not to pronounce that the book is obnoxious: *Gale v. Leckie*, *supra*. A printer cannot maintain an action against a publisher for money due for printing an obscene book: *Poplett v. Stockdale*, 1 Ryan & M. 337. But where a printer, after printing part of a book, received the manuscript of the other part and found it to be libellous, it was held that he was not bound to print the libellous part, and was entitled to recover for what he had printed: *Clay v. Yates*, 1 Hurl. & N. 73; *Lyne v. Sampson Low & Marston*, *supra*.

pay the author a reasonable sum for the part which he had prepared (a).

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Where a work called the 'Elements of Mechanical Philosophy' was published in parts, the agreement between the author and publisher being that each part should be paid for when issued, and after the publication of a complete part the progress of the work was interrupted by the death of the author, it was held that the representatives of the deceased author were entitled to payment of the stipulated price of the published part (b).

Payment to author's representative for part of work finished.

A Court of Equity will not, however, decree specific performance of an agreement to write a book (c). It has no power to go so far, and were it capable of such an order, there would be no means of enforcing it.

No specific performance of agreement to write book.

In the case of *Clarke v. Price* (d), the defendant, Mr. Price, entered into an agreement with the plaintiffs, dated the 27th of April, 1814, "to compose and write the cases in the Court of Exchequer, commencing with Easter Term, 1814, and to be published periodically," on the terms of sharing the profits; and it was agreed that the plaintiffs should be at liberty to relinquish the undertaking if they should think it advisable. As the first and second volumes were published, the defendant, for certain considerations, assigned the copyright in them to the plaintiffs. Afterwards, in 1817, the terms of the arrangement were altered, and the following agreement was executed:—"Memorandum, Mr. Price agrees with Messrs. Clarke to receive for his interest in the agreement for the

(a) *Planché v. Colburn*, 5 Car. & Pay. 58; on ap. 8 Bing. 14.

(b) *Constable v. Robinson's Trustees*, 14 Fac. Dec. 166, 1 June, 1868. One judge, however, dissented, thinking the contract was one for the entire work, and that the object of partial payment was the accommodation of the author, and not any qualification of the original obligation. If a bookseller undertakes to publish a work in parts, and before the completion he dies, the subscriber has a claim upon the estate to complete the work, for otherwise these parts which he has purchased upon the faith of the work being completed are useless.

(c) Specific performance of an agreement for the sale of copyright (even though personal chattels, such as stereotype plates, printed sheets, &c., are included in the contract) will be decreed: *Thomblason v. Black*, 1 Jur. 198.

(d) 2 Wills. C. C. 157.

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Exchequer Reports, dated the 27th of April, 1814, commencing at the third volume, the sum of, &c. Mr. Price agrees to give any further assignment of the copyright and future interest to Messrs. Clarke at their expence." The defendant having subsequently entered into an agreement with other publishers, who were made defendants, to report the cases in the Exchequer; the bill was filed, praying to have a specific performance of the agreements of 1814 and 1817, by permitting the plaintiffs to print and publish the reports of cases in the Exchequer so long as he should continue to compose and write them, upon the terms of those agreements, and by executing an assignment of the copyright; and also praying an injunction. *Morris v. Colman* (a), was relied upon. Lord Eldon, C., dissolved an injunction which had been obtained *ex parte*, apparently assuming that the agreement bore the construction contended for by the plaintiffs. His lordship said: "The case of *Morris v. Colman* is essentially different from the present. In that case Morris, Colman, and other persons were engaged in a partnership in the Haymarket Theatre, which was to have continued for a very long period, as long, indeed, as the theatre should exist. Colman had entered into an agreement which I was very unwilling to enforce—not that he would write for the Haymarket Theatre, but that he would not write for any other theatre. The court could not compel him to write for the Haymarket Theatre, but it did the only thing in its power—it induced him indirectly to do one thing by prohibiting him from doing another. There was an express covenant on his part contained in the articles of partnership. But the terms of the prayer of this bill do not solve the difficulty, for if this contract is one which the court will not carry into execution, the court cannot indirectly enforce it by restraining Mr. Price from doing some other act. This is an agreement which expressly provides that Mr. Price shall write and compose reports of cases to be published by the plaintiffs. In

(a) 18 Ves. 437.

Morris v. Colman there was a decree directing the partnership to be carried on, it could not be put an end to, and it was the duty of the parties to interfere. But I have no jurisdiction to compel Mr. Price to write reports for the plaintiffs; I cannot, as in the other case, say that I will induce him to write for the plaintiffs by preventing him from writing for any other person, for that is not the nature of the agreement. The only means of enforcing the execution of this agreement would be to make an order compelling Mr. Price to write reports for the plaintiffs, which I have not the means of doing. If there be any remedy in this case, it is at law. If I cannot compel Mr. Price to remain in the Court of Exchequer for the purpose of taking notes, I can do nothing. I cannot indirectly, and for the purpose of compelling him to perform the agreement, compel him to do something which is merely incidental to the agreement. It is also quite clear that there is no mutuality in this agreement."

But an author may bind himself not to write upon a particular subject, or only for a particular person; for a bond or covenant to that effect would not resemble one in restraint of trade.

An author may bind himself not to write upon a particular subject.

Thus, in the case quoted in *Clarke v. Price*, where Colman had contracted with the proprietors of the Haymarket Theatre not to write dramatic pieces for any other theatre, the Lord Chancellor maintained that such a contract was not unreasonable upon either construction, whether it was that Mr. Colman should not write for any other theatre without the licence of the proprietors of the Haymarket Theatre, or whether it gave to those proprietors merely a right of pre-emption. If, said he, Mr. Garrick were now living, would it be unreasonable that he should contract with Mr. Colman to perform only at the Haymarket Theatre, and Mr. Colman with him to write for that theatre alone? Why should they not thus engage for the talents of each other? I cannot see anything unreasonable in this; on the contrary, it is a contract which all parties may consider as affording the

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But court will not interfere until there be an actual publication.

most eligible, if not the only, means of making this theatre profitable to them at all as proprietors, authors, or in any other character which they are by the contract to hold (a).

But in *Brooke v. Chitty* (b), where the defendant had undertaken not to write or edit any work upon the criminal law, except a work of which the plaintiff had purchased the copyright, and an advertisement of an edition of Burn's 'Justice of the Peace,' by the defendant, had appeared, Lord Brougham refused to grant an injunction, observing that the defendant was at liberty to write in his closet what he pleased, and that the court would not interfere until there was a violation of the alleged undertaking by actual printing and publication.

So, where an author sells the copyright of a work (c) published under his own name, and covenants with the purchaser not to publish any other work to prejudice the sale of it, it seems that another publisher, who has no notice of this covenant, may be restrained from publishing a work subsequently purchased by him from the same author, and published under his name, on the same subject, but under a different title, and though there be no piracy of the first book (d).

If an author undertakes to compose a work and dies before completing it, his executors or administrators are discharged from the contract, for the undertaking was merely personal in its nature, and by the intervention of

(a) *Morris v. Colman*, 18 Ves. 437. In *Montague v. Flockton*, L. R. 16 Eq. 189, it was held that a contract between a manager of a theatre and an actor must be understood to be for the exclusive services of the latter during the period for which he had been engaged, though there was no express agreement that he should not act elsewhere. The case has been disapproved in *Whitwood Chemical Co. v. Hardman*, L. R. [1891] 2 Ch. 416, on the ground that there was no negative covenant, and cannot now be considered good law.

(b) 2 Cooper's Cases, 216; see *Brook v. Wentworth*, 3 Anstr. 881.

(c) A contract for sale of a copyright is enforceable in equity: *Thombleson v. Black*, 1 Jur. 198.

(d) *Barfield v. Nicholson*, 2 Sim. & Stu. 1; 2 L. J. (Ch.) 90. But where, in an action by several plaintiffs for piracy of copyright, it appeared that the defendant, the author, had published the work in question pursuant to the conditions of a *cognovit* given by him to one of the plaintiffs and another person, in an action for not performing an agreement to write the work in question, it was held that this was a sufficient defence: *Sweet et al. v. Archbold*, 10 Bing. R. 133; cited Curtis on Copy. 231.

the contractor's death has become impossible to be performed (*a*). And if an author becomes bankrupt his trustee has no power to compel him to complete the work (*b*).

But where no such covenant had been entered into and the publisher had agreed with an author for an edition of a history to be written by the latter, in four volumes, and had obtained subscriptions for all that could fall within his edition, the court held that the author was at liberty to publish a continuation of the history which embraced part of the period and also much of the matter contained in the last of the four volumes (*c*).

An arrangement was entered into between Dr. Brewster and Professor Jameson, on the one part, and an Edinburgh publishing firm on the other part, for the publication of a work to be edited by the former, called 'The Edinburgh Philosophical Journal,' the agreement to be binding for five years, or till the termination of the twentieth number of the journal. On the title-page the journal was stated to be "conducted by Dr. Brewster and Professor Jameson." After the twentieth number had appeared, Dr. Brewster, having differed with the firm, published a prospectus of "No. 1 of the 'New Series of the Edinburgh Journal,' conducted by

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Independent of agreement to the contrary, author at liberty to publish a continuation of his work.

'The Edinburgh Philosophical Journal.'

(*a*) *Marshall v. Broadhurst*, 1 Tyrh. 349, by Lord Lyndhurst. So in *Cooke v. Colcraft*, 2 W. Bl. 856, S. C. 3 Wils. 380, one Wm. Cooke, the plaintiff's intestate, being a newsman and entitled to receive every morning 30 copies of the 'Daily Advertiser,' assigned his right to the same, and all other his business of a newsman, to the defendant, and covenanted "that he the said Wm. Cooke should not thereafter exercise the business of a newsman, but should use his utmost endeavours to procure for the said defendant his customers in the said business," and in consideration of the premises, the defendant covenanted to pay 8s. per week to the said Wm. Cooke, his executors, administrators, and assigns, during the lives of the said William Cooke and Ann his wife, and the survivor of them: Cooke died, and his wife took out administration and commenced the business of a newspaper vendor on her own account: the court held that the administratrix was not bound by the covenant, and grounded their judgment on the difference of expression in the two clauses, viz., that Cooke himself, without naming his executors, &c., should abstain from the business of a newsman, but that the payment was to be made to him, his executors, &c., and that this was now payable to the plaintiff not as wife but as administratrix of Wm. Cooke, and was assets for the payment of his debts: besides, it would be very hard, the Court said, to bar her from exercising a lawful occupation for her own livelihood in consequence of this personal covenant of her husband.

(*b*) *Gibson v. Carruthers*, 8 M. & W. 343.

(*c*) *Blackie & Co. v. Aikman*, May 26, 1827; 5 Sess. Cas. 719 (N.E.) 671.

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Dr. Brewster," whereupon the firm presented a bill of suspension and interdict of a work under this title, on the ground that they were the proprietors of the original journal, the publication of which they intended to continue, and that the proposed work was an invasion of their property. The Lord Ordinary, on the ground that the copyright of the publication in question was the property of the complainers, passed the bill, and granted the interdict. The Court of Session recalled the interlocutor as deciding the question to be discussed on the passed bill ; but at the same time remitted to pass the bill and continue the interdict (a).

'The London Journal.'

Where, in 1857, the defendant, being the proprietor of a weekly publication, 'The London Journal,' the price of which was 1*d.*, assigned his copyright and interest therein to the plaintiff for £24,000, and entered into a covenant with the plaintiff that he would not directly or indirectly, alone or in partnership with any other person or persons, engage himself or be concerned in bringing out or publishing any weekly periodical of a nature similar to 'The London Journal,' selling at 1*d.* per copy, or commit any act or default which might tend to lessen or diminish the sale or circulation of the said periodical, or the profit to be derived by the plaintiff from the future printing or publishing thereof, and in May, 1859, the defendant issued an advertisement announcing the publication by him, on the 1st of June following, of a daily newspaper, to be called 'The Daily London Journal,' and to be sold at 1*d.*, the plaintiff obtained an injunction. The injunction was appealed against, but without effect. Sir J. L. Knight Bruce, L.J. (*dissentiente* Sir G. J. Turner, L.J.), confirming the order, upon the plaintiff undertaking to abide by any order the court might make as to damages, and to bring an action against the defendant within one week (b).

'London Society.'

So also in the case of *Clowes v. Hogg* (c), an injunction was

(a) *Constable v. Brewster*, 3 Scotch Sess. Cass. 215.

(b) *Ingram v. Stiff*, 5 Jur. (N.S.) 947 ; 33 L. T. (N.S.) 195.

(c) W. N. (1870) V.-C. M. 268 ; see *Hogg v. Kirby*, 8 Ves. 115. And see *Seaton v. Senate*, cited 2 V. & B. 220.

applied for on behalf of Messrs. Clowes and Messrs. Wrigley, the proprietors of a magazine called 'London Society,' to restrain the defendant, Mr. James Hogg the younger from publishing a magazine under the name of 'English Society,' or with a cover only colourably differing from that used for the plaintiffs' magazine. It was only sought to restrain the defendant from selling the Christmas number of his intended magazine with a cover similar to that used by the plaintiffs. 'London Society' was brought out by the defendant in its present form in 1863, but some time afterwards Messrs. Hogg, of whose firm the defendant was a member, became indebted to Messrs. Wrigley, paper makers, and a mortgage of the magazine was executed as part of an arrangement to pay the debt, the defendant at the same time entered into a covenant not at any time to do, or cause to be done, anything which might injure the said publication or decrease its value. The copyright in the magazine was subsequently assigned to the plaintiffs absolutely, subject to the before-mentioned mortgage. The magazine continued to be edited by the defendant, and was published at 217, Piccadilly. In May, 1870, the plaintiffs, under the terms of their agreement with the defendant, gave him three months' notice of dismissal, and informed him that the magazine, 'London Society,' would in future be published by Messrs. Bentley, and would be edited by Mr. Blackburn. Upon this intimation the defendant proceeded to make arrangements for bringing out another magazine, entitled 'English Society,' and upon the termination of his notice of dismissal, he issued a circular in terms almost identical with the circular issued when the plaintiffs' magazine was first published, and which, it was alleged, contained expressions indicating that the defendant's magazine was a substitute for, or a continuation of, the plaintiffs' magazine; and the defendant further threatened that he should endeavour to drive the rival publication out of the field. The defendant stated in his circular that he had ceased to be connected with 'London Society,'

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but proposed to carry into the new magazine whatever knowledge and spirit he had been able to impart into the old work, and announced that, with the aid of the well-known masters of the pen and pencil with whom he had so long been associated, he proposed "to continue all those sketches of London society and those studies of English life for which we have won some reputation." The covers of the two magazines had a general resemblance in colour, but the defendant's cover exhibited the picture of a lady in the place where a coat of arms appeared upon the plaintiffs' magazine. Vice-Chancellor Malins said, if the question had arisen between two independent publishers, he should have had some difficulty in deciding that the cover of the defendant's magazine was so close an imitation of that of the plaintiffs' as to entitle him to an injunction; but as the defendant had entered into a covenant not to do anything to injure the magazine entitled 'London Society,' which covenant he thought was still in force so long as there was any money due upon the mortgage, and as the whole course of conduct pursued by the defendant evinced, in his opinion, an evident intention on the part of the defendant to injure the sale of the plaintiffs' magazine, and to lead the public to believe that his magazine was a continuation of, or a substitute for, the magazine of the plaintiffs', he had no hesitation in granting the injunction. But since there had been some amount of delay by the plaintiffs, in consequence of which the defendant had been induced, as he alleged, to expend a large sum of money in preparing the January number for publication, he thought it would be right to allow that number to appear in its intended form.

It sometimes happens that the original proprietor's name forms part of the title of a publication, as, for instance, 'Fraser's Magazine,' 'Walford's Antiquarian,' 'Lloyd's Weekly London Newspaper.' When a paper bearing the name of the original proprietor is assigned by him, the assignee acquires the right to use the original

proprietor's name in connection with the paper, and any attempt to injure the property assigned will be restrained by the court. Thus, in *Ward v. Beeton* (a) the defendant had been the originator and proprietor of a work called 'Beeton's Christmas Annual.' In 1869 he sold this and his other works to Messrs. Ward, Lock & Tyler, and entered into a contract with that firm, by which, in return for a certain salary, he undertook to give all his services to that firm. He edited 'Beeton's Christmas Annual' for the firm for some years; but the latter, becoming discontented with the way the work was done, in 1874 put it into another writer's hands. Thereupon the defendant issued an advertisement announcing that he had nothing whatever to do with the 'Beeton's Christmas Annual' issued by the plaintiffs, and that he was preparing his usual annual, which, under the name of 'Jon Duan,' would be issued not by Messrs. Ward, Lock & Tyler, but by Messrs. Weldon & Co. Upon these facts an injunction was granted to restrain the defendant from publishing any such advertisements.

When a publisher is the absolute owner of the copyright, he is entitled, without the consent of the author, to publish successive editions of the work with additions and corrections; and, in bringing out new editions, may make such omissions and other changes in the original as will not injure the reputation of the author. But such revision when done by another, cannot lawfully be represented as having been made by the author of the original: and if the publisher issues a new edition under the author's name so incorrect as to be injurious to the author's reputation, he renders himself liable to an action for damages (b).

As to the alteration of an author's work by another.

When, however, a portion of the work is written to be published under the name of another, the author would have no remedy in case of its alteration or variation (c).

(a) L. R. 19 Eq. 207.

(b) See *Archbold v. Sweet*, 1 Moo. & Rob. 162; 5 Car. & Pay. 219.

(c) The name of the editor appearing upon the title-page forms no part of the title; and the Master of the Rolls refused to restrain by injunction the proprietors of a journal from omitting the publication of the editor's

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This was decided in *Cox v. Cox* (a). The defendant, a house agent, having prepared a book on the sale of estates, applied to the plaintiff, a barrister, to correct the work, and to supply the legal matter necessary to complete it, for which the plaintiff was to be paid a certain remuneration, according to the number of pages the work might contain. "No agreement," said the Vice-Chancellor in passing judgment, "was come to as to the name under which the work was to appear. The case, therefore, stood thus: The defendant said, 'I am going to write a work, which you shall correct and put into shape, and a part of which you shall supply for a certain remuneration.' If that be so, the plaintiff was evidently in the subordinate position of assisting in the production of a work which was to come out in the name and as the work of the defendant. The work would be partly the defendant's own composition, and it would be partly the work of the plaintiff; but it was to come out as one entire publication, and to be paid for at one uniform rate. The bulk of the matter was apparently to be supplied by the defendant. The plaintiff employed himself in the preparation of a treatise on the law of vendor and purchaser and landlord and tenant, the whole of which the defendant desired to have compressed into one printed sheet. The plaintiff, on the other hand, thought that no information of value on the legal incidents of the property treated of could be condensed within that compass, and he extended this portion of the work to three sheets and a half. The defendant then said: 'If you will reduce this matter to one-half of its present magnitude, I am willing to print it; if not, I decline to print it at all.' This was an absolute rejection of the plaintiff's contribution, except upon the terms of reducing it in quantity to the extent which the defendant required. The plaintiff, on the other hand, was resolved that the whole should be printed or

name on the title-page, although the agreement between the proprietors and editor provided that the title of the journal should not be altered without mutual consent: *Crookes v. Petter*, 6 Jur. (N.S.) 1131.

(a) 11 Hare, 118.

none. There was at this point of the transaction great difficulty in the way of any arrangement. The defendant said, 'I will have only one sheet and three-quarters of legal matter.' The plaintiff insisted that he should have three sheets and a half, or none. Then what followed? The plaintiff looked over the manuscript again, but did not reduce it to the required dimensions; and the defendant, although it had not been so reduced, took the manuscript in the state in which it had been left (which he could only have been entitled to do under the contract), and he began to print the work. The plaintiff proceeded to correct the proof sheets; but (as he states), when he began to find that the legal portion of the work was introduced in a mutilated form, he intimated his refusal to consent to any alteration; and in this state of things the application is made for the injunction. I have stated what appears to me to be the substance of the contract between the parties, up to the time of the discussion as to the space which the legal matter should occupy; and that contract the plaintiff has, by the fourteenth paragraph of the bill, treated as subsisting, for he thereby claims £60 as the unpaid part of the remuneration on the whole contract. On the other hand, the defendant, having taken the manuscript and used it, cannot, I think, dispute his liability to pay for it, according to the terms of the contract. But that would be a question for a court of law. Something was said with regard to the possible effect of the alteration of the plaintiff's portion of his work, as affecting his reputation; but, as it was held in Sir James Clarke's case (*a*), the possible effect on reputation, unless connected with property, is not a ground for coming to this court, though it may be an ingredient for the court to consider when the question of a right of property also arises. . . . A serious question was then adverted to—but it is one which does not arise in this case—how far a party who had purchased a manuscript has a right to alter it, and produce it in a mutilated

(*a*) *Clarke v. Freeman*, 11 Beav. 112.

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form?—how far, in a case in which the property has completely passed, it is to be assimilated to a case of goods sold and delivered, and thenceforward in the complete dominion of the purchaser? A qualified contract may be made; an essay may be supplied to a magazine or an encyclopædia, on the understanding that it is to be published entire; and it may be accepted by the editor, and paid for as what it purports to be. In the instance of an essay which had been accepted in that shape, the question might arise whether any curtailment could be allowed under that special contract. But here there is no such special contract. The contract is, that the plaintiff shall supply the defendant with the matter which is required, in such a form as to enable the defendant to publish it as his own. I can find no circumstances from which any such special contract as I have mentioned can be inferred. The plaintiff has, indeed, sought to make it a stipulation that his contribution of the legal materials shall not be published otherwise than entire; but this stipulation has no foundation in the original contract, upon which his case rests. It may well be that this part of the work may suffer in value from the alterations made by the defendant, but no one will probably expect to find the law set forth with any great amount of precision in a work issued by a house agent for the guidance of his customers in dealings of a simple character. If any such mistakes should occur in the legal portion of the work, as the plaintiff apprehends, he will have the remedy in his own hands, by correcting the errors in a subsequent work, in which he may publish his treatise in a distinct form.”

The plaintiff would have had this right by analogy to the principle that a publisher acquiring from an author a right to publish a treatise in a particular work, such as in the ‘*Encyclopædia Britannica*,’ would not be entitled to make the publication in another work not embraced in the contract, nor to publish generally beyond his licence (a). But it must be borne in mind that the

(a) *Stewart v. Black*, 9 Sess. Cas. 2nd Series, 1026; cited Phillips on

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opportunity of correcting the errors by separate publication could not have arrived until the expiration of twenty-eight years from the first publication.

We have already considered (a) how far and to what extent editors of newspapers are entitled to make alterations in communications made to them and articles sent for insertion. The same principle is applicable in the case of authors and publishers. But it may be well to mention here that it is apprehended that where the copyright in a work is sold outright, and there is no express agreement to publish the same, the proprietor may decline to publish, notwithstanding that the author may fail by reason of this to acquire additional reputation. The author should have made the publication by the purchaser part of the agreement had he considered this material to his interests.

Where no agreement purchaser of copyright need not publish.

It is more questionable, however, to what extent the proprietor of a periodical could delay publication where he had acquired the copyright under the 18th section of the Copyright Act, 1842, for here, as the duration of right in the owner of the periodical is limited, and the 28 years would run from the time of publication, the author might argue that, as by the action of the owner of the periodical, his right to separate publication was indefinitely postponed, there was an implied understanding that the publication should be forthwith.

To what extent proprietor of periodical may delay publication of articles.

In an important case recently tried, the subject as to alteration of a work by the assignee of a publisher, and the consequent effect on the reputation of the author, was considered. Mr. Sidney Lee sought to restrain Mr. Gibbings from publishing as a new and complete work of the author, with the date 1892 on the title-page, mutilated copies of 'The Life of Lord Herbert of Cherburg,' prepared by the author for Mr. Nimmo in 1886, and issued by him in that year. The court declined to inter-

Alterations in work by assignee of owner of copyright.

Copy. 178. As to bookseller's lien on the copyright for his disbursements, see *Brook v. Wentworth*, 3 Anstr. 881.

(a) Chapter Newspapers, *ante*.

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fere on an interlocutory application, and intimated that Mr. Lee's only remedy was for a libel against Mr. Gibbings. It seems that Mr. Nimmo having sold 395 copies to the public, sold the rest of the issue to Mr. Gibbings as a remainder, which Mr. Gibbings issued as a new book, with the date 1892, omitting the introduction and the index.

There can be no doubt that such an issue was calculated to damage the reputation of the author, for apart from the question of mutilation, no opportunity was afforded him of introducing matters having reference to the life in question which might have come to his knowledge since the appearance of the first issue. Mr. Justice Kekewich, in his judgment, said : " The legal side of the case is one of considerable interest, and not at all free from difficulty. I regard the defendant for this purpose as the owner of the copyright of this work. He is not, I am aware, the owner of the copyright, but he has purchased the unpublished sheets of the plaintiff's work, and as regards these unpublished sheets he stands in Mr. Nimmo's place, and is the owner of the copyright (*a*). He has Mr. Nimmo's assent to their publication. He has even Mr. Nimmo's assent to the publication in the present form, and he therefore, though having no right to multiply copies in the sense of printing further copies and publishing anything else but these sheets, can deal with these sheets as he pleases, provided he gives the plaintiff no cause to complain. He thinks fit, that is to say, he finds it convenient to his trade, to publish the plaintiff's work in a mutilated form. The word 'mutilated' may or may not imply something in derogation of the work, or of the defendant's manipulation of it; but strictly speaking the form is mutilated. The index is left out. I do not myself attribute very great importance to that in such a work as this, but I only speak for myself in saying that there are other parts left out, including the introduction,

(*a*) This, we submit with deference, is too broad a definition of Mr. Gibbing's rights.

and I should certainly say that the omission of the introduction to such a work as this was very nearly leaving out the principal part of the work. Then the date is altered, so as to give the impression that it is a new work. I am told that is not so; that nobody would suppose that it was a work published in 1892 because the figures '1892' are on the title-page. I suppose that there are some people who would regard 1892 as meaning nothing. I confess to be amongst them who have regarded it as meaning that the work was published in 1892 and not in 1886; but that is a question of injury to the plaintiff to which I will come presently, and not otherwise a mutilation of the plaintiff's work. The omission of the introduction does seem to me to be a very cogent instance of mutilation. Is the defendant entitled to do that? There is no law compelling a man to publish the whole of the work because he has the copyright in the whole. Nor can he be prevented from publishing extracts from the work. Whether it is right for him to publish extracts without saying they are extracts, or whether he can publish a work in a mutilated form without indicating in the least that there has been that mutilation, is a question, to my mind, of some difficulty.

"The question resolves itself into this:—Does he thereby injure the author's reputation? For that, what is the author's remedy at law? His remedy in law is, I think, undoubtedly libel or nothing. Injury to reputation is the foundation of the remedy in an action of libel. It is what you have to prove in order to get your damages, and if one endeavoured, which I am not intending to do, to frame the innuendo in an action of libel by the plaintiff against the defendant, it would necessarily point to the injury of the reputation of the author hereby informing the public that this mutilated work was really the work of the plaintiff, whereas, in fact, his work was something far superior, and that this would be discreditable to him. That would be necessarily the general line of complaint.

It comes, therefore, to a question on this part of the

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case whether I ought to grant an injunction now to restrain a libel before that question has been before a jury, which is the avowedly proper tribunal for the purpose of determining whether a libel exists or not. The jurisdiction of the court to restrain a libel is undoubted. It has been affirmed over and over again, even in those cases in which the court has refused to grant an injunction, in particular the last case of *Bornard v. Perryman* (a). Of late years there has been no such thing as an injunction to restrain a libel except in the recent case, where Mr. Justice Chitty distinguished trade libels from other libels, and granted an injunction (b), a decision with which, within the last week or two, I have had occasion to express my entire concurrence. But with that exception, as far as I know, the court has not of late granted an injunction to restrain a libel before the point has been submitted to a jury, in other words, an interlocutory application.

“Now ought this to be an exceptional case? I see no reason for making an exception in favour of a case such as this. The balance of convenience does not seem to me to point in favour of granting an injunction, because, though the sale of the work will no doubt go on, and though if it goes on it is injurious to the plaintiff’s reputation—the injury will be continued—yet the injury must to a great extent be done by the mere publication, and after all success in the ultimate result would be quite satisfactory to the plaintiff. I mean, if it were eventually determined that the plaintiff was right and could sustain an action of libel against the defendant by reason of this publication, then, not by the damages awarded, but by the mere verdict of the jury, he would have, I will not say rehabilitated, but maintained his reputation at the level at which it before existed. It cannot be suggested that the mere sale of a few copies more or less would place him in any worse position if eventually he succeeded, and of course, if he did not, then he has no reason to complain.

(a) [1891] 2 Ch. 269.

(b) *Collard v. Marshall*, [1892] 1 Ch. 571.

“Now, on the balance of convenience, I think I ought not to grant an injunction, especially it being of course understood that I express no opinion whether it is a libel or not. That is really the reason why the court in these cases does not grant an injunction, because if it granted an injunction, or even if it refused it on any other ground than the one I have mentioned, the court would be obliged to express an opinion, that the court ought not to express an opinion on a matter that is to be left to a jury.

“But the plaintiff’s case has been put by Mr. Renshaw on another ground, which strikes me as extremely deserving of attention, though I do not think I ought to grant an injunction on that ground at the present moment. He says this is like the case of *Clarke v. Freeman*, and *Clarke v. Freeman* may be considered for this purpose as decided quite differently from the way in which it was decided. In that I follow him. I do not think that after the observations of Vice-Chancellor Malins, Lord Cairns, and Lord Selborne on that case, I ought to hesitate to regard it as really erroneously decided, and I do not think that, having regard to Lord Cairns’s observations on p. 310 of the second Chancery Appeals in the case of *Maxwell v. Hogg*, I ought to doubt what the proper decision should have been in *Clarke v. Freeman*, or on what ground that proper decision would have been rested, because he says—distinctly speaking, be it remembered—in the Court of Appeal: ‘It always appeared to me that *Clarke v. Freeman* might have been decided in favour of the plaintiff on the ground that he had a property in his own name.’ The question of whether a libel was a fit subject for an injunction either on motion or at the trial was not discussed in *Clarke v. Freeman*. It is not discussed by Lord Cairns, it is not discussed by Lord Selborne, and it is not discussed by Vice-Chancellor Malins, but they disapprove of the decision, and Lord Cairns says because the plaintiff had a property in his own name, the name was invaded by the actions of the defendant, and the plaintiff could

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therefore restrain the defendant from doing what he did on that ground. That is entirely independent of libel.

“Now, can I decide this case on that ground in favour of the plaintiff? I think not, and I think not because when you come to test that argument, according to my present opinion, you really come back again to the question of libel in this case, though you would not have done so in *Clarke v. Freeman*. The plaintiff’s case on this part of it is, ‘The defendant is publishing as my own what is not my own; that is to say, I am the author of an entire book, the defendant is publishing only part of it, and such part that really he is not publishing my work at all; he is bringing out what I never sanctioned as my work, and which cannot be fairly represented as my work, and therefore I complain of him using my name in connexion with a book that is not mine.’ It comes back to this: Is the book the plaintiff’s or not? It is avowedly only part of it; but is it such a substantial part of it that it may be fairly called the plaintiff’s? It is so unless the mutilations are such as to give the plaintiff a right of action for libel. So that, try it as you will, it comes back to the same point, and I think, therefore, I should be doing wrong in seizing hold of the doctrine, not of *Clarke v. Freeman*, but which ought to have been supported in *Clarke v. Freeman*, to give the plaintiff relief which ought, on the other hand, to be denied him, because he is really bringing an action of libel. I therefore, on those grounds, must refuse the motion, without expressing any opinion whether what has been done is injurious to the plaintiff’s reputation or not.

“This is really the whole question in the case. If the case is tried out, there is nothing else to be tried, and therefore the proper way to deal with the costs is to make the costs of both parties costs in the action” (a).

Where agree-
ment is for a

Where the agreement is for the exclusive publication

(a) Verbatim report in ‘The Athenæum’ of Aug. 13, 1892. With great deference we consider the decision in *Lee v. Gibbings* to be open to grave objections.

of a specified number of copies, that number only can be printed and sold, and until their sale the author cannot revoke the authority given to the publishers, or himself publish the work.

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specified
number of
copies.

An agreement that the publisher shall publish a second edition, if demanded by the public, and print as many copies as they can sell, gives them the right, when such demand arises, to publish and sell as many copies as can properly be considered to belong to that edition, and to prevent the author or any other person from publishing until such copies shall be sold (*a*).

The publisher is bound to observe the terms of the contract between himself and the author as to the manner and style of the publication, and the price at which it shall be issued to the public, but if the price at which the work is to be sold is not fixed by the agreement, or otherwise arranged by the author and publisher, the latter is the proper person to determine the same. At the same time he would not be permitted to fix upon a style, or sell at a price, which would be clearly injurious either to the literary reputation or the pecuniary interests of the author without his consent.

Agreements
as to style of
publication.

When neither the time during which the publication is to last, nor the number of editions or copies to be published, is specified, the publisher is not bound to publish more than the first edition; and the author, by giving proper notice, may end the contract and prevent the publication of any further editions (*b*). But the publisher is at liberty to continue publishing successive editions on the terms of the contract until the receipt of such notice: and the author is not entitled to restrain the publication or sale of any edition on which the publisher has incurred expense before receiving notice to end the agreement (*c*).

(*a*) *Pulte v. Derby*, 5 McLean (Amer.) 328.

(*b*) *Reade v. Bentley*, 3 K. & J. 271; 4 Id. 656; *Warne v. Routledge*, L. R. 18 Eq. 497. In this last case it was held that no agreement could be implied on the part of the author not to bring out a second edition until all the first edition was sold.

(*c*) *Reade v. Bentley*, *supra*.

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After parting with copy-right, author cannot reproduce matter in any other book.

After an author has parted with the copyright in a book, he is not at liberty to reproduce substantially the same matter in another work. Even in the absence of any special agreement, the second publication would be an infringement of the copyright in the first (*a*).

A writer agreed with a publisher to edit a translation of Montaigne, adding notes and a biographical sketch of the author, for a particular sum, which was to be increased by other sums as further editions should be published. It was intended that the publisher should have the sole right of multiplying copies of the work, but there was no assignment to him of the copyright. After the publisher's death, his widow and executrix, with the author's knowledge and assent, registered the copyright in her own name. On the publication of a fresh edition, the widow paid the author money, and gave him copies of the work on the same terms as were contained in the agreement made with her husband in his lifetime, and on three occasions, when the author claimed remuneration on those terms, she did not repudiate all liability, but disputed merely the amount. This was held to be evidence from which a jury might infer an agreement on the part of the widow to remunerate the author on the same scale as in the agreement with her husband, in consideration of the author assenting to her registering the copyright in her own name (*b*).

Warranty on sale of copy-right.

Where the executor and son of a deceased author, in reply to an offer from a publishing house relating to one of his father's works, replied that he would be happy to treat with them "respecting the copyright" in it; and, in another letter, said he had accepted their offer "for the exclusive right of publishing it," and gave a receipt for the money paid "for permission to publish the work so long as the copyright may endure; that right to be exclusively their own for ten years from this date," it was held that this amounted to an express warranty of title,

(*a*) *Rooney v. Kelly*, 14 Ir. Law Rep. (N.S.) 158; *Colburn v. Simms*, 2 Hare, 543.

(*b*) *Hazlett v. Templemore*, 13 L. T. (N.S.) 593.

and an equitable assignment of the copyright having, unknown to the executor, been previously made to another publisher, the executor was held liable to an action for breach of the warranty (*a*).

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A person may be the proprietor of a copyright in the separate parts of a periodical simply by reason of his employment of the writers (*b*). It appears but reasonable, that where the proprietors of a periodical employ a gentleman to write a given article, or a series of articles or reports, expressly for the purpose of publication therein, to imply that the copyright of the articles so expressly written for such periodical, and paid for by the proprietors and publishers, shall be the property of such proprietors and publishers; otherwise the author the day after his article had been published by the persons for whom he contracted to write it, might republish it in a separate form, or in another serial, and there would be no correspondent benefit to the original publishers for the payment they had made (*c*).

Copyright of articles in the proprietor of periodicals.

Without determining the extent to which the owners of the copyright in a journal are justified in interfering with the editor in his editorial capacity, where the remuneration of the editor depends upon the success of the journal, the court refused to restrain the proprietors from altering articles proposed to be inserted by the editor, or inserting others contrary to his wish, it being the province of a jury to determine the amount of damage, if any, which the editor sustained by reason of the conduct of the proprietors (*d*).

How far proprietor of periodical can interfere with editor.

Where an editor and publishers have formed a partner-

(*a*) *Sims v. Marryatt*, 17 Q. B. 281.

(*b*) But see *Jervis, C.J.*, in *Shepherd v. Conquest*, 25 L. J. (C.P.) 127; 17 C. B. 427.

(*c*) Where publishers of a magazine employ and pay an editor, and the editor employs and pays persons for writing articles in the magazine,—*Seemle*, 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 L. J. (N.S.) Ch. 140. Printers have a lien on undelivered copies of a work printed by them, for the balance due in respect of the whole work: *Blake v. Nicholson*, 3 M. & S. 167.

(*d*) *Crookes v. Petter*, 6 Jur. (N.S.) 1131; 3 L. T. (N.S.) 225.

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ship for the publication of a magazine of which they are joint owners, the editor, having taken steps to dissolve the partnership with the view of establishing another periodical, is not at liberty to advertise the discontinuance of the first magazine. The title of the latter and the right to publish it are partnership property, and may be sold for the benefit of the partners. But the editor may advertise its discontinuance by himself, or as far as he is concerned (a).

Construction
of agreements
between
authors and
publishers.

Should an author, in consideration of a sum of money paid to him, agree that certain persons shall have the sole power of printing, reprinting, and publishing a particular work for all time, that would be parting with the copyright; but if the agreement be that the publishers, performing certain conditions on their part, should, so long as they perform such conditions, have the right of printing and publishing the book, that is a very different agreement.

In the case of *Sweet v. Cater* (b) the agreement, after reciting that the author had prepared a tenth edition of his work, which the publisher was desirous of *purchasing*, and that it had been agreed that a certain printer should print a given number of copies, and the publisher should pay to the author *for the said tenth edition* a certain sum, went on to direct that the work should be in a given number of volumes, and should *be sold* to the public for a given price. It was objected that the plaintiff, the publisher, was not under this agreement the *proprietor of the copyright* within the meaning of the statute (54 Geo. 3, c. 156, s. 4), but a mere licensee to sell a given number of copies. The court overruled the objection, holding that the copyright was equitably vested in the publisher, on the ground that the contract was obligatory on both parties, that the plaintiff was bound to sell, and therefore the author was bound to abstain from doing anything which would interfere with the sale. The court, moreover, were

(a) *Bradbury v. Dickens*, 27 Beav. 53; *Hogg v. Kirby*, 8 Ves. 215.

(b) 5 Jur. 68; 11 Sim. 572.

of opinion that the equitable right to the copyright endured until the number of copies fixed by the terms of the agreement had been exhausted. It is to be regretted that the court did not advert to the question whether the words of purchase of the agreement—viz., that the publisher was to pay for *the edition*—gave him, independently of the implied contract on the part of the author not to do any act which might interfere with the sale, an equitable copyright in the work.

Where there was an agreement in writing between an author and certain publishers, that they should print, reprint, and publish his book, upon condition that the author should prepare it all before a certain day, and should correct the press, and that the publishers should direct the mode of printing, and pay all the expenses and take all risk of publishing, and out of the produce should first repay such expenses, and then divide the profits between themselves and the author equally; and that if all copies should be sold and a new edition should be required, the author should prepare the same, and the publishers should print and publish it on the same conditions; and that, if all the copies of any edition should not be sold in five years from the time of publication, the publishers might sell the remaining copies by auction or otherwise, in order to close the account; it was held to be a personal contract by the author, and not a contract for an assignment of the copyright; and, consequently, the benefit thereof could not be assigned by the publishers (a).

Agreements
for division
of profits,
personal.

The case referred to is the leading case of *Stevens v. Benning*, in which the original contract was between Mr. William Forsyth and Messrs. Saunders & Benning, for the publication of a treatise on the 'Law relating to Composition with Creditors.' After the issue of the second edition one of the parties became bankrupt, and there

The benefit
of right to
publish not
transferable
by publisher

(a) *Stevens v. Benning*, 1 K. & J. 168, affirmed, 6 D. M. & G. 223; 1 Jur. (N.S.) 74; *Hole v. Bradbury*, 48 L. J. (Ch.) 673. See *Pulte v. Derby*, 5 McLean (Amer.) 332.

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was an assignment by his assignees and a partner of the bankrupt to Messrs. Stevens & Norton, who then endeavoured to restrain the issue of a third edition by William Granger Benning for the author.

“The principal question then is,” said Vice-Chancellor Wood, “whether this agreement is a personal engagement or not. It would be difficult for me to say, that in a contract of this kind, the author is utterly indifferent into whose hands his interests under such an engagement are to be intrusted.

“It is not merely a question of his literary interests, but certain publishers undertaking to incur the expenses of bringing out the work, and fixing the price, the author is to have a share of the profits; and they are to decide in what shape the book is to come out, and at what price it is to be sold, and are to account with him. I must say, that, in my opinion, these are peculiarly personal considerations; and that this contract bears the impress of being a personal contract in all these respects. It could not be a matter of indifference to Mr. Forsyth that the assignees in bankruptcy of Mr. Benning should be at liberty to transfer the future right of fixing the price of this and subsequent editions, and the right to call upon him to fulfil his duty of preparing a new edition, and the risk which might be incurred in conducting it, and the other benefits and obligations of the agreement, to any one they might think proper; possibly to some one not even carrying on the trade of a bookseller, as might happen in case of an absolute sale to the best bidder. Regarding the agreement as a contract for the purchase of a limited right, according to the view of the Vice-Chancellor of England in *Sweet v. Cater (a)*, it is still impossible that it should be indifferent to Mr. Forsyth that it should pass from a respectable firm in London to booksellers residing in a remote part of the country, or to other persons unable to fulfil the engagements entered into with him. The

(a) 11 Sim. 579.

contract, therefore, is one which involves personal considerations; and framed as it is, I must regard it as a special kind of agency, under which the agents were bound to sell, and to take the risk of there being no profits upon themselves" (a).

For similar reasons to those assigned above, a contract whereby the author is to receive a royalty on the copies sold is not transferable by the publishers, but it seems doubtful whether, where a definite sum has been agreed upon for the privilege of publication, the benefit of the contract could not be assigned by the publisher, for though the literary interests of the author might possibly be affected to some extent, yet the change of publishers could not, at least directly, cause him any pecuniary injury.

Nor whether author receives a royalty.

Otherwise where he receives a sum down.

In the event of the publisher becoming bankrupt, the copyright in any work belonging to the bankrupt will pass to his trustee in bankruptcy; and should the publisher be a joint-stock company, upon the liquidation of such company any copyrights will vest in the liquidator.

Bankruptcy of publisher.

If the contract between the author and the publisher, however, is one which is not assignable on the part of the publisher, if, in short, it be one involving personal skill on the part of the publisher, it is possible his position might be regarded so far in the light of a trustee, as to bring the copyright under the category of trust estates which would not pass to the trustee in bankruptcy. It must be remembered that if the author is not paid the consideration for the sale of the copyright down, but the same is payable by instalments, then, on the bankruptcy of the publisher, the author would merely be entitled to a dividend on his debt, while the copyright sold might possibly be earning dividends for the payment of other creditors of the publisher.

To meet this contingency it has been suggested that where the consideration for the sale of the copyright is

(a) 1 Kay & J. 174; on appeal, 6 De G. M. & G. 223.

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not paid down, or where a royalty only is payable to the author, there should be an agreement between the author and publisher by which, in the event of the bankruptcy of the latter, the copyright should revert to the author until the whole of the purchase-money has been paid, or the royalties secured. It would seem, however, in the one case, to be the better course not to assign the copyright until full payment of the purchase-money, where this is payable by instalments; and the other case does not seem to require any special provision, for, assuming the interest to be such as would pass to the trustee in bankruptcy, still he could not stand in any better position in relation to the author than the publisher did, and if sales were made would certainly be bound to pay over the royalties according to the agreement with the author.

This case of *Stevens v. Benning* was followed by Lord (then Mr.) Justice Fry in the recent case of *Hole v. Bradbury* (a). The plaintiffs alleged themselves to be the owners of the copyright of a book called 'A Little Tour in Ireland,' and they brought the action to restrain the defendants, who were publishers, from publishing the book. The copyright had not been assigned to the defendants by writing or by entry at Stationers' Hall. The book was composed by two joint authors, one of whom was a plaintiff, the other was dead. The personal representative of the deceased joint author was the other plaintiff. The defendants alleged that before the first publication of the book, which was first published by a firm to whose business the defendants had succeeded, an arrangement had been made between that firm and the deceased joint author, acting on behalf of himself and his co-author, that the firm should engrave the illustrations and print and publish the book. If there were a loss from the publication, the firm were to bear the whole of it. If there were a profit they were to pay half of it to the plaintiff and the deceased joint author. The profits were to be ascertained

(a) 12 Ch. Div. 886.

after debiting the costs of the engraving, printing, and publication. The defendants alleged that this was an agreement for the sale of the copyright, and that they, as successors of the original firm, were entitled by assignment from them to the benefit of the agreement. No member of the original firm was a partner in the defendants' firm. The defendants had in their possession the blocks from which the illustrations to the first edition of the book had been printed, the drawings on the block having been made by the deceased joint author himself. It was held that the alleged agreement was a mere publishing agreement, and did not amount to a sale of the copyright, and that the benefit of the agreement was not assignable without the consent of the authors. Consequently, the defendants could derive no benefit from the agreement, and the injunction must be granted. And, as by the terms of the agreement, the cost of engraving was to be paid out of the gross profits, the blocks were not the property of the defendants, and must be delivered up to the plaintiffs.

An agreement similar to that in *Stevens v. Benning*, and without specifying a particular edition, constitutes a joint adventure between the parties (a), which either party is at liberty to terminate upon notice after the publication of a given edition, if at the date of such notice no fresh expense has been incurred by the party to whom such notice be given.

Agreement for division of profits a joint adventure terminable by notice.

In the case of *Reade v. Bentley*, by a memorandum of agreement made in November, 1852, between the plaintiff and the defendant, it was agreed that the latter should publish, at his own expense and risk, a work entitled 'Peg Woffington,' of which the former was the author; and, after deducting from the produce of the sale thereof the charges for printing, paper, advertisements, embellish-

(a) Joint owners of a copyright may make a contract between themselves as to the printing and publishing of the work, and neither will be permitted to set up against the other his original rights as a joint owner in violation of such contract: *Gould v. Banks*, 8 Wend. (Amer.) 568.

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ments (if any), and other incidental expenses, including the allowance of 10 per cent. on the gross amount of the sale for commission and risk of bad debts, the profits remaining of every edition that should be printed of the work were to be divided into two equal parts, one moiety to be paid to the plaintiff, and the other to the defendant. Subsequently the same parties entered into a similar agreement relative to the publication of another work entitled 'Christie Johnstone,' of which the plaintiff was also the author; and they signed for that purpose a memorandum of agreement, which, except as to the date and the title of the work, was in the same words as the former. Two editions of the former work and four of the latter having been published by the defendant, and no fresh expenditure having been incurred by him since the publication of those editions, the plaintiff claimed a right to terminate the joint adventure between them, and to prevent the defendant from publishing any further edition of either work.

The main question to determine was, what was the effect of the agreement which had been entered into between the plaintiff and the defendant?

It was contended by the plaintiff that the case was one of simple agency; that by the effect of the agreement the defendant became a mere agent of the plaintiff. "But," observed the Vice-Chancellor, "it is clear that he became more than that. A mere agent may be paid, as the defendant was to be paid, by a share of the profits; but a mere agent never embarks in the risk of the undertaking; and here the defendant took upon himself the whole expense and risk of bringing out the work. Clearly, therefore, the case is something more than one of simple agency."

Sir W. Page Wood, in passing judgment, made the following observations: "Agreements between authors and publishers assume a variety of forms. Some are so clear and explicit that no doubt can arise upon them. Thus, where an author assigns his copyright, the transaction is

one which every person understands, and which leaves no room for uncertainty as to the rights of the parties. Again, where, as in *Sweet v. Cater* (a), the author assigns a particular edition, the rights of himself and the publisher are equally clear; and although in that case the point did not require determination, the court observed, and justly observed, that, where an author has sold an edition of a given number of copies to one publisher, he is not at liberty, before they are sold, to publish the same work himself or through another publisher, in such a manner as to compete with the edition he has sold, but is bound to afford to the purchaser a full opportunity of realizing the benefit of his contract. The case before me, like that of *Stevens v. Benning* (b), is of an intermediate description. Here, as there, the author does not sell, or purport to sell, any interest whatever in the copyright. It was contended, and very strongly, in *Stevens v. Benning*, that the author had done so; but I held that he had not, and my view was affirmed by the Lords Justices. Here also, as there, the publisher was to publish at his own risk. Nevertheless, in *Stevens v. Benning*, the agreement contained other provisions, considerably more definite than any in this case. It pointed to a series of editions to be published for the author by the same publisher, as to every one of which the author himself stipulated, as part of the contract, that he would assist in the publication. Here the agreement is simply that the publisher shall publish the work at his own expense and risk, and, after deducting all the expenses specified in the memorandum, and an allowance of £10 per cent., the profits remaining of every edition that shall be printed of the work are to be divided into two equal parts, one of which is to be paid to the author, and the other to the publisher.

“It was contended for the defendant that if the effect of the agreement was not an assignment of the copyright (which it is now clearly decided that it could not be), it

(a) 5 Jur. 68; 11 Sim. 572.

(b) 1 K. & J. 168; 6 D. M. & G. 223.

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resulted in a joint adventure, in which the defendant was to have a licence to publish the work ; and that, from the nature of the case, and by the terms of the agreement, that licence was irrevocable. In *Stevens v. Benning* I considered the agreement must be regarded as creating, to a certain extent, a joint adventure, and Lord Justice Knight Bruce adopted the same view. He says, it must be observed, that such interest, if any, in the copyright of the author's work as the other parties to the agreement acquired under it, they acquired, not exclusively of the author, 'but by way of joint adventure with him, or of partnership with him, in respect and for the objects of which he undertook the fulfilment by himself personally of certain duties to them, and they undertook the fulfilment by themselves personally of certain duties to him' (a). Community of risk does not appear to me to be by our law, any more than it was by the civil law, essential to constitute a partnership ; one partner being at liberty to contract with another that he will take all the losses of the concern upon himself. Lord Justice Turner looked upon the agreement in *Stevens v. Benning* in the double light of a licence and a partnership, speaking, however, less decidedly as to its being a partnership. He says: 'Next if there was a partnership, then, if the agreement does not affect the copyright, the partnership was not in the copyright, but in the copies printed under the licence contained in the agreement' (b) —viewing it, therefore, as a licence for the publication of the work, and then a joint adventure between the author and publisher in the copies so to be published. If that were the effect of the agreement in the present case, the question would still remain, whether the licence be irrevocable.

"The plaintiff does not attempt to interfere with the publication of an edition which the defendant had commenced, and incurred expense in preparing for publication, before he exercised the option of determining the agreement. His claim is limited to editions about which

(a) 6 D. M. & G. 223, 229.

(b) 6 D. M. & G. 231.

no such expense had been incurred by the defendant; and his argument is, that, unless he has a right to determine the agreement as to all such editions, the consequence will be, that, during the whole of the defendant's life, he may be under an obligation to the defendant, while the defendant will be under no reciprocal obligation to him. It is true that, according to *Stevens v. Benning*, a licence like the present would, I apprehend, be restricted to the defendant personally, and would not extend to his executors, or to any future partner or assignee; but if the defendant's construction be correct, it follows that, so long as he lives and is willing to continue publishing fresh editions of the work, so long, according to the doctrine in *Sweet v. Cater*, the plaintiff will be precluded from asserting a right to publish any competing edition. The defendant could compel the plaintiff to abstain from publishing a single copy of the work, so long as he expressed his readiness to continue publishing. But the plaintiff has no reciprocal power. He could never compel the defendant to publish more than a single edition of the work. His powers are limited to what the contract gives him; and, according to the contract, when the defendant has published a single edition the contract on his part is fulfilled. That is a position of considerable hardship for an author, and one which ought to be clearly shewn, upon the face of a contract, to have been contemplated by the parties who entered into it In the present case, no new expense has been incurred by the defendant, either in printing, advertising, or otherwise, as regards 'Peg Woffington,' since the publication of the second edition, and, as regards 'Christie Johnstone,' since the publication of the fourth edition; and that being, as I have already intimated, the true test in construing the agreement, it appears to me, that, when those editions were published, the period had arrived at which the parties intended a division of profits to take place, and at which the plaintiff became entitled to terminate his agreement with the defendant. This is the only conclusion at which I can arrive, after a

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Agreement
not to sell
under a cer-
tain price.

very careful consideration of the contracts. But it is much to be regretted that contracts should be framed with such uncertainty, when it would have been so easy to make them certain" (a).

The defendant, having printed a book, sold 300 copies of it to the plaintiff, a bookseller, at 40s. a copy, and agreed by letter "only to sell to others at 48s. in quires, and single copies at 50s. until the plaintiff's 300 copies were sold, or the plaintiff should consent." The letter also contained these words: "I do not expect you to sell under 48s. and 50s., but do as you like." The plaintiff, when he had sold part of the 300 copies, went into partnership with C. and transferred all his stock at the cost price; and also sold some copies at 45s. and 46s. An action being afterwards brought by him against the defendant for selling copies under the stipulated price, it was contended on behalf of the defendant, first, that the plaintiff was bound by implication not to sell the work himself under the price at which the defendant was to sell, and that his selling at 45s. and 46s. was an answer to the action, as being against the good faith and honour of the contract, inasmuch as it would tend to prevent the defendant from selling his copies at all; secondly, that the contract was put an end to by the plaintiff going into partnership with C., and transferring his interest to the firm at 40s. a copy, because the undertaking of the defendant was only to continue in force till the 300 copies were sold by the plaintiff, and his parting with them to a firm of which he was only a partner, was, in fact, a selling, just as much as it would be in the case of a joint stock company (b).

Denman, C.J., in summing up, said: "It seems that the defendant left the plaintiff at liberty to sell as he pleased, but bound himself down not to sell under the prices stated, and this is an answer to some part of the argument urged in favour of the defendant. You will have to say, first,

(a) *Per* Wood, V.-C., in *Reade v. Bentley*, 4 K. & J. 656, 662.

(b) *Beuning v. Dove*, 5 Car. & P. 427.

whether the agreement was made; of this, there does not seem any doubt; and then, whether it was broken; and if it was, you must spell out the damage as well as you can from the evidence. It is a very difficult thing to ascertain the amount of damage. I think, in considering that subject, you may reasonably consider, as damage must arise from the effect produced upon the price of the work in the market by the defendant's having sold copies at a sum lower than the stipulated price, whether the plaintiff's own selling at 45s. and 46s. might not have contributed to that depreciation. If you are satisfied that the agreement was broken, then you will have to say to what extent the plaintiff has been injured."

The ordinary agreement between authors and publishers to the effect that the former shall contribute the manuscript, and the latter shall in the first place defray the cost of the bringing out of the work, and repay himself out of the proceeds of the sale, and that the net profits shall be divided, is not properly a partnership (a).

Ordinary agreement between authors and publishers not a partnership.

In all agreements between authors and publishers the terms should be distinctly stated, and the respective rights of the parties clearly defined. The number of copies of which the edition is to consist should be declared, for otherwise a publisher might, if so disposed, print 20,000 as one edition (b). But a person who has acquired the right to publish one edition only of a work, cannot publish another edition, without authority.

The meaning of the word "edition," and the construction to be placed upon it, were fully discussed in *Reade v. Bentley*. It was argued that where a work has once been stereotyped, the term "edition" was no longer applicable; and that when a work is published in what are called "thousands," 20,000 or 30,000 being circulated, each

Construction of the word "edition."

(a) See *Gardiner v. Childs*, 8 C. & P. 345; *Reade v. Bentley*, 3 K. & J. 271, and 4 *Ibid.* 656; *Wilson v. Whitehead*, 10 M. & W. 503; *Gale v. Leckie*, 2 Stark. 107; *Venables v. Wood*, 3 Ross, L. C. on Com. Law, 529, cited Lindley on Partnership, 22.

(b) *Per Wood, V.-C.*, in *Reade v. Bentley*, 4 K. & J. 656, 669; 27 L. J. (Ch.) 254; *Sweet v. Cater*, 11 Sim. 572; 5 Jur. 68; *Stevens v. Benning*, 1 K. & J. 168; 6 D. M. & G. 223; *Benning v. Dove*, 5 C. & P. 427.

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thousand could not properly be called an "edition." Wood, V.-C., however, thought that not merely in point of etymology, but having regard to what actually takes place in the publication of any work, an "edition of a work was the putting of it forth before the public, and if this were done in batches at successive periods, each successive batch was a new edition; and the question whether the individual copies had been printed by means of movable type or by stereotype, did not seem him to be material. If movable type were used, the type having been broken up, the new edition was prepared by setting up the type afresh, printing afresh, advertising afresh, and repeating all the other necessary steps to obtain a new circulation of the work. In that case the contemplated break between the two editions was more complete, because, until the type was again set up, nothing further could be done. It made no substantial difference as regards the meaning of the term "edition," whether the new "thousand" had been printed by a resetting of movable type, or by stereotype, or whether they have been printed at the same time with the former thousand or subsequently. A new "edition" is published whenever, having in his storehouse a certain number of copies, the publisher issues a fresh batch of them to the public. This, according to the practice of the trade, is done, as is well known, periodically. And if, after printing 20,000 copies, a publisher should think it expedient for the purpose of keeping up the price of the work, to issue them in batches of a thousand at a time, keeping the rest under lock and key, each successive issue would be a new "edition" in every sense of the word (a).

In many cases an advantage would accrue by a pub-

(a) *Per* Wood, V.-C., in *Reade v. Bentley*, 4 K. & J. 656, 667. See *Blackwood v. Brewster*, 7 Dec. 1860; 23 Sess. Cas. 2nd Series, 142. In this case it was held that an editor, under an agreement that he should prepare every new edition of a work, and should receive a certain sum for his services, is not entitled to superintend, or to claim payment for, the reprinting of a part of the work to replace copies destroyed by fire. The copies reprinted under such circumstances do not form a new edition, but go to replace the part of the edition destroyed.

lisher so doing; for when an author sells the copyright of a work to a publisher for a certain specified time, the publisher has the right, after the expiration of that period, of selling copies of the work he has printed before the expiration of the time limited.

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This was decided in the important case of *Howitt v. Hall* (a). Mr. William Howitt applied for an injunction to restrain the defendants, Messrs. Hall & Virtue, the publishers, from selling or otherwise disposing of any copies of an original work called 'A Boy's Adventures in the Wilds of Australia,' of which Mr. Howitt was the author and registered proprietor. It appeared by the affidavits that in the year 1854, a negotiation was entered into with the defendants by Mrs. Mary Howitt, the wife of the plaintiff, who was then in Australia, for the sale to them of the copyright of the work in question for four years, for a sum of £250. This negotiation, after some discussion as to the precise date from which the contract was to commence, resulted in an agreement being entered into on behalf of the plaintiff, which was afterwards confirmed on his return from Australia by the following memorandum signed by him :—

Right of the publisher to sell copies on hand prior to the expiration of his limited copyright.

"Gentlemen,—I confirm the agreement entered into with you by Mrs. Howitt on the 14th of March, 1854, for the publication of 'A Boy's Adventures in Australia,' being a copyright of four years from that date.

"WILLIAM HOWITT."

On the same day the defendants sent for the plaintiff's signature a receipt for the £250, "being the purchase-money, as agreed, for the copyright and sole right of sale for four years" of the work in question. In October, 1857, the work having then gone through two editions, the defendants contemplated issuing a third and cheap edition, and accordingly gave notice of their intention to Mr. Howitt, by whom it was revised previously to publica-

(a) 10 W. R. 381; 6 L. T. (N.S.) 348.

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tion. No further copies had been printed, and the term of four years expired in March, 1858. In February of 1862, the plaintiff, being about to bring out a uniform edition of the juvenile works of Mrs. Howitt and himself, and having, as he stated, only then for the first time discovered that the defendants were continuing to sell the work and to advertise it for sale, wrote to them complaining of this as an infringement of his copyright and a breach of contract, and asking for compensation. In reply to this application, the defendants insisted on their legal right to sell the remaining stock, as their own *bond fide* property, when and as they pleased ; but at the same time they expressed their willingness to sell it by auction during the present month of March, so as not to stand in the way of the new edition. This suggestion, however, the plaintiff declined to accede to, and filed his bill praying for an account of the profit made by the defendants since March, 1858, and for an injunction. Vice-Chancellor Wood said, that the purchase of the copyright carried with it the right of printing and publishing, and the defendant was entitled to continue selling after the expiration of the four years' term the stock printed by him under his purchase. "The Copyright Acts were directed against unlawful printing ; and when, as in this case, the defendant had acquired the right of lawfully printing the work, he was at liberty to sell at any time what he had so printed. The words 'sole right of sale' might or might not have been superfluous ; but after four years the right to print the work reverted to the author, who had taken care to secure himself in this respect. It had been suggested that the effect might be to destroy the copyright in the author altogether, as the publisher who had purchased the copyright for a limited period only might during that period print off copies enough to last for all time. A nice question might indeed arise as to the number of copies of which an edition might consist, but a publisher was not likely to incur the useless expense of printing copies enough to exhaust the demand for all time, and have them

lying upon his hands unprofitably. Besides this even if the effect of a sale for four years might operate in this way to deprive the author of all copyright in his work, the answer was that he had not guarded himself against such a contingency. If a manifest case of fraud upon the author were established, the court would know how to deal with it. But nothing of the sort was shewn. The defendants had acted quite *bonâ fide*, and were making a perfectly legitimate use of their contract, and the motion must be refused."

So also it has been held that after he has assigned his copyright, the assignor is free to sell any copies of the book which he had printed before the assignment was made (a), but of course this was in the absence of any express agreement between the parties and of the existence of any circumstances from which any implied agreement to the contrary might have been inferred.

Assignor after assignment of copyright may sell copies remaining on hand.

The right of the publisher in the one case, and of the assignor in the other are not exclusive rights. Thus where the plaintiffs had orally agreed with Mrs. Cook to publish at their own expense a book written by her and entitled 'How to Dress on £15 a Year as a Lady, by a Lady,' to sell at a shilling a copy, and to pay her a penny for each copy sold. Nothing was said as to how many copies, or how long the plaintiffs should publish, or whether they should be the sole publishers. When forty-four thousand copies had been printed, and forty-two thousand sold, the author notified to the plaintiffs the termination of the agreement, and immediately authorized the defendants to issue a new edition. The plaintiffs now sought to restrain such publication until the copies printed by them under the agreement should be sold. Sir George Jessel, M.R., held that the plaintiffs were entitled to be the exclusive publishers while the agreement lasted; but that after its termination, though they were at liberty to sell the copies previously printed, they had no power to prevent the

But the right is not an exclusive right.

(a) *Taylor v. Pillow*, L. R. 7 Eq. 418.

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author or any person claiming under her from publishing (a).

“Looking at the nature of the book,” said the Master of the Rolls, “and to the circumstance that it was a term of the agreement that the publishers should publish at their own risk, and pay the royalty, I think the contract, so long as it existed, must be taken to be an exclusive contract, that is to say, that so long as Messrs. Warne & Co. were allowed to publish so long no one else could publish—neither the lady herself, nor an assign from her. That being established, what is the next right it gives to either party? On the determination of the partnership adventure, or whatever you choose to call it, what right had Messrs. Warne & Co. in the book? There is authority upon the subject, but I do not think it wants authority. I think it is plain that no termination of the agreement could deprive them of the right of selling the copies which they have themselves printed under this arrangement. Whether the arrangement was at will or for a term, the publishers must retain the right of selling for their own benefit (subject to the royalty), the copies which they have printed at their own expense, in reliance upon that agreement. So far I go with the plaintiffs; but the plaintiffs then want me to import something else—not only that the publishers should have the right to sell any copies they might have printed before the disagreement, but that the owner of the copyright should not have the right to publish at all, so long as any copies remain unsold. I cannot find that in the agreement, and it does not seem to be reasonable to import it; because it would come to this, that if the publishers printed a very large number of copies it would deprive the authoress of the copyright altogether. I cannot import such an unreasonable term into the agreement.

“Then it is said, that, if you give the publisher no protection, the result may be that the author may publish

(a) *Warne v. Routledge*, L. R. 18 Eq. 497.

another edition a day or two after the publishing of the first edition, and so destroy the value of the remaining copies of the first edition remaining unsold. That may be. And it is said that that is so unreasonable that you must infer some stipulation to prevent it. Why? No doubt partnerships at will have their inconveniences as well as their conveniences. There is no reason why I should make persons take up a totally different position from that which they have agreed to take up, because it might be convenient to one of the parties after the termination of the arrangement. If you do want that protection for a term of years or for a definite term, you must contract for it. That is all. But I cannot import such a term into the contract. If I did, I should make partnerships at will involve consequences that the partners never dreamt of."

This decision must be received with considerable caution. The Court held that so long as the arrangement between the parties held good the publishers had the exclusive right of publication. They must have had this by reason of an implied agreement to that effect, there being nothing express on the subject in the contract. It was implied in consideration of the expense incurred by the publishers, and must in reason be held to continue so long as there were any copies printed with the consent and concurrence of the author remaining unsold.

And of what value was the exclusive right of publication to the publisher, if this right was determinable at any moment by the author. In short the right existed so long as it was of no value, but the moment it might have had any value it ceased to exist.

In a case in the Irish Bankruptcy Court it appeared that Curry & Co. had published three novels by Charles Lever, under an agreement that they should bear the expense of publication and pay to the author a specified sum for a certain number of copies, and should divide with him the nett profits on the copies sold beyond that

Effect of
bankruptcy
of publishers
where author
entitled to
share profits.

CAP. XIX.

number. While a large number of printed copies remained unsold, Curry became bankrupt, when Lever claimed to be entitled as partner to one half of the unsold stock, and to have a special lien on the other half, entitling him as a preferred creditor to be paid in full for whatever balance might be due to him. The commissioner held that if Lever were a partner in the unsold stock, he was a mere dormant and secret partner; and, as the whole of the stock had been in the possession and disposition of the bankrupt, it passed to the creditors under the Bankruptcy Act; and that, for the same reason, Lever had no special lien on it. The commissioner said that the question as to whom the copyright belonged was not within the jurisdiction of the Court; but he expressed the opinion that, as Curry had been permitted to advertise himself as the owner, the copyright should be dealt with as his property in bankruptcy (a).

Accounts
between
authors and
publishers.

As to accounts between authors and publishers, see *Barry v. Stevens* (b) and *Stiff v. Cassell* (c).

(a) *In re Curry*, 12 Ir. Eq. 382. As to publisher's commission, see case of *Gatty v. Pawson*, 'Times,' March 9, 1873.

(b) 31 Beav. 258.

(c) 2 Jur. (N.S.) 348.

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APPENDICES.

APPENDIX (A),

8 ANNE, c. 19 (1709).

An Act for the Encouragement of Learning, by vesting the Copies of printed Books in the Authors or Purchasers of such Copies during the Time therein mentioned.

Repealed by 5 & 6 Vict. c. 45, § 1.

By 7 Geo. 2, c. 24, the sole liberty of printing and publishing the Histories of Thuanus, with additions and improvements, during the time therein limited, is granted to Samuel Buckley,

8 GEO. II. c. 13 (1735).

An Act for the Encouragement of the Arts of designing, engraving, and etching historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers during the Time therein mentioned.

WHEREAS divers persons have, by their own genius, industry, pains, and expense, invented and engraved, or worked in mezzotinto, or chiaro-oscuro, sets of historical and other prints, in hopes to have reaped the sole benefit of their labours : And whereas printsellers and other persons have of late, without the consent of the inventors, designers, and proprietors of such prints, frequently taken the liberty of copying, engraving, and publishing, or causing to be copied, engraved, and published base copies of such works, designs, and prints, to the very great prejudice and detriment of the inventors, designers, and proprietors thereof : For remedy thereof, and for preventing such practices for the future, may it please Your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords

After 24th
June, 1735,
the property
of historical
and other
prints vested
in the inven-
tor for four-
teen years.

Proprietor's
name to be
affixed to
each print.

Penalty on
printsellers or
others pirat-
ing the same.

spiritual and temporal, and Commons, in this present Parlia-
ment assembled, and by the authority of the same, That from
and after the twenty-fourth day of June which shall be in the
year of our Lord one thousand seven hundred and thirty-five,
every person who shall invent and design, engrave, etch, or
work, in mezzotinto or chiaro-oscuro, or from his own works
and invention 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; and that if
any printseller or other person whatsoever, from and after the
said twenty-fourth day of June one thousand seven hundred
and thirty-five, within the time limited by this Act, shall en-
grave, etch, or work as aforesaid, or in any other manner copy
and sell, or cause to be engraved, etched, or copied and sold, in
the whole or in part, by varying, adding to, or diminishing from
the main design, or shall print, reprint, or import for sale, or
cause to be printed, reprinted, or imported for sale, any such
print or prints, or any parts thereof, without the consent of the
proprietor or proprietors thereof first had and obtained in
writing signed by him or them respectively in the presence of
two or more credible witnesses, or, knowing the same to be so
printed or reprinted without the consent of the proprietor or
proprietors shall publish, sell, or expose for sale, or otherwise
or in any other manner dispose of, or cause to be published,
sold, or exposed to sale, or otherwise or in any other manner
disposed of, any such print or prints, without such consent first
had and obtained as aforesaid, then such offender or offenders
shall forfeit the plate or plates on which such print or prints
are or shall be copied, and all and every sheet or sheets (being
part of or whereon such print or prints are or shall be so copied
or printed), to the proprietor or proprietors of such original
print, or prints, who shall forthwith destroy and damask the
same; and further, that every such offender or offenders shall
forfeit five shillings for every print which shall be found in his,
her, or their custody, either printed or published, and exposed
to sale or otherwise disposed of, contrary to the true intent and
meaning of this Act, the one moiety thereof to the King's most
excellent Majesty, his heirs and successors, and the other
moiety thereof to any person or persons that shall sue for the
same, to be recovered in any of His Majesty's Courts of Record
at Westminster, by action of debt, bill, plaint, or information,

in which no wager of law, essoign, privilege or protection, or more than one imparlance, shall be allowed.

II. Provided nevertheless, That it shall and may be lawful for any person or persons who shall hereafter purchase any plate or plates for printing from the original proprietors thereof to print and reprint from the said plates without incurring any of the penalties in this Act mentioned.

Not to extend to purchasers of plates from the original proprietors.

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

Limitations of actions for anything done in pursuance of Act.

General issue.

IV. Provided always, and be it further enacted by the authority aforesaid, That if any action or suit shall be commenced or brought against any person or persons for any offence committed against this Act, the same shall be brought within the space of three months after the discovery of every such offence, and not afterwards, anything in this Act contained to the contrary notwithstanding.

Limitation of actions for offences against this Act.

V. Repealed by 30 & 31 Vict. c. 59.

VI. And be it further enacted by the authority aforesaid, That this Act shall be deemed, adjudged, and taken to be a Public Act, and be judicially taken notice of as such by all judges, justices, and other persons whatsoever, without specially pleading the same.

Public Act.

12 GEO. II. c. 36 (1739).

An Act for prohibiting the Importation of Books reprinted abroad, and first composed or written in and printed in Great Britain ; and for repealing so much of an Act made in the Eighth Year of the Reign of her late Majesty Queen Anne as empowers the limiting the Prices of Books.

Repealed by 30 & 31 Vict. c. 59.

7 GEO. III. c. 38 (1766).

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.

Preamble, reciting Act 8 G. 2.

The original inventors, designers, or engravers, &c., of historical and other prints, and such who shall cause prints to be done from works, &c., of their own invention,

and also such as shall engrave, &c., any print taken from any picture, drawing, model, or sculpture; are entitled to the benefit and protection of the recited and present Act;

and those who shall engrave or import for sale, copies of such prints, are liable to penalties.

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

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

III. and IV. repealed by 30 & 31 Vict. c. 59.

V. And be it further enacted by the authority aforesaid, That all and every the penalties and penalty inflicted by the said Act, and extended, and meant to be extended, to the several cases comprised in this Act shall and may be sued for and recovered in like manner, and under the like restrictions and limitations, as in and by the said Act is declared and appointed; and the plaintiff or common informer in every such action (in case such plaintiff or common informer shall recover any of the penalties incurred by this or the said former Act) shall recover the same, together with his full costs of suit. Provided also, that the party prosecuting shall commence his prosecution within the space of six calendar months after the offence committed.

Penalties may be sued for as by the recited Act is directed

and be recovered with full costs; provided the prosecution be commenced within six months after the fact.

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

The right intended to be secured by this and the former Act, vested in the proprietors for the term of twenty-eight years from the first publication.

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

Limitation of actions.

General issue.

Full costs.

15 GEO. III. c. 53 (1775).

An Act for enabling the two Universities in England, the four Universities in Scotland, and the several Colleges of Eton, Westminster, and Winchester, to hold in perpetuity their Copyright in Books, given or bequeathed to the said Universities and Colleges for the Advancement of useful Learning and other Purposes of Education ; and for amending so much of an Act of the Eighth Year of the Reign of Queen Anne as relates to the Delivery of Books to the Warehouse-keeper of the Stationers' Company, for the Use of the several Libraries therein mentioned.

Preamble.

Universities,
&c., in Eng-
land and Scot-
land to have
for ever the
sole right of
printing, &c.,
such books as
have been, or
shall be,
bequeathed
to them,

WHEREAS authors have heretofore bequeathed or given, and may hereafter bequeath or give, the copies of books composed by them, to or in trust for one of the two universities in that part of Great Britain called England, or to or in trust for some of the colleges or houses of learning within the same, or to or in trust for the four universities in Scotland, or to or in trust for the several colleges of Eton, Westminster, and Winchester, and in and by their several wills or other instruments of donation, have directed or may direct, that the profits arising from the printing and reprinting such books shall be applied or appropriated as a fund for the advancement of learning, and other beneficial purposes of education within the said universities and colleges aforesaid : And whereas such useful purposes will frequently be frustrated, unless the sole printing and reprinting of such books, the copies of which have been or shall be so bequeathed or given as aforesaid, be preserved and secured to the said universities, colleges, and houses of learning respectively in perpetuity : May it therefore please Your Majesty that it may be enacted, and be 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 the said universities and colleges respectively shall, at their respective presses, have, for ever, the sole liberty of printing and reprinting all such books as shall at any time heretofore have been, or (having not been heretofore published or assigned) shall at any time hereafter be bequeathed, or otherwise given by the author or authors of the same respectively, or the representatives of such author or authors, to or in trust for the said universities, or to or in trust for any college or house of learning within the same, or to or in trust for the said four universities in Scotland, or to or in trust for the said colleges

of Eton, Westminster, and Winchester, or any of them, for the purposes aforesaid, unless the same shall have been bequeathed or given, or shall hereafter be bequeathed or given, for any term of years, or other limited term, any law or usage to the contrary hereof in anywise notwithstanding.

II. And it is hereby further enacted, That if any book-seller, printer, or other person whatsoever, from and after the twenty-fourth day of June one thousand seven hundred and seventy-five, shall print, reprint, or import, or cause to be printed, reprinted, or imported, any such book or books; or, knowing the same to be so printed or reprinted, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, any such book or books; then such offender or offenders shall forfeit such book or books, and all and every sheet or sheets, being part of such book or books, to the university, college, or house of learning respectively, to whom the copy of such book or books shall have been bequeathed or given as aforesaid, who shall forthwith damask and make waste paper of them; and further, that every such offender or offenders shall forfeit one penny for every sheet which shall be found in his, her, or their custody, either printed or printing, published or exposed to sale, contrary to the true intent and meaning of this Act; the one moiety thereof to the King's most excellent Majesty, his heirs and successors, and the other moiety thereof to any person or persons who shall sue for the same; to be recovered in any of His Majesty's Courts of Record at Westminster, or in the Court of Session in Scotland, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, or more than one imparlance, shall be allowed.

III. Provided nevertheless, That nothing in this Act shall extend to grant any exclusive right otherwise than so long as the books or copies belonging to the said universities or colleges are printed only at their own printing presses within the said universities or colleges respectively, and for their sole benefit and advantage; and that if any university or college shall delegate, grant, lease, or sell their copyrights, or exclusive rights of printing the books hereby granted, or any part thereof, or shall allow, permit, or authorise any person or persons, or bodies corporate, to print or reprint the same, that then the privileges hereby granted are to become void and of no effect, in the same manner as if this Act had not been made; but the said universities and colleges as aforesaid shall nevertheless have a right to sell such copies so bequeathed or given as aforesaid, in like manner as any author or authors now may

unless the same have been, or shall be, given for a limited time.

After June 24, 1775 persons printing or selling such books shall forfeit the same, and also 1*d* for every sheet;

one moiety to His Majesty, and the other to the prosecutor.

Nothing in this Act to extend to grant any exclusive right longer than such books are printed at the presses of the universities.

Universities may sell Copyrights in like manner as any author.

do under the provisions of the statute of the eighth year of Her Majesty Queen Anne.

No person subject to penalties for printing, &c., books already bequeathed, unless they be entered before June 24, 1775.

All books that may hereafter be bequeathed, must be entered within two months after such bequest shall be known.

6*d.* to be paid for each entry in the register book, which may be inspected without fee.

Clerk to give a certificate, being paid 6*d.*

If clerk refuse or neglect to make entry, &c.

Proprietor of such copyright to have like benefit as if such entry had been

IV. And whereas many persons may through ignorance offend against this Act, unless some provision be made whereby the property of every such book as is intended by this Act to be secured to the said universities, colleges, and houses of learning within the same, and to the said universities in Scotland, and to the respective colleges of Eton, Westminster, and Winchester, may be ascertained and known, be it therefore enacted by the authority aforesaid, That nothing in this Act contained shall be construed to extend to subject any bookseller, printer, or other person whatsoever, to the forfeitures or penalties herein mentioned, for or by reason of the printing or reprinting, importing or exposing to sale, any book or books, unless the title to the copy of such book or books, which has or have been already bequeathed or given to any of the said universities or colleges aforesaid, be entered in the register book of the Company of Stationers kept for that purpose, in such manner as hath been usual, on or before the twenty-fourth day of June, one thousand seven hundred and seventy-five; and of all and every such book or books as may or shall hereafter be bequeathed or given as aforesaid, be entered in such register within the space of two months after any such bequest or gift shall have come to the knowledge of the vice-chancellors of the said universities, or the heads of houses and colleges of learning, or of the principal of any of the said four universities respectively; for every of which entries so to be made as aforesaid the sum of sixpence shall be paid, and no more; which said register book shall and may, at all seasonable and convenient times, be referred to and inspected by any bookseller, printer, or other person, without any fee or reward; and the clerk of the said company of Stationers shall, when and as often as thereunto required, give a certificate under his hand of such entry or entries, and for every such certificate may take a fee not exceeding sixpence.

V. And be it further enacted, That if the clerk of the said Company of Stationers for the time being shall refuse or neglect to register or make such entry or entries, or to give such certificate, being thereunto required by the agent of either of the said universities or colleges aforesaid, lawfully authorised for that purpose, then either of the said universities or colleges aforesaid, being the proprietor of such copyright or copyrights as aforesaid (notice being first given of such refusal by an advertisement in the Gazette), shall have the like benefit as if such entry or entries, certificate or certificates, had been duly made and given; and the clerk so refusing shall for every such

offence forfeit twenty pounds to the proprietor or proprietors of every such copyright ; to be recovered in any of His Majesty's Courts of Record at Westminster, or in the Court of Session in Scotland, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, protection, or more than one imparlance, shall be allowed.

made, and
the clerk shall
forfeit 20*l*.

VI. and VII. repealed by 24 & 25 Vict. c. 101.

VIII. And be it further enacted by the authority aforesaid, That this Act shall be adjudged, deemed, and taken to be a Public Act, and shall be judicially taken notice of as such, by all judges, justices, and other persons whatsoever, without specially pleading the same.

17 GEO. III. C. 57 (1777).

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.

WHEREAS an Act of Parliament passed in the eighth year of the reign of His late Majesty King George the Second, intituled "An Act for the Encouragement of the Arts of designing, engraving, and etching historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers, during the Time therein mentioned : " And whereas, by an Act of Parliament passed in the seventh year of the reign of His present Majesty, for amending and rendering more effectual the aforesaid Act, and for other purposes therein mentioned, it was (among other things) enacted, That from and after the first day of January one thousand seven hundred and sixty-seven, all and every person or persons who should engrave, etch, or work in mezzotinto or chiaro-oscuro, or cause to be engraved, etched, or worked any print taken from any picture, drawing, model, or sculpture, either ancient or modern, should have and were thereby declared to have the benefit and protection of the said former Act and that Act, for the term thereafter mentioned, in like manner as if such print had been graven or drawn from the original design of such graver, etcher, or draughtsman ; and whereas the said Acts have not effectually answered the purposes for which they were intended, and it is necessary for the encouragement of artists, and for securing to them the property of and in their works, and for the advancement and improvement of the aforesaid arts, that

Recital of
Acts 8 G. 2,
and 7 G. 2.

After June 24, 1777, if any engraver, &c., shall, within the time limited by the aforesaid Acts, engrave or etch, &c., any print without the consent of the proprietor, he shall be liable to damages and double costs.

such further provisions should be made as are hereafter mentioned and contained: May it therefore please Your Majesty, that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June, one thousand seven hundred and seventy-seven, if any engraver, etcher, print-seller, or other person shall, within the time limited by the aforesaid Acts, or either of them, engrave, etch, or work, or cause or procure to be engraved, etched, or worked, in mezzotinto or chiaro-oscuro, or otherwise, or in any other manner copy, in the whole or in part, by varying, adding to, or diminishing from the main design, or shall print, reprint, or import for sale, or cause or procure to be printed, reprinted, or imported for sale, or shall publish, sell, or otherwise dispose of, or cause or procure to be published, sold, or otherwise disposed of, any copy or copies of 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, which hath or have been, or shall be engraved, etched, drawn, or designed, in any part of Great Britain, without the express consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him, her, or them respectively, with his, her, or their own hand or hands, in the presence of and attested by two or more credible witnesses, then every such proprietor or proprietors shall and may, by and in a special action upon the case, to be brought against the person or persons so offending, recover such damages as a jury on the trial of such action or on the execution of a writ of inquiry thereon, shall give or assess, together with double costs* of suit.

27 GEO. III. 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.

Repealed by 5 & 6 Vict. c. 100, § 1.

* So much of this statute as relates to double costs is repealed by 24 & 25 Vict. c. 101.

29 GEO. III. 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.

Repealed by 5 & 6 Vict. c. 100, § 1.

34 GEO. III. 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 Period.

Repealed by 5 & 6 Vict. c. 100, § 1.

38 GEO. III. c. 71 (1798).

An Act for Encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned.

Repealed by 24 & 25 Vict. c. 101.

41 GEO. III. c. 107 (1801).

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.

Repealed by 5 & 6 Vict. c. 45, § 1.

54 GEO. III. c. 56.

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.

[18th May, 1814.]

38 Geo. 3,
c. 71.

The sole right and property of all new and original sculptures, models, copies, and casts, vested in the proprietors for fourteen years.

WHEREAS by an Act, passed in the thirty-eighth year of the reign of His present Majesty, intituled "An Act for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned," the sole right and property thereof were vested in the original proprietors, for a time therein specified : And whereas the provisions of the said Act having been found ineffectual for the purposes thereby intended, it is expedient to amend the same, and to make other provisions and regulations for the encouragement of artists, and to secure to them the profits of and in their works, and for the advancement of the said arts : May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, every person or persons who shall make or cause to be made any new and original sculpture or model, or copy or cast, of the human figure, or human figures, or of any bust or busts, or of any part or parts of the human figure, clothed in drapery or otherwise, or of any animal or animals, or of any part or parts of any animal combined with the human figure or otherwise, or of any subject being matter of invention in sculpture, or of any alto or basso-relievo representing any of the matters or things hereinbefore mentioned, or any cast from nature of the human figure, or of any part or parts of the human figure, or of any cast from nature of any animal, or of any part or parts of any animal, or of any such subject containing or representing any of the matters and things hereinbefore mentioned, whether separate or combined, shall have the sole right and property of all and in every such new and original sculpture, model, copy, and cast of the human figure or human figures, and of all and in every such bust or busts, and of all and in every such part or parts of the human figure, clothed in drapery or otherwise, and of all and in every such new and original sculpture, model, copy, and cast, repre-

senting any animal or animals, and of all and in every such work representing any part or parts of any animal combined with the human figure or otherwise, and of all and in every such new and original sculpture, model, copy, and cast of any subject, being matter of invention in sculpture, and of all and in every such new and original sculpture, model, copy, and cast in alto or basso-relievo, representing any of the matters or things hereinbefore mentioned, and of every such cast from nature, for the term of fourteen years from first putting forth or publishing the same: Provided, in all and in every case, the proprietor or proprietors do cause his, her, or their name or names, with the date, to be put on all and every such new and original sculpture, model, copy, or cast, and on every such cast from nature, before the same shall be put forth or published.

II. And be it further enacted, That the sole right and property of all works, which have been put forth or published under the protection of the said recited Act, shall be extended, continued to and vested in the respective proprietors thereof for the term of fourteen years, to commence from the date when such last mentioned works respectively were put forth or published.

Works published under the recited Act, vested in the proprietors for fourteen years.

III. And be it further enacted, That if any person or persons shall, within such term of fourteen years, make or import, or cause to be made or imported, or exposed for sale, or otherwise disposed of, any pirated copy or pirated cast of any such new and original sculpture, or model or copy, or cast of the human figure or figures, or of any such bust or busts, or of any such part or parts of the human figure clothed in drapery or otherwise, or of any such work of any animal or animals, or of any such part or parts of any animal or animals combined with the human figure or otherwise, or of any such subject being matter of any invention in sculpture, or of any such alto or basso-relievo representing any of the matters or things hereinbefore mentioned, or of any such cast from nature as aforesaid, whether such pirated copy or pirated cast be produced by moulding or copying from, or imitating in any way, any of the matter or things put forth or published under the protection of this Act, or of any works which have been put forth or published under the protection of the said recited Act, the right and property whereof is and are secured, extended, and protected by this Act in any of the cases as aforesaid, to the detriment, damage, or loss of the original or respective proprietor or proprietors of any such works so pirated; then and in all such cases the said proprietor or proprietors, or their assignee or assignees,

Persons putting forth pirated copies or pirated casts, may be prosecuted.

Damages and double costs.

Purchasers of copyright secured in the same.

Limitation of actions.

An additional term of fourteen years, in case the maker of the original sculpture, &c., shall be living.

shall and may, by and in a special action upon the case to be brought against the person or persons so offending, receive such damages as a jury on a trial of such action shall give or assess, together with double costs of suits.

IV. Provided nevertheless, That no person or persons who shall or may hereafter purchase the right or property of any new and original sculpture or model, or copy or cast, or of any cast from nature, or of any of the matters and things published under or protected by virtue of this Act, of the proprietor or proprietors, expressed in a deed in writing signed by him, her, or them respectively, with his, her, or their own hand, or hands, in the presence of and attested by two or more credible witnesses, shall be subject to any action for copying, or casting, or vending the same, anything contained in this Act to the contrary notwithstanding.

V. Provided always, and be it further enacted, That all actions to be brought as aforesaid, against any person or persons for any offence committed against this Act, shall be commenced within six calendar months next after the discovery of every such offence and not afterwards.

VI. Provided always, and be it further enacted, That from and immediately after the expiration of the said term of fourteen years, the sole right of making and disposing of such new and original sculpture or model, or copy, or cast of any of the matters or things hereinbefore mentioned, shall return to the person or persons who originally made or caused to be made the same, if he or they shall be then living, for the further term of fourteen years, excepting in the case or cases where such person or persons shall by sale or otherwise have divested himself, herself, or themselves, of such right of making or disposing of any new and original sculpture, model, or copy, or cast of any of the matters or things hereinbefore mentioned, previous to the passing of this Act.

54 GEO. C. 156 (1814).

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.

Repealed by 5 & 6 Vict. c. 45, § 1.

3 WILL. IV. 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 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 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

54 G. 3,
c. 156.

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.

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.

Limitation of actions.

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 or 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.

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 proprietors, 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.

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.

5 & 6 WILL. IV. C. 65.

An Act for preventing the Publication of Lectures without Consent.

[9th September, 1835.]

WHEREAS printers, publishers, and other persons have frequently taken the liberty of printing and publishing lectures delivered upon divers subjects, without the consent of the authors of such lectures, or the persons delivering the same in public, to the great detriment of such authors and lecturers: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of September one thousand eight hundred and thirty-five the author of any lecture or lectures, or the person to whom he hath sold or otherwise conveyed the copy thereof, in order to deliver the same in any school, seminary, institution, or other place, or for any other purpose, shall have the sole right and liberty of printing and publishing such lecture or lectures; and that if any person shall, by taking down the same in short-hand or otherwise in writing, or in any other way, obtain or make a copy of such lecture or lectures, and shall print or lithograph or otherwise copy and publish the same, or cause the same to be printed, lithographed, or otherwise copied and published, without leave of the author thereof, or of the person to whom the author thereof hath sold or otherwise conveyed the same, and every person who, knowing the same to have been printed or copied and published without such consent, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, any such lecture or lectures, shall forfeit such printed or otherwise copied lecture or lectures, or parts thereof, together with one penny for every sheet thereof which shall be found in his custody, either printed, lithographed, or copied, or printing, lithographing, or copying, published or exposed to sale, contrary to the true

Authors of
lectures, or
their assigns,
to have the
sole right of
publishing
them.

Penalty on
other persons
publishing,
&c., lectures
without leave,

intent and meaning of this Act, the one moiety thereof to His Majesty, his heirs or successors, and the other moiety thereof to any person who shall sue for the same, to be recovered in any of His Majesty's Courts of Record in Westminster, by action of debt, bill, plaint, or information, in which no wager of law, essoign, privilege, or protection, or more than one imparlance, shall be allowed.

Penalty on printers or publishers of newspapers publishing lectures without leave.

II. And be it further enacted, That any printer or publisher of any newspaper who shall, without such leave as aforesaid, print and publish in such newspaper any lecture or lectures, shall be deemed and taken to be a person printing and publishing without leave within the provisions of this Act, and liable to the aforesaid forfeitures and penalties in respect of such printing and publishing.

Persons having leave to attend lectures not on that account licensed to publish them.

III. And be it further enacted, That no person allowed for certain fee and reward, or otherwise, to attend and be present at any lecture delivered in any place, shall be deemed and taken to be licensed or to have leave to print, copy, and publish such lectures only because of having leave to attend such lecture or lectures.

Act not to prohibit the publishing of lectures after expiration of the copyright.

IV. Provided always, That nothing in this Act shall extend to prohibit any person from printing, copying, and publishing any lecture or lectures which have or shall have been printed and published with leave of the authors thereof or their assignees, and whereof the time hath or shall have expired within which the sole right to print and publish the same is given by an Act passed in the eighth year of the reign of 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 by another Act passed in the fifty-fourth year of the reign of 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," or to any lectures which have been printed or published before the passing of this Act.

8 Ann. c. 19.

54 G. 3,
c. 156.

Act not to extend to lectures delivered in unlicensed places, &c.

V. Provided further, That nothing in this Act shall extend to any lecture or lectures, or the printing, copying, or publishing any lecture or lectures, or parts thereof, of the delivering of which notice in writing shall not have been given to two justices living within five miles from the place where such lecture or lectures shall be delivered two days at the least before delivering the same, or to any lecture or lectures delivered in any university or public school or college, or on any

public foundation, or by any individual in virtue of or according to any gift, endowment, or foundation; and that the law relating thereto shall remain the same as if this Act had not been passed,

6 & 7 WILL. IV. C. 59.

An Act to extend the Protection of Copyright in Prints and Engravings to Ireland.

[13th August, 1836.]

WHEREAS an Act was passed in the seventeenth year of the reign of His late Majesty King George 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 whereas it is desirable to extend the provisions of the said Act to Ireland: 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 all the provisions contained in the said recited Act of the seventeenth year of the reign of His late Majesty King George the Third, and of all the other Acts therein recited, shall be and the same are hereby extended to the United Kingdom of Great Britain and Ireland. 17 G. 3, c. 57.

II. And be it further enacted, That from and after the passing of this Act, if any engraver, etcher, printseller, or other person shall within the time limited by the aforesaid recited Acts, engrave, etch, or publish, or cause to be engraved, etched, or published, any engraving or print of any description whatever, either in whole or in part, which may have been or which shall hereafter be published in any part of Great Britain or Ireland, without the express consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him, her, or them respectively, with his, her, or their own hand or hands, in the presence of and attested by two or more credible witnesses, then every such proprietor shall and may, by and in a separate action upon the case, to be brought against the person so offending in any court of law in Great Britain or Ireland, recover such damages as a jury on the trial of such action or on the execution of a writ of inquiry thereon shall give or assess together with double costs of suit. Provisions of recited Act extended to Ireland, Penalty on engraving or publishing any print without consent of proprietor,

1 & 2 VICT. c. 59 (1838).

"The International Copyright Act."

Repealed by 7 Vict. c. 12.

2 VICT. c. 13 (1839).

An Act for extending the Copyright of Designs for Calico-Printing to Designs for Printing other woven Fabrics.

Repealed by 5 & 6 Vict. c. 100, § 1.

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.

Repealed by 5 & 6 Vict. c. 100, § 1.

5 & 6 VICT. c. 45.

An Act to amend the Law of Copyright.

[1st July, 1842.]

Repeal of
former Acts;
8 Anne, c. 19.

41 G. 3,
c. 107.

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 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 Time 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 proceeding at law or in equity pending at the time of passing this Act, or for enforcing any cause of action or suit, or any right or contract then subsisting.

54 G. 3,
c. 156.

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 letterpress, 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 in 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.

Interpretation
of Act.

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

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

if published
after the
author's
death.

In cases of
subsisting
copyright,
the term to
be extended,
except when
it shall belong
to an assignee
for other con-
sideration
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.

Judicial com-
mittee of the
Privy Council
may license
the republica-
tion of books
which the
proprietor
refuses to
republish
after death of
the author.

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 herein-after 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 of 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 herein-after 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.

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 licence 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.

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

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.

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, to all intents and purposes, be deemed to be good and sufficient delivery under the provisions of this Act.

Mode of delivering at the British Museum.

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

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 Public Library at Cambridge, the Faculty of Advocates at Edinburgh, and that of Trinity College, Dublin.

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 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.

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

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.

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

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 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

XI. And be it enacted, That a book of registry, wherein may

be registered, as herein-after enacted, the proprietorship in the copyright of books, and assignments thereof, and in dramatic and musical pieces, whether in manuscript or otherwise, and licences 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.

at Stationers'
Hall.

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 misdemeanour, and shall be punished accordingly.

Making a false
entry in the
book of regis-
try, a mis-
demeanour.

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

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

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.

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.

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 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 requisition of such order.

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

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 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 objection stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication with the title, time and place specified in such notice.

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

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

Books may be seized by officers of customs or excise.

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

Proviso for authors who have reserved the right of

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.

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 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.

publishing
their articles
in a separate
form.

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.

Proprietors of
encyclopæ-
dias, peri-
odicals, and
works pub-
lished in a
series, may
enter at once
at Stationers'
Hall, and
thereon have
the benefit of
the registra-
tion of the
whole.

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 herein-before 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 per-

The provi-
sions of 3 & 4
W. 4, c. 15,
extended to
musical com-
positions, and
the term of
copyright, as
provided by
this Act,
applied to the
liberty of
representing
dramatic
pieces and
musical com-
positions.

forming, 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.

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

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 year 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.

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

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.

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

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 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 registry.

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 omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof, as aforesaid : Provided also, that nothing herein

contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the Act passed in the third year of the reign of His late Majesty King William the Fourth to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the book of registry aforesaid.

Proviso for
dramatic
pieces.

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.

Copyright
shall be
personal
property.

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 anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become 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 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.

General issue.

Limitation
of actions;

not to extend
to actions,
&c., in re-
spect 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 col-
leges of Eton,
Westminster,
and Win-
chester.

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 this Act, except as herein expressly enacted; and all contracts, agreements, and obliga-

Saving all
subsisting
rights, con-
tracts and
engagements.

Extent of the Act.

**Act may be
amended this
Session.**

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.

No. 1.

We, the undersigned, *A.B.* of the Author of a certain Book, intituled *Y.Z.* [*or the personal Representative of the Author, as the case may be*], and *C.D.* of do hereby certify, That we have consented and agree to accept the Benefits of the Act passed in the Fifth Year (*a*) of the Reign of Her Majesty Queen Victoria, Cap. , for the Extension of the Term of Copyright therein provided by the said Act, and hereby declare that such extended Term of Copyright therein is the Property of the said *A.B.* or *C.D.*

Dated this day of 18 .
 (Signed) A.B.
 Witness C.D.,
 To the Registering Officer appointed by the Stationers' Company.

FORM of REQUIRING ENTRY of PROPRIETORSHIP.

I, *A.B.* of _____ do hereby certify, That I am the Proprietor of the Copyright of a Book, intituled *Y.Z.*, and I hereby require you to make entry in the Register Book of the Stationers' Company of my Proprietorship of such Copyright, according to the Particulars underwritten.

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

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

(a) Her Majesty's reign commenced on the 20th of June, 1837, and her royal consent was given to this Act on the 1st of July, 1842, consequently

THE LAW OF COPYRIGHT.

5 & 6 VICT. c. 47 (1842).

An Act to amend the Laws relating to the Customs.

Repealed by 7 & 8 Vict. c. 73.

5 & 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.]

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

6 & 7 VICT. c. 65.

An Act to amend the Laws relating to the Copyright of Designs.

[22nd August, 1843.]

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

6 & 7 VICT. c. 68.

An Act for regulating Theatres.

[22nd August, 1843.]

Repeal of 3
Jac. 1, c. 21.

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 same 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

years of her Majesty Queen Victoria : " *Rex v. Biers*, 3 Nev. & M. 475 ; *Gibbs v. Pike*, 8 Mec. & W. 223. The Schedule was drawn in the fifth year of the Queen, and has not been corrected. It will be advisable in the minute of consent to state the year, by a reference to the session, which will include the words of the schedule. The form is inaccurate in another part by confining the date of consent to the present century. Note by Sweet to Bythewood and Jarman's Conveyancing, vol. vii. p. 618.

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 Punishment of such Rogues, Vagabonds, Sturdy Beggars, and Vagrants, and sending them whither they ought to be sent," as relates to common players or interludes ; and another Act passed in the twenty-eighth year of the reign of King George the Third, intituled 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 licence 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.

Part of 10
G. 2, c. 19.

10 G. 2, c. 28.

28 G. 3, c. 30.

Proviso as to
licences 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 licence from the Lord Chamberlain of Her Majesty's household for the time being, or from the justices of the peace as herein-after 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 licences 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

What licences
shall be
granted by
the Lord
Chamberlain.

boroughs aforesaid, and the boroughs of New Windsor in the county of Berks, and Brightelmstone in the county of Sussex, licences 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 licences 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 licence of the Lord Chamberlain.

Fee for Lord Chamberlain's licence.

IV. And be it enacted, That for every such licence granted by the Lord Chamberlain, a fee, not exceeding ten 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 Lord Chamberlain, shall be paid to the Lord Chamberlain.

Licences 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 licence 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 licences 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 licence 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 justices' licence.

VI. And be it enacted, That for every such licence 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 licences shall be granted.

VII. And be it enacted, That no such licence 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 licence shall be granted: and the name and place of abode of such manager shall be printed on every play bill announcing any representa-

tion 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 licence 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 licence 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 licence 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 licence, 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 ensuring 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 licence; 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 may 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 licence shall be in force within the precincts of either of the Univer-

Proviso for the Universities of Oxford

and Cam-
bridge.

sities 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 respectively ; 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 licence shall have been given it shall be lawful for such Chancellor or Vice-Chancellor respectively to annul the licence, and thereupon such licence shall become void.

Penalty on
persons per-
forming 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 ex-
amination 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 fee shall be paid at the time when such plays, pro-

logues, 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 licence (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 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.

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

XVIII. And be it enacted, That after the passing of this

Proceedings begun before

the passing
of this Act
may be dis-
continued.

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^s thereof incurred at 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 Sessions or judiciary 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 offenders 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.

Appropriation of penalties.

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 prose-

cutor, and the residue thereof (if any) shall be paid to the use of Her Majesty, her heirs and successors. *

XXII. Provided always, and be it 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, intituled "An Act for securing to Authors in certain Cases the Benefit of International Copyright" (and which Act is hereinafter, 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 1 & 2 Vict. c. 59.

5 & 6 Vict.
c. 45.

3 & 4 W. 4,
c. 15.

8 G. 2, c. 13.

7 G. 3, c. 38.

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 the 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 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 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 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 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 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-eighth 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;” 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

17 G. 3, c. 57.

6 & 7 W. 4,
c. 59.

38 G. 3, c. 71.

54 G. 3, c. 56.

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 Amendment 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 invest 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.

Her Majesty, by Order in Council, may direct that authors, &c., of works first

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.

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 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 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.

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

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

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.

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

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

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 circumstance 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.

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

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.

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 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.

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

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.

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

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

Second or subsequent editions.

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.

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

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 (a).

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

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 were included in this Act.

Orders in Council to be laid before Parliament.

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 then be sitting, and if not, then within six weeks after the commencement of the then next session of Parliament.

Orders in Council may be revoked.

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 (b).

Translations.

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

(a) Repealed by International Copyright Act, 1886.

(b) Repealed by International Copyright Act, 1886.

whereof and his assigns may be entitled to the benefit of this Act (a)

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.

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 "re-printing" shall include engraving and any other method of multiplying copies; and the expression "Her Majesty" shall include the heirs and successors of Her Majesty; and the 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.

Interpretation clause.

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.

Act may be repealed this session.

(a) This section is repealed so far as it is inconsistent with the provisions contained in 15 & 16 Vict. c. 12, and wholly repealed by International Copyright Act, 1886.

THE LAW OF COPYRIGHT.

7 & 8 VICT. c. 73 (1844).

An Act to reduce, under certain Circumstances, the Duties payable upon Books and Engravings.

Repealed by 9 & 10 Vict. c. 58, s. 1.

8 & 9 VICT. c. 93 (1845).

An Act to regulate the Trade of British Possessions abroad.

Repealed by 16 & 17 Vict. c. 100, s. 358.

9 & 10 VICT. c. 58 (1846).

An Act to amend an Act of the seventh and eighth Years of Her present Majesty for reducing, under certain Circumstances, the Duties payable upon Books and Engravings.

Repealed by 24 & 25 Vict. c. 101.

10 & 11 VICT. c. 95.

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

[22nd July, 1847.]

5 & 6 Vict.
c. 45.

WHEREAS by an Act passed in the session of Parliament holden in the fifth and sixth years of Her present Majesty, intituled "An Act to amend the Law of Copyright," it is amongst other things enacted, that it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed or published in any part of the United Kingdom wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions: And whereas by an Act passed in the session of Parliament holden in the eighth and ninth years of the reign of Her present Majesty, intituled "An Act to regulate the

8 & 9 Vict.
c. 93.

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

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 may suspend in certain cases the prohibition against the admission of pirated books into the colonies in certain cases.

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.

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, This Act may be amended or repealed by any Act to be passed in the present session of Parliament.

13 & 14 VICT. c. 104.

An Act to extend and amend the Acts relating to the Copyright of Designs.

[14th August, 1850.]

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

14 VICT. c. 8 (1851).

An Act to extend the Provisions of the " Designs Act, 1850," and to give Protection from Piracy to Persons exhibiting new Invention in the Exhibition of the Works of Industry of all Nations in One thousand eight hundred and fifty-one.

Spent.

15 & 16 VICT. c. 12.

An Act to enable Her Majesty to carry into effect a Convention with France on the Subject of Copyright ; to extend and explain the International Copyright Acts ; and to explain the Acts relating to Copyright in Engravings.

[28th May, 1852.]

7 & 8 Vict.
c. 12.

WHEREAS an Act was passed in the seventh year of the reign of Her present Majesty, intituled " An Act to amend the Law relating to International Copyright," hereinafter called " The International Copyright Act : " And whereas a convention has lately been concluded between Her Majesty and the French Republic, for extending in each country the enjoyment of copyright in works of literature and the fine arts first published in the other, and for certain reductions of duties now

levied on books, prints, and musical works published in France : And whereas certain of the stipulations on the part of Her Majesty contained in the said treaty require the authority of Parliament : And whereas it is expedient that such authority should be given, and that Her Majesty should be enabled to make similar stipulations in any treaty on the subject of copyright which may hereafter be concluded with any foreign power : Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Sects. I. to V. repealed by International Copyright Act, 1886.

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

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

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

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

Sect. VIII. repealed by International Copyright Act, 1886.

IX. All copies of any works of literature or art wherein there is any subsisting copyright by virtue of the International Copyright Act and this Act, or of any Order in Council made in pursuance of such Acts or either of them, and which are printed, reprinted, or made in any foreign country except that in which such work shall be first published, and all unauthorized translations of any book or dramatic piece the publication or public representation in the British dominions of translations whereof not authorized as in this Act mentioned shall for the time being be prevented under any Order in

Pirated copies prohibited to be imported except with consent of proprietor.

(*a*) See 38 Vict. c. 12, *post*.

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

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

*Reduction of
Duties.*

Recital of
9 & 10 Vict.
c. 58.

Rates of duty
not to be
raised during
continuance
of treaty, and
if further

Council made in pursuance of this Act, are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright of such work or of such book or piece, or his agent authorized in writing; and the provisions of the Act of the sixth year of Her Majesty "to amend the Law of Copyright," for the forfeiture, seizure, and destruction of any printed book first published in the United Kingdom wherein there shall be copyright, and reprinted in any country out of the British dominions and imported into any part of the British dominions by any person not being the proprietor of the copyright, or a person authorized by such proprietor, shall extend and be applicable to all copies of any works of literature and art, and to all translations the importation whereof into any part of the British dominions is prohibited under this Act.

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

Sect. XI. repealed by International Copyright Act, 1886.

XII. And whereas an Act was passed in the tenth year of Her present Majesty, intituled "An Act to amend an Act of the seventh and eighth Years of Her present Majesty, for reducing under certain Circumstances, the Duties payable upon Books and Engravings:" And whereas by the said convention with the French Republic it was stipulated that the duties on books, prints, and drawings published in the territories of the French Republic should be reduced to the amount specified in the schedule to the said Act of the tenth year of Her present Majesty, chapter fifty-eight: And whereas Her Majesty has, in pursuance of the said convention, and in exercise of the powers given by the said Act, by Order in Council declared that such duties shall be reduced accordingly: And whereas by the said convention it was further stipulated that the said rates of duty should not be raised during the continuance of the said convention; and that if during the continuance of the said convention any reduction of those rates should be made in favour of books, prints, or drawings published in any other country, such reduction shall be at the same time extended to similar articles published in France: And whereas doubts are entertained whether such last-mentioned stipulations can be carried into effect without the authority of Parliament: Be it enacted, That the said rates of duty so reduced as aforesaid shall not be raised during the continuance of the said convention; and that if during the continuance of the said convention any further reduction of such rates is made in

favour of books, prints, or drawings published in any other foreign country, Her Majesty may, by Order in Council, declare that such reduction shall be extended to similar articles published in France; such order to be made and published in the same manner and to be subject to the same provisions as orders made in pursuance of the said Act of the tenth year of Her present Majesty, chapter fifty-eight.

reduction is made for other countries it may be extended to France.

XIII. And whereas doubts have arisen as to the construction of the schedule of the Act of the tenth year of Her present Majesty, chapter fifty-eight :

It is hereby declared, That for the purposes of the said Act every work published in the country of export, of which part has been originally produced in the United Kingdom, shall be deemed to be and be subject to the duty payable on "Works originally produced in the United Kingdom, and published in the country of export," although it contains also original matter not produced in the United Kingdom, unless it shall be proved to the satisfaction of the Commissioners of Her Majesty's Customs by the importer, consignee, or other person entering the same that such original matter is at least equal to the part of the work produced in the United Kingdom, in which case the work shall be subject only to the duty on "Works not originally produced in the United Kingdom."

For removal of doubts as to construction of schedule to 9 & 10 Vict. c. 58.

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

Lithographs, &c.

Recital of
8 G. 2, c. 13,
7 G. 3, c. 38,
17 G. 3, c. 57,
6 & 7 W. 4,
c. 59.

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

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

16 & 17 VICT. c. 107 (1853).

An Act to amend and consolidate the Laws relating to the Customs of the United Kingdom and of the Isle of Man, and certain Laws relating to the Trade and Navigation and the British Possessions.

Sects. 44, 46, and 160, repealed 39 & 40 Vict. c. 36.

18 & 19 VICT. c. 96 (1855).

An Act to consolidate certain Acts, and otherwise amend the Laws of the Customs, and an Act to regulate the Office of the Receipt of Her Majesty's Exchequer at Westminster.

Sects. 39 and 40 repealed 39 and 40 Vict. c. 36.

21 & 22 VICT. c. 70.

An Act to amend the Act of the fifth and sixth Years of Her present Majesty, to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.

[2nd August, 1858.]

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

24 & 25 VICT. c. 73.

An Act to amend the Law relating to the Copyright of Designs.
[6th August, 1861.]

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

25 & 26 VICT. c. 68.

An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

[29th July, 1862.]

WHEREAS by law, as now established, the authors of paintings, drawings, and photographs have no copyrights in such their works, and it is expedient that the law should in that respect be amended: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

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

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

II. Nothing herein contained shall prejudice the right of any Copyright not

to prevent the representation of the same subjects in other works.

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

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

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

person to copy or use any work in which there shall be no copyright or to represent any scene or object, notwithstanding that there may be copyright in some representation of such scene or object.

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

IV. There shall be kept at the hall of the Stationers' Company, by the officer appointed by the said company for the purposes of the Act passed in the sixth year of Her present Majesty, intituled "An Act to amend the Law of Copyright," a book or books intituled "The Register of Proprietors of Copyright in Paintings, Drawings, and Photographs," wherein shall be entered a memorandum of every copyright to which any person shall be entitled under this Act, and also of every subsequent assignment of any such copyright; and such memorandum shall contain a statement of the date of such agreement or assignment, and of the names of the parties thereto, and of the name and place of abode of the person in whom such copyright shall be vested by virtue thereof, and of the name and place of abode of the author of the work in which there shall be such copyright, together with a short description of the nature and subject of such work, and in addition thereto, if the person registering shall so desire, a sketch, outline, or photograph of the said work; and no proprietor of any such copyright shall be entitled to the benefit of this Act until such registration, and no action shall be sustainable nor any penalty be recoverable in respect of anything done before registration.

V. The several enactments in the said Act of the sixth year of Her present Majesty contained, with relation to keeping the register book thereby required, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the application to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the book or books to be kept by virtue of this Act, and to the entries and assignments of copyright and proprietorship therein under this

Act, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said Act of the sixth year of Her present Majesty may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only.

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

Penalties on
infringement
of copyright.

VII. No person shall do or cause to be done any or either of the following acts: that is to say,

Penalties on
fraudulent
productions
and sales.

First, : o person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any painting, drawing, or photograph, or the negative thereof, any name, initials, or monogram :

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

Thirdly, no person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any copy or

colourable imitation of any painting, drawing, or photograph, or negative of a photograph, whether there shall be subsisting copyright therein or not, as having been made or executed by the author or maker of the original work from which such copy or imitation shall have been taken :

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

Penalties.

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

Recovery of pecuniary penalties :

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

In England and Ireland ;

In England and Ireland, either by action against the party

offending, or by summary proceeding before any two justices having jurisdiction where the party offending resides :

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

In Scotland.

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

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

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

Importation of pirated works prohibited.

Application in such cases

of Customs
Acts.

copies, or imitations of any such painting, drawing, or photograph, or of the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by the officers of Her Majesty's Customs.

Saving of
right to bring
action for
damages.

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

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

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

32 & 33 VICT. C. 24.

An Act to repeal certain Enactments relating to Newspapers, Pamphlets, and other Publications, and to Printers, Type-founders, and Reading Rooms.

[12th July, 1869.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

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

Acts and parts of Acts in first schedule repealed, except as in second schedule.

2. This Act may be cited as "The Newspapers, Printers, and Reading Rooms Repeal Act, 1869." Short title.

FIRST SCHEDULE.

Date of Act.	Title of Act, and Part Repealed.	
36 Geo. 3, c. 8.	An Act for the more effectually preventing seditious meetings and assemblies.	
39 Geo. 3, c. 79, in part.	An Act for the more effectual suppression of societies established for seditious and treasonable purposes, and for better preventing treasonable and seditious practices.	In part, namely,—sections fifteen to thirty-three, both inclusive, and so much of sections thirty-four to thirty-nine as relates to the above-mentioned sections.
31 Geo. 3, c. 65.	An Act to explain and amend an Act passed in the thirty-ninth year of His Majesty's reign, intituled "An Act for the more effectual suppression of societies established for seditious and treasonable purposes, and for better preventing treasonable and seditious practices," so far as respects certain penalties on printers and publishers.	

FIRST SCHEDULE—*continued.*

Date of Act.	Title of Act, and Part Repealed.	
55 Geo. 3, c. 101, in part.	An Act to regulate the collection of stamp duties and matters in respect of which licences may be granted by the Commissioner of Stamps in Ireland.	In part, namely,—section thirteen.
60 Geo. 3 & 1 Geo. 4, c. 9.	An Act to subject certain publications to the duties of stamps upon newspapers, and to make other regulations for restraining the abuses arising from the publication of blasphemous and seditious libels.	
11 Geo. 4 & 1 Will. 4, c. 73.	An Act to repeal so much of an Act of the sixtieth year of His late Majesty King George the Third, for the more effectual prevention and punishment of blasphemous and seditious libels, as relates to the sentence of banishment for the second offence, and to provide some further remedy against the abuse of publishing libels.	
6 & 7 Will. 4, c. 76, in part.	An Act to reduce the duties on newspapers and to amend the laws relating to the duties on newspapers and advertisements.	In part, namely,— Except sections one to four (both inclusive), sections thirty-four and thirty-five, and the schedule.
2 & 3 Vict. c. 12.	An Act to amend an Act of the thirty-ninth year of King George the Third, for the more effectual suppression of societies established for seditious and treasonable purposes, and for preventing treasonable and seditious practices, and to put an end to certain proceedings now pending under the said Act.	
5 & 6 Vict. c. 82, in part.	An Act to assimilate the stamp duties in Great Britain and Ireland, and to make regulations for collecting and managing the same until the tenth day of October, One thousand eight hundred and forty-five.	In part, namely,— The following words in section twenty: “and also licence to any person to keep any printing presses and types for printing in Ireland.”
9 & 10 Vict. c. 33, in part.	An Act to amend the laws relating to corresponding societies and the licensing of lecture rooms.	In part, namely,— So far as it relates to any proceedings under the enactments repealed by this schedule.

FIRST SCHEDULE—*continued*.

Date of Act.	Title of Act, and Part Repealed.	
16 & 17 Vict. c. 59, in part.	An Act to repeal certain stamp duties and to grant others in lieu thereof, to amend the laws relating to stamp duties, and to make perpetual certain stamp duties in Ireland.	In part, namely,— So much of section twenty as makes perpetual the provisions of 5 & 6 Vict. c. 82, repealed by this Act.

SECOND SCHEDULE.

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

39 Geo. 3, c. 79. Section 28.

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

Not to extend to papers printed by authority of Parliament.

Section 29.

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

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

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

Section 31.

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

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

Section 34.

No person shall be prosecuted or sued for any penalty imposed by this Act, unless such prosecution shall be commenced, or such action shall be

Prosecutions to be com-

SECOND SCHEDULE—*continued*.

menced within three months after penalty is incurred. brought, within three calendar months next after such penalty shall have been incurred.

Part of Section 35.

Recovery of penalties.

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

Section 36.

Application of penalties.

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

51 Geo. 3, c. 65. Section 3.

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

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

6 & 7 Will. 4, c. 76. Section 19.

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

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

SECOND SCHEDULE—*continued*.

as evidence or otherwise in any proceeding against the defendant, save only in that proceeding for which the discovery is made.

2 & 3 Vict. c. 12. Section 2.

Every person who shall print any paper or book whatsoever which shall be meant to be published or dispersed, and who shall not print upon the front of every such paper, if the same shall be printed on one side only, or upon the first or last leaf of every paper or book which shall consist of more than one leaf, in legible characters, his or her name and usual place of abode or business, and every person who shall publish or disperse, or assist in publishing or dispersing, any printed paper or book on which the name and place of abode of the person printing the same shall not be printed as aforesaid, shall for every copy of such paper so printed by him or her forfeit a sum not more than five pounds: Provided always, that nothing herein contained shall be construed to impose any penalty upon any person for printing any paper excepted out of the operation of the said Act of the thirty-ninth year of King George the Third, chapter seventy-nine, either in the said Act or by any Act made for the amendment thereof.

Penalty upon printers for not printing their name and residence on every paper or book, and on persons publishing the same.

Section 3.

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

As to books or papers printed at the University presses.

Section 4.

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

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

9 & 10 Vict. c. 33. Section 1.

It shall not be lawful for any person or persons to commence, prosecute, enter, or file, or cause or procure to be commenced, prosecuted, entered, or filed, any action, bill, plaint, or information in any of Her Majesty's courts or before any justice or justices of the peace, against any person or persons for the recovery of any fine which may hereafter be incurred under

Proceedings shall not be commenced unless in the name of the

SECOND SCHEDULE—*continued.*

law officers of
the Crown.

the provisions of the Act of the thirty-ninth year of King George the Third, chapter seventy-nine, set out in this Act, unless the same be commenced, prosecuted, entered, or filed in the name of Her Majesty's Attorney-General or Solicitor-General in England or Her Majesty's Advocate in Scotland ; and every action, bill, plaint, or information which shall be commenced, prosecuted, entered, or filed in the name or names of any other person or persons than is in that behalf before mentioned, and every proceeding thereupon had, shall be null and void to all intents and purposes.

38 VICT. c. 12.

An Act to amend the Law relating to International Copyright.

[13th May, 1875.]

WHEREAS by an Act passed in the fifteenth year of the reign of Her present Majesty, chapter 12, intituled "An Act to enable Her Majesty to carry into effect a convention with France on the subject of Copyright ; to extend and explain the International Copyright Acts ; and to explain the Acts relating to copyright in engravings," it is enacted that "Her Majesty may, by Order in Council, direct that authors of dramatic pieces which are, after a future time to be specified in such order, first publicly represented in any foreign country, to be named in such order, their executors, administrators, and assigns, shall, subject to the provisions thereafter mentioned or referred to, be empowered to prevent the representation in the British Dominions of any translation of such dramatic pieces not authorized by them for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such dramatic pieces are first published and publicly represented : " And whereas by the same Act it is further enacted, "that, subject to any provisions or qualifications contained in such order, and to the provisions in the said Acts contained or referred to, the law and enactments for the time being in force for ensuring to the author of any dramatic piece, first publicly represented in the British Dominions the sole liberty of representing the same shall be applied for the purposes of preventing the representation of any translations of the dramatic pieces to which such order extends, which are not sanctioned by the authors thereof : " And whereas by the sixth section of the said Act it is provided that "nothing in the said Act contained shall be so construed as to prevent fair imitations or adaptation

to the English stage of any dramatic piece or musical composition published in any foreign country :”

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

Be it therefore enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows : viz.,

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

Section 6 of recited Act not to apply to dramatic pieces in certain cases.

38 & 39 VICT. C. 53.

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

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

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

And whereas by the said reserved Bill provision is made, subject to such conditions as in the said Bill are mentioned, for securing in Canada the rights of authors in respect of matters of copyright, and for prohibiting the importation into

Canada of any work for which copyright under the said reserved Bill has been secured ; and whereas doubts have arisen whether the said reserved Bill may not be repugnant to the said Order in Council, and it is expedient to remove such doubts and to confirm the said Bill :

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

Short title of Act.

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

Definition of terms.

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

Her Majesty may assent to the Bill in schedule.

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

Colonial re-prints not to be imported into United Kingdom.

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

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

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

SCHEDULE.

[38 & 39 VICT. C. 53.]

An Act respecting Copyrights.

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

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

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

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

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

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

(3.) No immoral, or licentious, or irreligious, or treasonable, or seditious literary, scientific, or artistic work shall be the legitimate subject of such registration or copyright.

5. If at the expiration of the aforesaid term of twenty-eight years, such author, or any of the authors when the work has been originally composed

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

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

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

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

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

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

(2.) In all cases of interim registration under this Act, the author or proprietor shall cause notice of such registration to be inserted once in the "Canada Gazette."

(3.) A literary work intended to be published in pamphlet or book form,

but which is first published in separate articles in a newspaper or periodical, may be the subject of registration within the meaning of this Act while it is so preliminarily published, provided that the title of the manuscript and a short analysis of the work are deposited in the office of the Minister of Agriculture, and that every separate article so published is preceded by the words "Registered in accordance with the Copyright Act of 1875;" but the work when published in book or pamphlet form shall be subject, besides, to the other requirements of this Act.

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

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

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

13. If any person, after the recording of any print, cut, or engraving, map, chart, musical composition, or photograph, according to the provisions of this Act, within the term or terms limited by this Act, engraves, etches, or works, sells or copies, or causes to be engraved, etched, or copied, made or sold, either in the whole or by varying, adding to, or diminishing the main design with intent to evade the law, or prints, or reprints, or imports

for sale, or causes to be so printed or imported for sale, any such map, chart, musical composition, print, cut, or engraving, or any part thereof, without the consent of the proprietor or proprietors of the copyright thereof first obtained as aforesaid, or knowing the same to be so printed or imported without such consent, publishes, sells, or exposes for sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, photograph, or print without such consent as aforesaid, such offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, photograph, or print has been copied, and also every sheet thereof so copied or printed as aforesaid, to the proprietor or proprietors of the copyright thereof, and shall further forfeit for every sheet of such map, musical composition, print, cut, or engraving which may be found in his or their possession, printed or published or exposed for sale contrary to the true intent and meaning of this Act, such sum not being less than ten cents nor more than one dollar as the court shall determine; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered in any court of competent jurisdiction.

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

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

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

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

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

other moiety to the use of Her Majesty), to be recovered in any court of competent jurisdiction.

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

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

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

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

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

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

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

24. If any person shall wilfully make or cause to be made any false entry in the registry books of the Minister of Agriculture, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of an entry in the said books, he shall be guilty of a misdemeanor, and shall be punished accordingly.

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

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

27. No act or prosecution for the recovery of any penalty under this Act shall be commenced more than two years after the cause of action arose.

The following fees shall be payable to the Minister of Agriculture before an application for any of the purposes herein-after mentioned shall be entertained ; that is to say,

	Dol.	c.
On registering a copyright	1	00
On registering an interim copyright	0	50
On registering a temporary copyright	0	50
On recording an assignment	1	00
On certified copy of registration	0	50
On registering any decision of a court of justice, for every folio	0	50

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

	Dol.	c.
For every single or first folio certified copy	0	50
For every subsequent one hundred words (fractions from and under fifty being not counted, and over fifty being counted for one hundred).	0	25

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

(3.) All fees received under this Act shall be paid over to the Receiver General and form part of the Consolidated Revenue Fund of Canada. No fees shall be made the subject of exemption in favour of any person, and no fee exacted by this Act, once paid, shall be returned to the person who paid it.

28. "The Copyright Act of 1868," being the Act thirty-first Victoria, chapter fifty-four, and all other Acts or parts of Acts inconsistent with the provisions of this Act, are hereby repealed, subject to the provisions of the next following section.

29. All copyrights heretofore acquired under the Acts or parts of Acts repealed shall, in respect of the unexpired terms thereof, continue unimpaired, and shall have the same force and effect as regards the province or provinces to which they now extend, and shall be assignable and

renewable, and all penalties and forfeitures incurred and to be incurred under the same may be sued for and enforced, and all prosecutions commenced before the passing of this Act for any such penalties or forfeitures already incurred may be continued and completed as if such Acts were not repealed.

30. In citing this Act it shall be sufficient to call it "The Copyright Act of 1875."

38 & 39 VICT. C. 93.

An Act to Amend the Copyright of Designs Act. [13th August, 1875.]

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

39 & 40 VICT. C. 36.

[24th July 1876.]

"The Customs Consolidation Act, 1876."

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

Prohibitions
and restric-
tions.

*A Table of Prohibitions and Restrictions inwards.
Goods prohibited to be imported.*

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

Table of pro-
hibitions and
restrictions.

The Commissioners of Customs shall cause to be made, and to be publicly exposed, at the Custom Houses in the several ports in the United Kingdom, lists of all books wherein the copyright shall be subsisting, and as to which the proprietor of

List of pro-
hibited books
to be exposed
at Custom
House.

such copyright, or his agent, shall have given notice in writing to the said commissioners that such copyright exists, stating in such notice when such copyright expires, accompanied by a declaration made and subscribed before a collector of customs or a justice of the peace, that the contents of such notice are true.

Persons complaining of prohibition of books in Copyright lists may appeal to a Judge in Chambers.

45. If any person shall have cause to complain of the insertion of any book in such lists, it shall be lawful for any judge at chambers, on the application of the person so complaining, to issue a summons, calling upon the person upon whose notice such book shall have been so inserted to appear before any such judge at a time to be appointed in such summons, to show cause why such book shall not be expunged from such lists, and any such judge shall at the time so appointed proceed to hear and determine upon the matter of such summons, and make his order thereon in writing; and upon service of such order, or a certified copy thereof, upon the Commissioners of Customs or their secretary for the time being, the said commissioners shall expunge such book from the list, or retain the same therein, according to the tenor of such order; and in case such books shall be expunged from such lists, the importation thereof shall not be deemed to be prohibited. If at the time appointed in any such summons the person so summoned shall not appear before such judge, then upon proof by affidavit that such summons, or a true copy thereof, has been personally served upon the person so summoned, or sent to him by post to or left at his last known place of abode or business, any such judge may proceed *ex parte* to hear and determine the matter; but if either party be dissatisfied with such order, he may apply to a superior court to review such decision and to make such further order thereon as the court may see fit: Provided always, that nothing herein contained shall affect any proceeding at law or in equity which any party aggrieved by reason of the insertion of any book pursuant to any such notice, or the removal of any book from such list pursuant to any such order, or by reason of any false declaration under this Act, might or would otherwise have against any party giving such notice or obtaining such order, or making such false declaration.

As to the Channel Islands and other Possessions.

Foreign reprints of books under copyright prohibited.

152. Any 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, shall be and

are hereby absolutely prohibited to be imported into the British Possessions abroad: provided always, that no such books shall be prohibited to be imported as aforesaid, unless the proprietor of such copyright, or his agent, shall have given notice in writing to the Commissioners of Customs that such copyright subsists, and in such notice shall have stated when the copyright will expire; and the said commissioners shall cause to be made and transmitted to the several ports in the British Possessions abroad, from time to time to be publicly exposed there, lists of books respecting which such notice shall have been duly given, and all books imported contrary thereto shall be forfeited; but nothing herein contained shall be taken to prevent Her Majesty from exercising the powers vested in her by 10 & 11 Vict. c. 95, intituled "An Act to amend the law relating to the protection in the Colonies of works entitled to copyright in the United Kingdom," to suspend in certain cases such prohibition.

45 & 46 VICT. c. 40.

An Act to amend the law of Copyright relating to Musical Compositions.

[10th August, 1882.]

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

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

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

Printed notice
restraining
public per-
formance.

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

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

Penalty on
owner of
copyright for
non-compli-
ance with
notice from
owner of right
of perform-
ance.

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

Costs.

3 & 4 Will. 4,
c. 15.

IV. Notwithstanding the provisions of the Act passed in the third and fourth years of His Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or any other Act in which those provisions are incorporated, the costs of any action or proceedings for penalties or damages in respect of the unauthorised representation or performance of any musical composition published before the passing of this Act shall, in cases in which the plaintiff shall not

recover more than forty shillings as penalty or damages, be in the discretion of the court or judge before whom such action or proceedings shall be tried (a).

V. This Act may be cited as the Copyright (Musical Compositions) Act, 1882. Short title.

46 & 47 VICT. C. 57.

An Act to amend and consolidate the Law relating to Patents for Inventions, Registration of Designs, and of Trade Marks.

[25th August, 1883.]

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

PART I.

PRELIMINARY.

PART I.
PRELIMINARY.

I. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1883. Short title.

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

Division of
Act into
parts.

Part I.—PRELIMINARY.

Part II.—PATENTS.

Part III.—DESIGNS.

Part IV.—TRADE MARKS.

Part V.—GENERAL.

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

PART III.

DESIGNS.

PART III.
DESIGNS.*Registration of Designs.*

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

(a) Repealed by 51 & 52 Vict. c. 17, the Copyright (Musical Compositions) Act, 1888.

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

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

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

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

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

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

Drawings,
&c., to be
furnished on
application.

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

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

Certificate of
registration.

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

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

Copyright in registered Designs.

Copyright on
registration.

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

(2.) Before delivery on sale of any articles to which a registered design has been applied, the proprietor must (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the

prescribed number of exact representations or specimens of the design ; and if he fails to do so, the comptroller may erase his name from the register, and thereupon his copyright in the design shall cease.

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

Marking
registered
designs.

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

Inspection of
registered
designs.

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

LIII. On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, it shall be the duty of the comptroller to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor.

Information
as to existence
of copyright.

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

Cesser of
copyright in
certain events.

Register of Designs.

LV. (1.) There shall be kept at the patent office a book called the Register of Designs, wherein shall be entered the

Register of
designs.

(a) See addition by 51 & 52 Vict. c. 50, s. 6.

names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

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

Fees.

Fees on registration, &c.

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

Industrial and International Exhibitions.

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

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

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

Legal Proceedings.

Penalty on piracy of registered design.

LVIII. During the existence of copyright in any design—
 (a.) It shall not be lawful for any person without the license or written consent of the registered proprietor to apply (a) such design or any fraudulent or obvious

(a) “Or cause to be applied,” added by 51 & 52 Vict. c. 50, s. 7 (1).

imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance artificial or natural or partly artificial and partly natural ; and

(b.) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

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

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

Action for damages.

Definitions.

LX. In and for the purposes of this Act—

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

Definition of “design,” “copyright.”

(a) See addition by 51 & 52 Vict. c. 50, s. 7 (2).

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

Definition of proprietor.

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

PART V. GENERAL.

PART V.

GENERAL.

Patent Office and Proceedings thereat.

Patent Office.

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

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

(3.) The patent office shall be under the immediate control of an officer called the comptroller-general of patents, designs, and trade marks, who shall act under the superintendence and direction of the Board of Trade.

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

Officers and clerks.

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

the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

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

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

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

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

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

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

LXXXIX. Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the patent office, of or from patents, specifications, disclaimers Sealed copies to be received in evidence.

(a) "To the provisions of this Act and to," added by 51 & 52 Vict. c. 50, s. 21.

and other documents in the patent office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in Her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

Rectification
of registers
by court.

XC. (1.) The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person (*a*) from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging or varying the entry, as the court thinks fit; or the court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the court thinks fit.

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

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

Power for
comptroller
to correct
clerical errors.

XCI. The comptroller may, on request in writing accompanied by the prescribed fee,—

- (*a.*) Correct any clerical error in or in connexion with an application for a patent, or for registration of a design or trade mark; or
- (*b.*) Correct any clerical error in the name, style or address of the registered proprietor of a patent, design, or trade mark.
- (*c.*) Cancel the entry or part of the entry of a trade mark on the register: Provided that the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name (*b*) appears on the register as the proprietor of the said trade mark.

Falsification
of entries in
registers.

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

Exercise of

XCIV. Where any discretionary power is by this Act given

- (*a*) “Or of any other particulars,” added by 51 & 52 Vict. c. 53, s. 23.
- (*b*) See addition by 51 & 52 Vict. c. 50, s. 24.

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

discretionary
power by
comptroller.

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

Power of
comptroller
to take
directions of
law officers.

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

Certificate
of comp-
troller to be
evidence.

XCVII. (1.) Any application, notice, or other document authorised or required to be left, made or given at the patent office or to the comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

Applications
and notices
by post.

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

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

Provision as
to days for
leaving docu-
ments at
office.

XCXIX. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or

Declaration
by infant,
lunatic, &c.

a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

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

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

- (a.) For regulating the practice of registration under this Act :
- (b.) For classifying goods for the purposes of designs and trade marks :
- (c.) For making or requiring duplicates of specifications, amendments, drawings, and other documents :
- (d.) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments and other documents :
- (e.) For securing and regulating the making, printing, publishing and selling of indexes to, and abridgments of, specifications and other documents in the patent office ; and providing for the inspection of indexes and abridgments and other documents :
- (f.) For regulating (with the approval of the Treasury) the presentation of copies of patent office publications to patentees and to public authorities, bodies, and institutions at home and abroad :
- (g.) Generally for regulating the business of the patent office, and all things by this Act placed under the direction or control of the comptroller, or of the Board of Trade.

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

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

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

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

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

Annual
reports of
comptroller.

International and Colonial Arrangements.

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

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

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

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

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

(a) See addition by 50 & 51 Vict. c. 50, s. 25.

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

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

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

Provision for colonies and India.

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

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

Offences.

Penalty on falsely representing articles to be patented.

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

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

Scotland ; Ireland ; &c.

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

General
saving for
jurisdiction
of courts.

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

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

Isle of Man

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

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

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

Repeal ; Transitional Provisions ; Savings.

CXIII. The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not—

Repeal and
saving for
past opera-
tion of re-
pealed enact-
ments, &c.

(a) See addition, 51 & 52 Vict. c. 50, s. 26.

- (a.) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or
- (b.) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or
- (c.) Take away or abridge any protection or benefit in relation to any such action or proceeding.

Former registers to be deemed continued.

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

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

Saving for existing rules.

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

Saving for prerogative.

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

General Definitions.

General definitions.

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

‘ Person ’ includes a body corporate :

‘ The Court ’ means (subject to the provisions for Scotland,

Ireland, and the Isle of Man) Her Majesty's High Court of Justice in England :

"Law Officer" means Her Majesty's Attorney-General or Solicitor-General for England :

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

"Comptroller" means the Comptroller General of Patents, Designs, and Trade Marks :

"Prescribed" means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act :

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

"Legislature" includes any person or persons who exercise legislative authority in the British possession ; and where there are local legislatures as well as a central legislature, means the central legislature only.

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

SCHEDULES.

FIRST SCHEDULE.

FORM E.

Section 47.

FORM OF APPLICATION FOR REGISTRATION OF DESIGN.

day of 18 .

You are hereby requested to register the accompanying Design, in Class in the name of (a)

of who claims to be the Proprietor thereof, and to return the same to

Statement of nature of Design

Registration Fees enclosed £ s.

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

(Signed)

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

THIRD SCHEDULE.

ENACTMENTS REPEALED.

Section 113.

21 James I. c. 3. [1623.]	The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve.
5 & 6 Will. 4, c. 62. [1835.] In part.	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. 4, c. 83. [1835.]	An Act to amend the law touching letters patent for inventions.
2 & 3 Vict. c. 67. [1839.]	An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled "An Act to amend the law touching "letters patent for inventions."
5 & 6 Vict. c. 100. [1842.]	An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
6 & 7 Vict. c. 65. [1843.]	An Act to amend the laws relating to the copy- right of designs.
7 & 8 Vict. c. 69 (a) [1844.] In part.	An Act for amending an Act passed in the fourth year of the reign of His late Majesty, intituled "An Act for the better administration of jus- "tice in His Majesty's Privy Council, and to "extend its jurisdiction and powers." In part; namely,— Sections two to five, both included.
13 & 14 Vict. c. 104. [1850.]	An Act to extend and amend the Acts relating to the copyright of designs.
15 & 16 Vict. c. 83. [1852.]	The Patent Law Amendment Act, 1852.
16 & 17 Vict. c. 5. [1853.]	An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.
16 & 17 Vict. c. 115. [1853.]	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.
21 & 22 Vict. c. 70. [1858.]	An Act to amend the Act of the fifth and sixth years of Her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.

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

22 Vict. c. 13. [1859.]	An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
24 & 25 Vict. c. 73. [1861.]	An Act to amend the law relating to the copyright of designs.
28 & 29 Vict. c. 3. [1865.]	The Industrial Exhibitions Act, 1865.
33 & 34 Vict. c. 27. [1870.]	The Protection of Inventions Act, 1870.
33 & 34 Vict. c. 97. [1870.]	The Stamp Act, 1870. In part ; namely,— Section sixty-five, and in the schedule the words and figures. "Certificate of the registration of a design £5 0 0 And see section 65."
38 & 39 Vict. c. 91. [1875.]	The Trade Marks Registration Act, 1875.
38 & 39 Vict. c. 93. [1875.]	The Copyright of Designs Act, 1875.
39 & 40 Vict. c. 33. [1876.]	The Trade Marks Registration Amendment Act, 1876.
40 & 41 Vict. c. 37. [1877.]	The Trade Marks Registration Extension Act, 1877.
43 & 44 Vict. c. 10. [1880.]	The Great Seal Act, 1880. In part ; namely,— Section five.
45 & 46 Vict. c. 72. [1882.]	The Revenue, Friendly Societies, and National Debt Act, 1882. In part ; namely,— Section sixteen.

49 & 50 VICT. C. 33.

An Act to amend the Law respecting International and Colonial Copyright.

[25th June, 1886.]

WHEREAS by the International Copyright Acts Her Majesty is authorised by Order in Council to direct that as regards literary and artistic works first published in a foreign country the author shall have copyright therein during the period

specified in the order, not exceeding the period during which authors of the like works first published in the United Kingdom have copyright :

And whereas at an international conference held at Berne in the month of September, one thousand eight hundred and eighty-five, a draft of a convention was agreed to for giving to authors of literary and artistic works first published in one of the countries parties to the convention copyright in such works throughout the other countries parties to the convention :

And whereas, without the authority of Parliament, such convention cannot be carried into effect in Her Majesty's dominions, and consequently Her Majesty cannot become a party thereto, and it is expedient to enable Her Majesty to accede to the convention :

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

Short titles
and con-
struction.

I. (1.) This Act may be cited as the International Copyright Act, 1886.

(2.) The Acts specified in the first part of the First Schedule to this Act are in this Act referred to and may be cited by the short titles in that schedule mentioned, and those Acts, together with the enactment specified in the second part of the said schedule, are in this Act collectively referred to as the International Copyright Acts.

The Acts specified in the Second Schedule to this Act may be cited by the short titles in that schedule mentioned, and those Acts are in this Act referred to, and may be cited collectively as the Copyright Acts.

(3.) This Act and the International Copyright Acts shall be construed together, and may be cited together as the International Copyright Acts, 1844 to 1886.

Amendment
as to extent
and effect of
order under
International
Copyright
Acts.

II. The following provisions shall apply to an Order in Council under the International Copyright Acts :—

(1.) The order may extend to all the several foreign countries named or described therein :

(2.) The order may exclude or limit the rights conferred by the International Copyright Acts in the case of authors who are not subjects or citizens of the foreign countries named or described in that or any other order, and if the order contains such limitation and the author of a literary or artistic work

first produced in one of those foreign countries is not a British subject, nor a subject or citizen of any of the foreign countries so named or described, the publisher of such work, unless the order otherwise provides, shall for the purpose of any legal proceedings in the United Kingdom for protecting any copyright in such work be deemed to be entitled to such copyright as if he were the author, but this enactment shall not prejudice the rights of such author and publisher as between themselves :

- (3.) The International Copyright Acts and an order made thereunder shall not confer on any person any greater right or longer term of copyright in any work than that enjoyed in the foreign country in which such work was first produced.

III. (1.) An Order in Council under the International Copyright Acts may provide for determining the country in which a literary or artistic work first produced simultaneously in two or more countries, is to be deemed, for the purpose of copyright, to have been first produced, and for the purposes of this section "country" means the United Kingdom and a country to which an order under the said Acts applies. Simultaneous publication.

(2.) Where a work produced simultaneously in the United Kingdom, and in some foreign country or countries is by virtue of an Order in Council under the International Copyright Acts deemed for the purpose of copyright to be first produced in one of the said foreign countries, and not in the United Kingdom, the copyright in the United Kingdom shall be such only as exists by virtue of production in the said foreign country, and shall not be such as would have been acquired if the work had been first produced in the United Kingdom.

IV. (1.) Where an order respecting any foreign country is made under the International Copyright Acts the provisions of those Acts with respect to the registry and delivery of copies of works shall not apply to works produced in such country except so far as provided by the order. Modification of certain provisions of International Copyright Acts.

(2.) Before making an Order in Council under the International Copyright Acts in respect of any foreign country, Her Majesty in Council shall be satisfied that that foreign country has made such provisions (if any) as it appears to Her Majesty expedient to require for the protection of authors of works first produced in the United Kingdom.

V. (1.) Where a work, being a book or dramatic piece, is first produced in a foreign country to which an Order in Restriction on translation.

Council under the International Copyright Acts applies, the author or publisher, as the case may be, shall, unless otherwise directed by the order, have the same right of preventing the production in and importation into the United Kingdom of any translation not authorised by him of the said work as he has of preventing the production and importation of the original work.

(2.) Provided that if after the expiration of ten years, or any other term prescribed by the order, next after the end of the year in which the work, or in the case of a book published in numbers each number of the book, was first produced, an authorised translation in the English language of such work or number has not been produced, the said right to prevent the production in and importation into the United Kingdom of an unauthorised translation of such work shall cease.

(3.) The law relating to copyright, including this Act, shall apply to a lawfully produced translation of a work in like manner as if it were an original work.

(4.) Such of the provisions of the International Copyright Act, 1852, relating to translations as are unrepealed by this Act shall apply in like manner as if they were re-enacted in this section.

Application
of Act to
existing
works.

VI. Where an Order in Council is made under the International Copyright Acts with respect to any foreign country, the author and publisher of any literary or artistic work first produced before the date at which such order comes into operation shall be entitled to the same rights and remedies as if the said Acts and this Act and the said order had applied to the said foreign country at the date of the said production: Provided that where any person has before the date of the publication of an Order in Council lawfully produced any work in the United Kingdom, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such production which are subsisting and valuable at the said date.

Evidence of
foreign
copyright.

VII. Where it is necessary to prove the existence or proprietorship of the copyright of any work first produced in a foreign country to which an Order in Council under the International Copyright Acts applies, an extract from a register, or a certificate, or other document stating the existence of the copyright, or the person who is the proprietor of such copyright, or is for the purpose of any legal proceedings in the United Kingdom deemed to be entitled to such copyright, if authenticated by the official seal of a Minister of State of the said foreign country, or by the official seal or the

signature of a British diplomatic or consular officer acting in such country, shall be admissible as evidence of the facts named therein, and all courts shall take judicial notice of every such official seal and signature as is in this section mentioned, and shall admit in evidence, without proof, the documents authenticated by it.

VIII. (1.) The Copyright Acts shall, subject to the provisions of this Act, apply to a literary or artistic work first produced in a British possession in like manner as they apply to a work first produced in the United Kingdom :

Application
of Copyright
Acts to
colonies.

Provided that—

(a.) the enactments respecting the registry of the copyright in such work shall not apply if the law of such possession provides for the registration of such copyright; and

(b.) where such work is a book the delivery to any persons or body of persons of a copy of any such work shall not be required.

(2.) Where a register of copyright in books is kept under the authority of the government of a British possession, an extract from that register purporting to be certified as a true copy by the officer keeping it, and authenticated by the public seal of the British possession, or by the official seal or the signature of the governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession, shall be admissible in evidence of the contents of that register, and all courts shall take judicial notice of every such seal and signature, and shall admit in evidence, without further proof, all documents authenticated by it.

(3.) Where before the passing of this Act an Act or ordinance has been passed in any British possession respecting copyright in any literary or artistic works, Her Majesty in Council may make an order modifying the Copyright Acts and this Act, so far as they apply to such British possession, and to literary and artistic works first produced therein, in such manner as to Her Majesty in Council seems expedient.

(4.) Nothing in the Copyright Acts or this Act shall prevent the passing in a British possession of any Act or ordinance respecting the copyright within the limits of such possession of works first produced in that possession.

IX. Where it appears to Her Majesty expedient that an Order in Council under the International Copyright Acts made after the passing of this Act as respects any foreign country, should not apply to any British possession, it shall be lawful

Application
of Interna-
tional Copy-
right Acts
to colonies.

for Her Majesty by the same or any other Order in Council to declare that such Order and the International Copyright Acts and this Act shall not, and the same shall not, apply to such British possession, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order; and the expressions in the said Acts relating to Her Majesty's dominions shall be construed accordingly; but save as provided by such declaration the said Acts and this Act shall apply to every British possession as if it were part of the United Kingdom.

Making of
Orders in
Council.

X. (1.) It shall be lawful for Her Majesty from time to time to make Orders in Council for the purposes of the International Copyright Acts and this Act, for revoking or altering any Order in Council previously made in pursuance of the said Acts, or any of them.

(2.) Any such Order in Council shall not affect prejudicially any rights acquired or accrued at the date of such Order coming into operation, and shall provide for the protection of such rights.

Definitions.

XI. In this Act, unless the context otherwise requires—

The expression "literary and artistic work" means every book, print, lithograph, article of sculpture, dramatic piece, musical composition, painting, drawing, photograph, and other work of literature and art to which the Copyright Acts or the International Copyright Acts, as the case requires, extend.

The expression "author" means the author, inventor, designer, engraver, or maker of any literary or artistic work, and includes any person claiming through the author; and in the case of a posthumous work means the proprietor of the manuscript of such work and any person claiming through him; and in the case of an encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, includes the proprietor, projector, publisher, or conductor.

The expressions "performed" and "performance" and similar words include representation and similar words.

The expression "produced" means, as the case requires, published or made, or, performed or represented, and the expression "production" is to be construed accordingly.

The expression "book published in numbers" includes any review, magazine, periodical work, work published in a series of books or parts, transactions of a society or body, and other books of which different volumes or parts are published at different times.

The expression "treaty" includes any convention or arrangement.

The expression "British possession" includes any part of Her Majesty's dominions exclusive of the United Kingdom; and where parts of such dominions are under both a central and a local legislature, all parts under one central legislature are, for the purposes of this definition, deemed to be one British possession.

XII. The Acts specified in the Third Schedule to this Act are hereby repealed as from the passing of this Act to the extent in the third column of that schedule mentioned: Repeal of Acts.

Provided as follows:

- (a.) Where an Order in Council has been made before the passing of this Act under the said Acts as respects any foreign country the enactments hereby repealed shall continue in full force as respects that country until the said Order is revoked.
- (b.) The said repeal and revocation shall not prejudice any rights acquired previously to such repeal or revocation, and such rights shall continue and may be enforced in like manner as if the said repeal or revocation had not been enacted or made.

FIRST SCHEDULE.

INTERNATIONAL COPYRIGHT ACTS.

PART I.

Session and Chapter.	Title.	Short Title.
7 & 8 Vict. c. 12.	An Act to amend the law relating to International Copyright.	The International Copyright Act, 1844.
15 & 16 Vict. c. 12	An Act to enable her Majesty to carry into effect a convention with France on the subject of copyright, to extend and explain the International Copyright Acts, and to explain the Acts relating to copyright in engravings.	The International Copyright Act, 1852.
38 & 39 Vict. c. 12	An Act to amend the law relating to International Copyright.	The International Copyright Act, 1875.

PART II.

Session and Chapter.	Title.	Enactment referred to.
25 & 26 Vict. c. 68	An Act for amending the law relating to copyright in works of the fine arts, and for representing the commission of fraud in the production and sale of such works.	Section twelve.

SECOND SCHEDULE.

COPYRIGHT ACTS.

Session and Chapter.	Title.	Short Title.
8 Geo. 2. c. 13 .	An Act for the encouragement of the arts of designing, engraving, and etching, historical, and other prints, by vesting the properties thereof in the inventors and engravers during the time therein-mentioned.	The Engraving Copyright Act, 1734.
7 Geo. 3. c. 38 .	An Act to amend and render more effectual an Act made in the eighth year of the reign of King George the Second, for encouragement of the arts of designing, engraving, and etching, historical and other prints, and for vesting in and securing to Jane Hogarth, widow, the property in certain prints.	The Engraving Copyright Act, 1766.
15 Geo. 3. c. 53 .	An Act for enabling the two Universities in England, the four Universities in Scotland, and the several colleges of Eton, Westminster, and Winchester, to hold in perpetuity their copyright in books given or bequeathed to the said universities and colleges for the advancement of useful learning and other purposes of education ; and for amending so much of an Act of the eighth year of the reign of Queen Anne, as relates to the delivery of books to the warehouse keeper of the Stationers' Company for the use of the several libraries therein mentioned.	The Copyright Act, 1775.

Session and Chapter.	Title.	Short Title.
17 Geo. 3. c. 57 .	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.	The Prints Copyright Act, 1777.
54 Geo. 3. c. 56 .	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.	The Sculpture Copyright Act, 1814.
3 Will. 4. c. 15 .	An Act to amend the laws relating to Dramatic Literary Property.	The Dramatic Copyright Act, 1833.
5 & 6 Will. 4. c. 65	An Act for preventing the publication of Lectures without consent.	The Lectures Copyright Act, 1835.
6 & 7 Will. 4. c. 69	An Act to extend the protection of copyright in prints and engravings to Ireland.	The Prints and Engravings Copyright Act, 1836.
6 & 7 Will. 4. c. 110	An Act to repeal so much of an Act of the fifty-fourth year of King George the Third respecting copyrights, as requires the delivery of a copy of every published book to the libraries of Sion College, the four universities of Scotland, and of the King's Inns in Dublin.	The Copyright Act, 1836.
5 & 6 Vict. c. 45 .	An Act to amend the law of copyright.	The Copyright Act, 1842.
10 & 11 Vict. c. 95	An Act to amend the law relating to the protection in the Colonies of works entitled to copyright in the United Kingdom.	The Colonial Copyright Act, 1847.
25 & 26 Vict. c. 68	An Act for amending the law relating to copyright in works of the fine arts, and for repressing the commission of fraud in the production and sale of such works.	The Fine Arts Copyright Act, 1862.

THIRD SCHEDULE.

ACTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
7 & 8 Vict. c. 12 .	An Act to amend the law relating to international copyright.	Sections fourteen, seventeen, and eighteen.
15 & 16 Vict. c. 12	An Act to enable Her Majesty to carry into effect a convention with France on the subject of copyright, to extend and explain the International Copyright Acts, and to explain the Acts relating to copyright engravings.	Sections one to five both inclusive, and sections eight and eleven.
25 & 26 Vict. c. 68	An Act for amending the law relating to copyright in works of the fine arts, and for repressing the commission of fraud in the production and sale of such works.	So much of section twelve as incorporates any enactment repealed by this Act.

51 & 52 Vict. c. 17.

An Act to amend the Law relating to the Recovery of Penalties for the unauthorised Performance of Copyright Musical Compositions.

[5th July, 1888.]

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

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

Provision as to damages.

I. Notwithstanding the provisions of the Act of the session held in the third and fourth years of His Majesty King William the Fourth, chapter fifteen, to amend the laws relating to dramatic literary property, or any other Act in which those provisions are incorporated, the penalty or damages to be awarded upon any action or proceedings, in respect of each

and every unauthorised representation or performance of any musical composition, whether published before or after the passing of this Act, shall be such a sum or sums as shall, in the discretion of the court or judge before whom such action or proceedings shall be tried, be reasonable, and the court or judge before whom such action or proceedings shall be tried may award a less sum than forty shillings in respect of each and every such unauthorised representation or performance as aforesaid, or a nominal penalty or nominal damages as the justice of the case may require.

II. The costs of all such actions or proceedings as aforesaid shall be in the absolute discretion of the judge before whom such actions and proceedings shall be tried, and section four of the Copyright (Musical Compositions) Act, 1882, is hereby repealed.

Costs to be
in discretion
of judge.

45 & 46 Vict.
c. 40.

III. The proprietor, tenant, or occupier of any place of dramatic entertainment, or other place at which any unauthorised representation or performance of any musical composition, whether published before or after the passing of this Act, shall take place, shall not by reason of such representation or performance be liable to any penalty or damages in respect thereof, unless he shall wilfully cause or permit such unauthorised representation or performance, knowing it to be unauthorised.

Proprietor
not wilfully
permitting
such per-
formance to
be exempt.

IV. The provisions of this Act shall not apply to any action or proceedings in respect of a representation or performance of any opera or stage play in any theatre or other place of public entertainment duly licensed in that respect.

Saving for
operas and
plays.

V. This Act may be cited as the Copyright (Musical Compositions) Act, 1888.

Short title.

51 & 52 VICT. C. 50.

An Act to amend the Patents, Designs, and Trade Marks Act, 1883.

[24th December, 1888.]

WHEREAS it is expedient to amend the Patents, Designs, and Trade Marks Act, 1883, hereinafter referred to as the principal Act:

46 & 47 Vict.
c. 57.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :

S. 52, as to inspection of designs.

VI. After subsection one of section fifty-two of the principal Act the following words shall be added ; namely,

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

S. 58, as to piracy of registered designs.

VII. (1.) In section fifty-eight of the principal Act the words “ or cause to be applied ” shall be added after the word “ apply.”

(2.) To the same section the following words shall be added : “ Provided that the total sum forfeited in respect of any one design shall not exceed one hundred pounds.”

S. 87, as to entry of assignments, &c.

XXI. In section eighty-seven of the principal Act, after the words “ subject to,” shall be added the words “ the provisions of this Act and to.”

S. 88, as to inspection.

XXII. In section eighty-eight of the principal Act, after the words “ subject to,” shall be added the words “ the provisions of this Act and to.”

S. 90, as to rectification of register.

XXIII. In section ninety of the principal Act, after the words “ of the name of any person,” shall be added the words “ or of any other particulars.”

S. 91, as to correction of errors.

XXIV. To section ninety-one of the principal Act the following subsection shall be added ; namely,

“ (d.) Permit an applicant for registration of a design or trade mark to amend his application by omitting any particular goods or classes of goods in connexion with which he has desired the design or trade mark to be registered.”

Proceedings of Board of Trade.

XXV. After section one hundred and two of the principal Act the following section shall be added and numbered 102A ; namely,

“ (1.) All things required or authorised under this Act to be done by, to, or before the Board of Trade, may be done by, to, or before the President or a secretary or an assistant secretary of the Board.

“ (2.) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

“(3.) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.”

XXVI. After section one hundred and twelve of the principal Act the following section shall be added and numbered 112A ; namely,

Jurisdiction
of Lancashire
Palatine
Court.

“The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as Her Majesty’s High Court of Justice in England, and the expression ‘the court’ in this Act shall be construed and have effect accordingly.

“Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this section shall be subject to the like appeal as decisions of that court in other cases.”

XXVII. The principal Act shall, as from the commencement of this Act, take effect subject to the additions, omissions, and substitutions required by this Act, but nothing in this Act shall affect the validity of any act done, right acquired, or liability incurred before the commencement of this Act.

Construction
of principal
Act.

XXVIII. This Act shall, except so far as is by this Act otherwise specially provided, commence and come into operation on the first day of January one thousand eight hundred and eighty-nine.

Commence-
ment of Act.

XXIX. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1888, and this Act and the Patents, Designs, and Trade Marks Acts, 1883 to 1886, may be cited collectively as the Patents, Designs, and Trade Marks Acts, 1883 to 1888.

Short title.

APPENDIX B.

THE BERNE CONVENTION.

ARTICLE I.

The Contracting States [*which are Great Britain, Germany, Belgium, Spain, France, Haiti, Switzerland, and Tunis*] are constituted into an Union for the protection of the rights of authors over their literary and artistic works.

ARTICLE II.

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

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

The country of origin of the work is that in which the work is first published, or if such publication takes place simultaneously in several countries of the Union, that one of them in which the shortest term of protection is granted by law.

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

ARTICLE III.

The stipulations of the present Convention apply equally to the publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union.

ARTICLE IV.

The expression "literary and artistic works" comprehends books, pamphlets, and all other writings; dramatic or dra-

matico-musical works, musical compositions with or without words; works of design, painting, sculpture, and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

ARTICLE V.

Authors of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorizing the translation of their works until the expiration of ten years from the publication of the original work in one of the countries of the Union.

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

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

In the cases provided for by the present Article, and for the calculation of the period of protection, the 31st December of the year in which the work was published is admitted as the date of publication.

ARTICLE VI.

Authorized translations are protected as original works. They consequently enjoy the protection stipulated in Articles II. and III. as regards their unauthorized reproduction in the countries of the Union.

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

ARTICLE VII.

Articles from newspapers or periodicals published in any of the countries of the Union may be reproduced in original or in translation in the other countries of the Union, unless the authors or publishers have expressly forbidden it. For periodicals it is sufficient if the prohibition is made in a general manner at the beginning of each number of the periodical.

This prohibition cannot in any case apply to articles of political discussion, or to the reproduction of news of the day or *current topics*.

ARTICLE VIII.

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies, the matter is to be decided by the legislation of the different countries of the Union, or by special arrangements existing or to be concluded between them.

ARTICLE IX.

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

Authors of dramatic or dramatico-musical works, or their lawful representatives, are, during the existence of their exclusive right of translation, equally protected against the unauthorized public representation of translations of their works.

The stipulations of Article II. apply equally to the public performance of unpublished musical works, or of published works in which the author has expressly declared on the title-page or commencement of the work that he forbids the public performance.

ARTICLE X.

Unauthorized indirect appropriations of a literary or artistic work, of various kinds, such as *adaptations, arrangements of music, &c.*, are specially included amongst the illicit reproductions to which the present Convention applies, when they are only the reproduction of a particular work, in the same form, or in another form, with non-essential alterations, additions, or abridgments, so made as not to confer the character of a new original work.

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

ARTICLE XI.

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute

proceedings against pirates before the Courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

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

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

ARTICLE XII.

Pirated works may be seized on importation into those countries of the Union where the original work enjoys legal protection.

The seizure shall take place conformably to the domestic law of each State.

ARTICLE XIII.

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

ARTICLE XIV.

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

ARTICLE XV.

It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into separate and particular arrangements between each other, provided always that such arrangements confer upon authors

(a) See paragraph 4 of Final Protocol, p. cxviii.

or their lawful representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

ARTICLE XVI.

An international office is established, under the name of "Office of the International Union for the Protection of Literary and Artistic Works."

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

ARTICLE XVII.

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

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

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

ARTICLE XVIII.

Countries which have not become parties to the present Convention, and which grant by their domestic law the protection of rights secured by this Convention, shall be admitted to accede thereto on request to that effect.

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

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

ARTICLE XIX.

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

They may do this either by a general declaration comprehending all their Colonies or possessions within the accession, or by specially naming those comprised therein, or by simply indicating those which are excluded.

ARTICLE XX.

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

Such denunciation shall be made to the Government authorized to receive accessions, and shall only be effective as regards the country making it, the Convention remaining in full force and effect for the other countries of the Union.

ARTICLE XXI.

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

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Berne, the 9th day of September, 1886.

Additional Article.

The Plenipotentiaries assembled to sign the Convention concerning the creation of an International Union for the protection of literary and artistic works have agreed upon the following Additional Article, which shall be ratified together with the Convention to which it relates :—

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

In witness whereof, the respective Plenipotentiaries have signed the present Additional Article.

Done at Berne, the 9th day of September, 1886.

Final Protocol.

In proceeding to the signature of the Convention concluded this day, the undersigned Plenipotentiaries have declared and stipulated as follows :—

1. As regards Article IV. it is agreed that those countries of the Union where the character of artistic works is not refused to photographs, engage to admit them to the benefits of the Convention concluded to-day from the date of its coming into effect. They are, however, not bound to protect the authors of such works further than is permitted by their own legislation, except in the case of international engagements already existing, or which may hereafter be entered into by them.

It is understood that an authorised photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the said Convention, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private arrangements between those who have legal rights.

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

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

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

4. The common agreement alluded to in Article XIV. of the Convention is established as follows :—

The application of the Convention to works which have not fallen into the public domain at the time when it comes into force, shall operate according to the stipulations on this head which may be contained in special Conventions either existing or to be concluded.

In the absence of such stipulations between any countries of the Union, the respective countries shall regulate, each for itself, by its domestic legislation, the manner in which the principle contained in Article XIV. is to be applied.

5. The organization of the International Office established in virtue of Article XVI. of the Convention shall be fixed by

a Regulation which shall be drawn up by the Government of the Swiss Confederation.

The official language of the International Office will be French.

The International Office will collect all kinds of information relative to the protection of the rights of authors over their literary and artistic works. It will arrange and publish such information. It will study questions of general utility likely to be of interest to the Union, and, by the aid of documents placed at its disposal by the different Administrations, will edit a periodical publication in the French language treating questions which concern the Union. The Governments of the countries of the Union reserve to themselves the faculty of authorizing, by common accord, the publication by the Office of an edition in one or more other languages if experience should show this to be requisite.

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

The Administration of the country where a Conference is about to be held, will prepare the programme of the Conference with the assistance of the International Office.

The Director of the International Office will attend the sittings of the Conferences, and will take part in the discussions without a deliberative voice. He will make an annual Report on his administration, which shall be communicated to all the members of the Union.

The expenses of the Office of the International Union shall be shared by the Contracting States. Unless a fresh arrangement be made, they cannot exceed a sum of 60,000 fr. a year. This sum may be increased by the decision of one of the Conferences provided for in Article XVII.

The share of the total expense to be paid by each country shall be determined by the division of the Contracting and acceding States into six classes, each of which shall contribute in the proportion of a certain number of units, viz.:—

First Class	.	.	.	25 units.
Second „	.	.	.	20 „
Third „	.	.	.	15 „
Fourth „	.	.	.	10 „
Fifth „	.	.	.	5 „
Sixth „	.	.	.	3 „

These co-efficients will be multiplied by the number of States of each class, and the total product thus obtained will

give the number of units by which the total expense is to be divided. The quotient will give the amount of the unity of expense.

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

The Swiss Administration will prepare the Budget of the Office, superintend its expenditure, make the necessary advances, and draw up the annual account, which shall be communicated to all the other Administrations.

6. The next Conference shall be held at Paris between four and six years from the date of the coming into force of the Convention.

The French Government will fix the date within these limits after having consulted the International Office.

7. It is agreed that, as regards the exchange of ratifications contemplated in Article XXI., each contracting party shall give a single instrument, which shall be deposited, with those of the other States, in the Government Archives of the Swiss Confederation. Each party shall receive in exchange a copy of the *procès-verbal* of the exchange of ratifications, signed by the Plenipotentiaries present.

The present Final Protocol, which shall be ratified with the Convention concluded this day, shall be considered as forming an integral part of the said Convention, and shall have the same force, effect, and duration.

In witness whereof the respective Plenipotentiaries have signed the same.

Done at Berne, the 9th day of September, 1886.

Procès-verbal of Signature.

The undersigned Plenipotentiaries, assembled this day to proceed with the signature of the Convention with reference to the creation of an International Union for the protection of literary and artistic works, have exchanged the following declarations :—

1. With reference to the accession of the Colonies or foreign possessions provided for by Article XIX. of the Convention :

The Plenipotentiaries of His Catholic Majesty the King of Spain reserve to the Government the power of making known His Majesty's decision at the time of the exchange of ratifications.

The Plenipotentiary of the French Republic states that the accession of his country carries with it that of all the French Colonies.

The Plenipotentiaries of Her Britannic Majesty state that the accession of Great Britain to the Convention for the protection of literary and artistic works comprises the United Kingdom of Great Britain and Ireland, and all the Colonies and foreign possessions of Her Britannic Majesty.

At the same time they reserve to the Government of Her Britannic Majesty the power of announcing at any time the separate denunciation of the Convention by one or several of the following Colonies or possessions, in the manner provided for by Article XX. of the Convention, namely :—

India, the Dominion of Canada, Newfoundland, the Cape, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia, and New Zealand.

2. With respect to the classification of the countries of the Union having regard to their contributory part to the expenses of the International Bureau (No. 5 of the Final Protocol):

The Plenipotentiaries declare that their respective countries should be ranked in the following classes, namely :—

Germany in the first class.

Belgium in the third class.

Spain in the second class.

France in the first class.

Great Britain in the first class.

Haïti in the fifth class.

Italy in the first class.

Switzerland in the third class.

Tunis in the sixth class.

The Plenipotentiary of the Republic of Liberia states that the powers which he has received from his Government authorize him to sign the Convention, but that he has not received instructions as to the class in which his country proposes to place itself with respect to the contribution to the expenses of the International Bureau. He therefore reserves that question to be determined by his Government, who will make known their intention on the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed the present *procès-verbal*.

Done at Berne, the 9th day of September, 1886.

Procès-verbal recording Deposit of Ratifications.

In accordance with the stipulations of Article XXI., paragraph 1, of the Convention for the creation of an International Union for the protection of literary and artistic works, con-

cluded at Berne on the 9th September, 1886, and in consequence of the invitation addressed to that effect by the Swiss Federal Council to the Governments of the High Contracting Parties, the Undersigned assembled this day in the Federal Palace at Berne for the purpose of examining and depositing the ratifications of :—

Her Majesty the Queen of Great Britain and Ireland,
Empress of India,

His Majesty the Emperor of Germany, King of Prussia,

His Majesty the King of the Belgians,

Her Majesty the Queen Regent of Spain, in the name of
His Catholic Majesty the King of Spain,

The President of the French Republic,

The President of the Republic of Haïti,

His Majesty the King of Italy,

The Council of the Swiss Confederation,

His Highness the Bey of Tunis,

to the said International Convention, followed by an Additional Article and Final Protocol.

The instruments of these acts of ratification having been produced and found in good and due form, they have been delivered into the hands of the President of the Swiss Confederation, to be deposited in the Archives of the Government of that country, in accordance with clause No. 7 of the Final Protocol of the International Convention.

In witness whereof the undersigned have drawn up the present *procès-verbal*, to which they have affixed their signatures and the seals of their arms.

Done at Berne, the 5th September, 1887, in nine copies, one of which shall be deposited in the archives of the Swiss Confederation with the instruments of ratification.

For Great Britain .	(L.S.)	F. O. ADAMS.
For Germany .	(L.S.)	ALFRED von BÜLOW.
For Belgium .	(L.S.)	HENRY LOUMYER.
For Spain .	(L.S.)	COMTE DE LA ALMINA.
For France .	(L.S.)	EMMANUEL ARAGO.
For Haïti .	(L.S.)	LOUIS-JOSEPH JANVIER.
For Italy .	(L.S.)	FÉ.
For Switzerland .	(L.S.)	DROZ.
For Tunis .	(L.S.)	H. MARCHAND.

Protocol.

On proceeding to the signature of the *procès-verbal* recording the deposit of the acts of ratification given by the High Parties Signatory to the Convention of the 9th September, 1886, for the creation of an International Union for the protection of literary and artistic works, the Minister of Spain renewed, in the name of his Government, the declaration recorded in the *procès-verbal* of the Conference of the 9th September, 1886, according to which the accession of Spain to the Convention includes that of all the territories dependent upon the Spanish Crown.

The Undersigned have taken note of this declaration.

In witness whereof they have signed the present Protocol, done at Berne, in nine copies, the 5th September, 1887.

ORDER IN COUNCIL, 28TH NOVEMBER, 1887.

At the Court at Windsor, the 28th day of November, 1887.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT ; LORD STANLEY OF PRESTON ; SECRETARY
SIR HENRY HOLLAND, BART.

WHEREAS the Convention of which an English translation is set out in the First Schedule to this Order has been concluded between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the foreign countries named in this Order, with respect to the protection to be given by way of copyright to the authors of literary and artistic works :

And whereas the ratifications of the said Convention were exchanged on the fifth day of September one thousand eight hundred and eighty-seven, between Her Majesty the Queen and the Governments of the foreign countries following, that is to say :

Belgium ; France ; Germany ; Haïti ; Italy ; Spain ; Switzerland ; Tunis.

And whereas Her Majesty in Council is satisfied that the foreign countries named in this Order have made such provisions as it appears to Her Majesty expedient to require for the protection of authors of works first produced in Her Majesty's dominions.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority committed to Her by the International Copyright Acts, 1844 to 1886, doth order ; and it is hereby ordered, as follows :

1. The Convention as set forth in the First Schedule to this Order, shall, as from the commencement of this Order, have full effect throughout Her Majesty's dominions, and all persons are enjoined to observe the same.

2. This Order shall extend to the foreign countries following, that is to say :

Belgium ; France ; Germany ; Haïti ; Italy ; Spain ; Switzerland ; Tunis ;

and the above countries are in this Order referred to as the foreign countries of the Copyright Union, and those foreign countries together with Her Majesty's dominions, are in this Order referred to as the countries of the Copyright Union.

3. The author of a literary or artistic work which, on or after the commencement of this Order is first produced in one of the foreign countries of the Copyright Union shall, subject as in this Order and in the International Copyright Acts, 1844 to 1886, mentioned, have as respects that work throughout Her Majesty's dominions, the same right of copyright, including any right capable of being conferred by an Order in Council under section two or section five of the International Copyright Act, 1844, or under any other enactment, as if the work had been first produced in the United Kingdom, and shall have such right during the same period ;

Provided that the author of a literary or artistic work shall not have any greater right or longer term of copyright therein, than that which he enjoys in the country in which the work is first produced.

The author of any literary or artistic work first produced before the commencement of this Order shall have the rights and remedies to which he is entitled under section six of the International Copyright Act, 1886.

4. The rights conferred by the International Copyright Acts, 1844 to 1886, shall, in the case of a literary or artistic work first produced in one of the foreign countries of the Copyright Union by an author who is not a subject or citizen of any of the said foreign countries, be limited as follows, that is to say, the author shall not be entitled to take legal proceedings in Her Majesty's dominions for protecting any copyright in such work, but the publisher of such work shall, for the purpose of any legal proceedings in Her Majesty's dominions for protecting any copyright in such work, be deemed to be

entitled to such copyright as if he were the author, but without prejudice to the rights of such author and publisher as between themselves.

5. A literary or artistic work first produced simultaneously in two or more countries of the Copyright Union shall be deemed for the purpose of copyright to have been first produced in that one of those countries in which the term of copyright in the work is shortest.

6. Section six of the International Copyright Act, 1852, shall not apply to any dramatic piece to which protection is extended by virtue of this Order.

7. The Orders mentioned in the Second Schedule to this Order are hereby revoked ;

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

8. This Order shall be construed as if it formed part of the International Copyright Act, 1886.

9. This Order shall come into operation on the sixth day of December, one thousand eight hundred and eighty-seven, which day is in this Order referred to as the commencement of this Order.

And the Lords Commissioners of Her Majesty's Treasury are to give the necessary orders herein accordingly.

C. L. PEEL.

FIRST SCHEDULE.

Copyright Convention.

Convention for protecting effectively and in as uniform a manner as possible, the rights of authors over their literary and artistic works. Made on the fifth day of September, one thousand eight hundred and eighty-seven, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India ; His Majesty the German Emperor, King of Prussia ; His Majesty the King of the Belgians ; Her Majesty the Queen Regent of Spain, in the name of His Catholic Majesty the King of Spain, the President of the French Republic ; the President of the Republic of Haïti ; His Majesty the King of Italy ; the Federal Council of the Swiss Confederation ; His Highness the Bey of Tunis.

[*Here follows an English Translation of the Convention, with the omission of the formal beginning and end.*]

SECOND SCHEDULE.

Orders in Council Revoked.

Orders in Council of the dates named below for securing the privileges of copyright in Her Majesty's dominions to authors of works of literature and the fine arts and dramatic pieces, and musical compositions, first produced in the following foreign countries, namely :—

Foreign Country.	Date of Order.
Prussia	27th August, 1846.
Saxony	26th September, 1846.
Brunswick	24th April, 1847.
The States of the Thuringian Union .	10th August, 1847.
Hanover	30th October, 1847.
Oldenburg	11th February, 1848.
France	10th January, 1852.
Anhalt, Dessau, and Analt Bern- bourg	11th March, 1853.
Hamburgh	25th November, 1853, and 8th July, 1855.
Belgium	8th February, 1855.
Prussia, Saxony, Saxe Weimar . .	19th October, 1855.
Spain	24th September, 1857, and 20th November, 1880.
The States of Sardinia	4th February, 1861.
Hesse, Darmstadt	5th February, 1862.
Italy	9th September, 1865.
German Empire	24th September, 1886.

The Order in Council of 5th August, 1875, revoking the application of section six of 15 and 16 Victoria and chapter 12 to dramatic pieces referred to in the Order in Council of 10th January, 1852, with respect to works first published in France.

APPENDIX (C).
AMERICAN COPYRIGHT.

REVISED STATUTE OF THE UNITED STATES, BEING THE ACT OF
JULY 8TH, 1870, AS CONTAINED IN THE REVISED STATUTES
SECOND EDITION, 1878.

Copyrights to be under charge of Librarian of Congress

4948. All records and other things relating to copyrights and required by law to be preserved, shall be under the control of the Librarian of Congress, and kept and preserved in the Library of Congress; and the Librarian of Congress shall have the immediate care and supervision thereof, and, under the supervision of the joint committee of Congress on the Library, shall perform all acts and duties required by law touching copyrights.

Seal of Office.

4949. The seal provided for the office of the Librarian of Congress shall be the seal thereof, and by it all records and papers issued from the office and to be used in evidence shall be authenticated.

Bond of Librarian.

4950. The Librarian of Congress shall give a bond, with sureties to the Treasurer of the United States, in the sum of five thousand dollars, with the condition that he will render to the proper officers of the Treasury a true account of all moneys received by virtue of his office.

Annual Report.

4951. The Librarian of Congress shall make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year.

What Publications may be entered for Copyright.

4952. Any citizen of the United States or resident therein, who shall be the author, inventor, designer, or proprietor of

any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and, in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others. And authors may reserve the right to dramatise or to translate their own works.

Terms of Copyright.

4953. Copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

Continuance of Term.

4954. The author, inventor, or designer, if he be still living and a citizen of the United States or resident therein, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

Assignment of Copyrights and recording.

4955. Copyrights shall be assignable in law, by any instrument of writing, and such assignment shall be recorded in the office of the Librarian of Congress within sixty days after its execution; in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

Deposit of Title and Published Copies.

4956. No person shall be entitled to a copyright unless he shall, before publication, deliver at the office of the Librarian

of Congress or deposit in the mail addressed to the Librarian of Congress, at Washington, district of Columbia, a printed copy of the title of the book or other article, or a description of the painting, drawing, chromo, statue, statuary, or a model or design for a work of the fine arts for which he desires a copyright, nor unless he shall also, within ten days from the publication thereof, deliver at the office of the Librarian of Congress, or deposit in the mail addressed to the Librarian of Congress, at Washington, District of Columbia, two copies of such copyright, book or other article, or in case of a painting, drawing, statue, statuary, model, or design for a work of the fine arts, a photograph of the same.

Book of Entry and Attested Copy.

4957. The Librarian of Congress shall record the name of such copyright book or other article, forthwith, in a book to be kept for that purpose, in the words following: "Library of Congress, to wit: Be it remembered that on the day of , A. B., of , hath deposited in this office the title of a book (map, chart, or otherwise, as the case may be, or description of the article), the title or description of which is in the following words, to wit (here insert the title or description); the right whereof he claims as author, (originator, or proprietor as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., Librarian of the Congress." And he shall give a copy of the title or description, under the seal of the Librarian of Congress, to the proprietor whenever he shall require it.

Fees.

4958. The Librarian of Congress shall receive, from the persons to whom the services designated are rendered, the following fees:—

First. For recording the title or description of any copyright book or other article, fifty cents.

Second. For every copy under seal of such record actually given to the person claiming the copyright, or his assigns, fifty cents.

Third. For recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words.

Fourth. For every copy of an assignment, ten cents for every one hundred words.

All fees so received shall be paid into the Treasury of the United States.

Copies of Copyright Works to be furnished to Librarian of Congress.

4959. The proprietor of every copyright book or other article shall deliver at the office of the Librarian of Congress, or deposit in the mail addressed to the Librarian of Congress at Washington, District of Columbia, within ten days after its publication, two complete printed copies thereof, of the best edition issued or description or photograph of such article as hereinbefore required, and a copy of every subsequent edition wherein any substantial changes shall be made.

Penalty for Omission.

4960. For every failure on the part of the proprietor of any copyright to deliver or deposit in the mail either of the published copies or description or photograph, required by sections four thousand nine hundred and fifty-six, and four thousand nine hundred and fifty-nine, the proprietor of the copyright shall be liable to a penalty of twenty-five dollars, to be recovered by the Librarian of Congress, in the name of the United States, in an action in the nature of an action of debt, in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

Postmaster to give Receipts.

4961. The postmaster to whom such copyright book, title, or other article is delivered, shall, if requested, give a receipt therefor; and when so delivered he shall mail it to its destination.

Publication of Notice of Entry for Copyright prescribed.

4962. No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title-page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some portion of the face or front thereof, or on the face of the sub-

stance on which the same shall be mounted the following words: "Entered according to the Act of Congress in the year , by A. B., in the office of the Librarian of Congress at Washington."

Penalty for false Publication of Notice of Entry.

4963. Every person who shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, or other article, for which he has not obtained a copyright, shall be liable to a penalty of one hundred dollars, recoverable one half for the person who shall sue for such penalty, and one half to the use of the United States.

Damages for Violation of Copyright of Books.

4964. Every person who, after the recording of the title of any book as provided by this chapter, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such book, shall forfeit every copy thereof to such proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.

For Violating Copyright of Maps, Charts, Prints, &c.

4965. If any person, after the recording the title of any map, chart, musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as provided by this chapter, shall, within the term limited and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or, knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such map or other article as aforesaid, he shall forfeit to the proprietor all the plates on which the same shall be copied, and every sheet thereof, either copied, or printed, and shall further forfeit one dollar for every sheet of the same found in his possession,

either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or by him sold or exposed for sale; one half thereof to the proprietor and the other half to the use of the United States.

For violating Copyright of Dramatic Compositions.

4966. Any person publicly performing or representing any dramatic composition for which a copyright has been obtained without the consent of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, such damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

Damages for printing or publishing any Manuscript without consent of Author, &c.

4967. Every person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, if such author or proprietor is a citizen of the United States, or resident therein, shall be liable to the author or proprietor for all damages occasioned by such injury.

Limitation of Action in Copyright Cases.

4968. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

Defences to Action in Copyright Cases.

4969. In all actions arising under the laws respecting copyrights, the defendant may plead the general issue, and give the special matter in evidence.

Injunctions in Copyright Cases.

4970. The circuit courts, and district courts having the jurisdiction of circuit courts, shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by the laws respecting copyrights, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

Aliens and Non-residents not Privileged.

4971. Nothing in this chapter shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

ACT OF JUNE 18, 1874.

(18 U.S. St. at L. 78.)

An Act to amend the Law relating to Patents, Trade-marks and Copyrights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title-page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary or model, or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some visible portion thereof or of the substance on which the same shall be mounted, the following words, viz.: "Entered according to Act of Congress, in the year , by A. B., in the office of the Librarian of Congress, at Washington;" or at his option the word "Copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out; thus: "Copyright 18 , by A. B."

Fees for recording and certifying Assignments of Copyright.

2. That for recording and certifying any instrument of writing for the assignment of a copyright, the Librarian of Congress shall receive from the persons to whom the service is rendered, one dollar; and for every copy of an assignment, one dollar; said fee to cover, in either case, a certificate of the record under seal of the Librarian of Congress; and all fees so received shall be paid into the Treasury of the United States.

Restrictions on application of Words "Engraving," "Cut," and "Print."

3. That in the construction of this Act, the words "engraving," "cut," and "print," shall be applied only to pictorial

illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels in conformity with the regulations provided by law as to copyright of prints, except that there shall be paid for recording the title of any print or label not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record under the seal of the Commissioner of Patents, to the party entering the same.

Repeal of inconsistent Laws.

4. That all laws and parts of laws inconsistent with the foregoing provisions be and the same are hereby repealed.

5. That this Act shall take effect on and after the first day of August, eighteen hundred and seventy-four.

Approved, June 18, 1874.

ACT OF 1891.

An Act to amend title sixty, chapter three, of the Revised Statutes of the United States, relating to Copyrights.

March 3,
1891.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-nine hundred and fifty-two of the Revised Statutes be, and the same is hereby, amended so as to read as follows :

"Sect. 4952. The author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and in the case of dramatic composition, of publicly performing or representing it or causing it to be performed or represented by others; and authors or their assigns shall have exclusive right to dramatize and translate any of their works

for which copyright shall have been obtained under the laws of the United States."

Sect. 2. That section forty-nine hundred and fifty-four of the Revised Statutes be, and the same is hereby, amended so as to read as follows :

"Sect. 4954. The author, inventor, or designer, if he be still living, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term ; and such persons shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers printed in the United States for the space of four weeks."

Sect. 3. That section forty-nine hundred and fifty-six of the Revised Statutes of the United States be, and the same is hereby, amended so that it shall read as follows :

"Sect. 4956. No person shall be entitled to a copyright unless he shall on or before the day of publication in this or any foreign country, deliver at the office of the Librarian of Congress, or deposit in the mail within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, a printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, photograph, or chromo, or a description of the painting, drawing, statue, statuary, or a model or design for a work of the fine arts for which he desires a copyright, nor unless he shall also, not later than the day of the publication thereof in this or any foreign country, deliver at the office of the Librarian of Congress, at Washington, District of Columbia, or deposit in the mail within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, two copies of such copyright book, map, chart, dramatic or musical composition, engraving, chromo, cut, print or photograph, or in case of a painting, drawing, statue, statuary, model, or design for a work of the fine arts, a photograph of the same : Provided, that in the case of a book, photograph, chromo, or lithograph, the two copies of the same required to be delivered or deposited as above shall be printed from type set within the limits of the United States, or from plates made therefrom, or from negatives, or drawings on stone made within the limits of the United States, or from transfers made therefrom. During the existence of such copyright the importation into

the United States of any book, chromo, lithograph, or photograph, so copyrighted, or any edition or editions thereof, or any plates of the same not made from type set, negatives or drawings on stone, made within the limits of the United States, shall be, and it is hereby, prohibited, except in the cases specified in paragraphs 512 to 560 inclusive, in section 2 of the Act entitled 'An Act to reduce the Revenue and equalize the Duties on Imports and for other purposes,' approved October 1, 1890; and except in the case of persons purchasing for use and not for sale, who import, subject to the duty thereon, not more than two copies of such book at any one time, and except in the case of newspapers and magazines not containing, in whole or in part, matter copyrighted under the provisions of this Act, unauthorized by the author, which are hereby exempted from prohibition of importation: Provided, nevertheless, that in the case of books in foreign languages, of which only translations in English are copyrighted, the prohibition of importation shall apply only to the translation of the same, and the importation of the books in the original language shall be permitted."

Sect. 4. That section forty-nine hundred and fifty-eight of the Revised Statutes be, and the same is hereby, amended so that it will read as follows:

"Sect. 4958. The Librarian of Congress shall receive from the persons to whom the services designated are rendered the following fees:

"First. For recording the title or description of any copyright book or other article, fifty cents.

"Second. For every copy under seal of such record actually given to the person claiming the copyright, or his assigns, fifty cents.

"Third. For recording and certifying any instrument of writing for the assignment of a copyright, one dollar.

"Fourth. For every copy of an assignment, one dollar.

"All fees so received shall be paid into the Treasury of the United States: Provided, that the charge for recording the title or description of any article entered for copyright, the production of a person not a citizen or resident of the United States, shall be one dollar, to be paid as above into the Treasury of the United States, to defray the expenses of the lists of copyrighted articles as hereinafter provided for.

"And it is hereby made the duty of the Librarian of Congress to furnish to the Secretary of the Treasury copies of the entries of titles of all books and other articles wherein the copyright has been completed by the deposit of two copies

of such book printed from type set within the limits of the United States, in accordance with the provisions of this act and by the deposit of two copies of such other article made or produced in the United States: and the Secretary of the Treasury is hereby directed to prepare and print, at intervals of not more than a week, catalogues of such title-entries for distribution to the collectors of customs of the United States and to the postmasters of all post-offices receiving foreign mails, and such weekly lists, as they are issued, shall be furnished to all parties desiring them, at a sum not exceeding five dollars per annum; and the Secretary and the Postmaster-General are hereby empowered and required to make and enforce such rules and regulations as shall prevent the importation into the United States, except upon the conditions above specified, of all articles prohibited by this act."

Sect. 5. That section forty-nine hundred and fifty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"Sect. 4959. The proprietor of every copyright book or other article shall deliver at the office of the Librarian of Congress, or deposit in the mail, addressed to the Librarian of Congress, at Washington, District of Columbia, a copy of every subsequent edition wherein any substantial changes shall be made: Provided, however, That the alterations, revisions and additions made to books by foreign authors, heretofore published, of which new editions shall appear subsequently to the taking effect of this act, shall be held and deemed capable of being copyrighted as above provided for in this act, unless they form a part of the series in course of publication at the time this act shall take effect."

Sect. 6. That section forty-nine hundred and sixty-three of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"Sect. 4963. Every person who shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, or other article, for which he has not obtained a copyright, shall be liable to a penalty of one hundred dollars, recoverable one-half for the person who shall sue for such penalty, and one-half to the use of the United States."

Sect. 7. That section forty-nine hundred and sixty-four of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"Sect. 4964. Every person who, after the recording of the

title of any book and the depositing of two copies of such book, as provided by this act, shall, contrary to the provisions of this act, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, dramatize, translate, or import, or knowing the same to be so printed, published, dramatized, translated, or imported, shall sell or expose to sale any copy of such book shall forfeit every copy thereof to such proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction."

Sect. 8. That section forty-nine hundred and sixty-five of the Revised Statutes be, and the same is hereby, amended so as to read as follows :

"Sect. 4965. If any person, after the recording of the title of any map, chart, dramatic or musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as provided by this act, shall within the term limited, contrary to the provisions of this act, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, dramatize, translate, or import, either in whole, or in part, or by varying the main design with intent to evade the law, or, knowing the same to be so printed, published, dramatized, translated, or imported, should sell or expose to sale any copy of such map or other article as aforesaid, he shall forfeit to the proprietor all the plates on which the same shall be copied and every sheet thereof, either copied or printed, and shall further forfeit, one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale, and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or by him sold or exposed for sale ; one-half thereof to the proprietor and the other half to the use of the United States."

Sect. 9. That section forty-nine hundred and sixty-seven of the Revised Statutes be, and the same is hereby, amended so as to read as follows :

"Sect. 4967. Every person who shall print or publish any manuscript whatever without the consent of the author or proprietor first obtained, shall be liable to the author or proprietor for all damages occasioned by such injury."

Sect. 10. That section forty-nine hundred and seventy-one of the Revised Statutes be, and the same is hereby repealed.

Sect. 11. That for the purpose of this act each volume of a book in two or more volumes, when such volumes are published separately and the first one shall not have been issued before this act shall take effect, and each number of a periodical, shall be considered an independent publication, subject to the form of copyrighting as above.

Sect. 12. That this act shall go into effect on the first day of July, anno Domini eighteen hundred and ninety-one.

Sect. 13. That this act shall only apply to a citizen or subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens, or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may, at its pleasure, become a party to such agreement. The existence of either of the conditions aforesaid shall be determined by the President of the United States by proclamation made from time to time as the purposes of this act may require.

OFFICIAL REGULATIONS.

DIRECTIONS FOR SECURING COPYRIGHTS UNDER THE REVISED ACTS OF CONGRESS, INCLUDING THE PROVISIONS FOR FOREIGN COPYRIGHT, BY ACT OF MARCH 3RD, 1891.

Printed Title Required.

1. A printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, photograph, or chromo, or a description of the painting, drawing, statue, statuary, or model or design for a work of the fine arts, for which copyright is desired, must be delivered to the Librarian of Congress or deposited in the mail within the United States, prepaid, addressed—

LIBRARIAN OF CONGRESS,
Washington, D. C.

This must be done on or before day of publication in this or any foreign country.

What style of Print.

The printed title required may be a copy of the title-page of such publications as have title-pages. In other cases, the title must be printed expressly for copyright entry, with name of claimant of copyright. The

style of type is immaterial, and the print of a typewriter will be accepted. But a separate title is required for each entry, and each title must be printed on paper as large as commercial note. The title of a periodical must include the date and number, and each number of a periodical requires a separate entry of copyright.

Copyright Fees.

2. The legal fee for recording each copyright claim is 50 cents, and for a copy of this record (or certificate of copyright under seal of office) an additional fee of 50 cents is required, making one dollar in case certificate is wanted, which will be mailed as soon as reached in the records. In the case of publications produced by other citizens or residents of the United States, the fee for recording title is one dollar, and 50 cents additional for a copy of the record. Certificates covering more than one entry in one certificate are not issued.

Two Copies Required.

3. Not later than the day of publication of each book or other article, in this country or abroad, two complete copies of the best edition issued must be delivered to perfect the copyright, or deposited in the mail within the United States, addressed—

LIBRARIAN OF CONGRESS,
Washington, D. C.

Free by Mail.

The freight or postage must be prepaid, or the publications enclosed in parcels covered by printed penalty labels, furnished by the Librarian, in which case they will come free by mail (not express), without limit of weight, according to rulings of the Post Office Department. In the case of books, photographs, chromos, or lithographs, the two copies deposited must be printed from type set or plates made in the United States, or from negatives or drawings on stone or transfers therefrom, made within the United States.

Penalty.

Without the deposit of copies above required, the copyright is void, and a penalty of 25 dollars is incurred. No copy is required to be deposited elsewhere. The law requires one copy of each new edition wherein any substantial changes are made, to be deposited with the Librarian of Congress.

Notice of Copyright to be given by Imprint.—Claimant's name to be Printed.

4. No copyright is valid unless notice is given by inserting in every copy published, on the title page or the page following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph painting, drawing, chromo, statue, statuary, or model or design intended to be perfected as a work of the fine arts, by inscribing upon some portion thereof, or on the substance on which the same is mounted, the following words, viz. : "Entered according to Act of Congress, in the year , by , in the office of the Librarian of Congress at Washington;" or,

at the option of the person entering the copyright, the words "Copyright, 18 , by ."

The law imposes a penalty of 100 dollars upon any person who has not obtained copyright who shall insert the notice "Entered according to Act of Congress" or "Copyright," &c., or words of the same import, in or upon any book or other article.

Translations and Dramas.

5. The copyright law secures to authors or their assigns the exclusive right to translate or to dramatise their own works.

Rights Reserved.

Since the phrase all rights reserved refers exclusively to the right to dramatise or to translate, it has no bearing upon any publications except original works, and will not be entered upon the record in other cases.

Duration of Copyright.

6. The original term of copyright runs for 28 years. Within six months before the end of that time, the author or designer, or his widow or children, may secure a renewal for the further term of 14 years, making 42 years in all.

Renewals.

Applications for renewal must be accompanied by explicit statement of ownership in the case of the author, or of relationship in the case of his heirs, and must state definitely the date and place of entry of the original copyright. Advertisement of renewal is to be made within two months of date of renewal certificate in some newspaper for four weeks.

Time of Publication.

7. The time within which any work entered for copyright may be issued from the press is not omitted by any law or regulation, but the courts have held that it should take place within a reasonable time. A copyright may be secured for a projected work as well as for a completed one. But the law provides for no caveat, or notice of interference—only for actual entry of title.

Assignments.

8. A copyright is assignable in law by any instrument of writing, and such assignment is to be recorded in the office of the Librarian of Congress within 60 days from its date. The fee for this record and certificate is one dollar; and for a certified copy of any record of assignment, one dollar.

Copies or Duplicate Certificates.

9. A copy of the record (or duplicate certificate) of any copyright entry will be furnished, under seal of the office, at the rate of 50 cents each.

Serials or separate Publications.

10. In the case of books published in more than one volume, or of periodicals published in numbers, or of engravings, photographs, or other articles published with variations, a copyright is to be entered for each

volume or part of a book, or number of a periodical, or variety, as to style, title, or inscription, of any other article. But a book published serially in a periodical, under the same general title, requires only one entry. To complete the copyright on such a work, two copies of each serial part, as well as of the complete work (if published separately), should be deposited.

Copyrights for Works of Art.

11. To secure copyright for a painting, statue, or model or design intended to be perfected as a work of the fine arts, a definite description must accompany the application for copyright, and a photograph of the same as large as "cabinet size," mailed to the Librarian of Congress not later than the day of publication of the work or design.

The fine arts, for copyright purposes, include only painting and sculpture, and articles of merely ornamental and decorative art are referred to the Patent Office, as subjects for design patents.

No Labels or Names Copyright.

12. Copyrights cannot be granted upon trade-marks, nor upon names of companies or articles, nor upon an idea or device, nor upon prints or labels intended to be used for any article of manufacture. If protection for such names or labels is desired, application must be made to the Patent Office, where they are registered at a fee of six dollars for labels and 25 dollars for trade-marks.

Foreign or International Copyright.

13. The provisions as to copyright entry in the United States by foreign authors, &c., by Act of Congress, approved March 3rd, 1891 (to take effect July 1st, 1891), are the same as the foregoing.

The right of citizens or subjects of a foreign nation to copyright within the United States, is not to take effect unless such nation permits to United States citizens the benefit of copyright on the same basis as to its own citizens, or unless such nation is a party to an international agreement providing for reciprocity in copyright, to which the United States may become a party. The Librarian of Congress can enter copyright for foreigners only after a proclamation of the President of the United States, certifying the existence of either of the foregoing conditions.

The right of Americans to secure copyright abroad is unchanged by the new law, pending new legislation in foreign countries, or international agreements as to copyright between their government and that of the United States.

Full Name of Proprietor required.

14. Every applicant for a copyright should state distinctly the full name and residence of the claimant, and whether the right is claimed as author, designer, or proprietor. No affidavit or witness to the application is required.

Office of the Librarian of Congress,
Washington, 1891.