

Sect. 24.

Provided that—

(a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has before that date assigned the right or granted any interest therein for the whole term of the right, then at the date when but for the passing of this Act the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine ; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either—

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

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

The notice above referred to must be given not more

(d) For the meaning of "collective work," see p. 18.

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

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* Owing to the length of the whole section, the notes to this sub-section are given here.

The result of proviso (a) is that when the author of a work has assigned his right or interest therein for the whole term (e), then when such right or interest so assigned expires, the remainder of the term during which the right or interest would have existed had this Act been in force at the date when the work was made, passes from the assignee, and reverts to the author of the work in absence of any express agreement, but subject to two conditions ; for the assignee has the option

- (i) of requiring a further assignment or grant for the remainder of the term, for a consideration to be determined by agreement, or arbitration, by giving notice which must be not more than one year nor less than six months before the expiration of the original assignment (f) ; or
- (ii) of continuing to reproduce or perform the work subject to the payment of such royalties as may be agreed upon, or determined by arbitration, and if they are demanded by the author of the work within three years after the expiration of original assignment, except in the case of collective works.

The demand for royalties must be made by the author. This avoids the hardship of compelling the assignee, when the copyright has run out after a lapse of many years, to seek out the author or his legal personal representative with a view to requiring a fresh assignment for the remainder of the term, or of paying the royalties.

It is to be observed that where the work is a collective work (g), and the proprietor of the collective work is also the owner of the right or interest which had been assigned, then no payment of royalties is required, and the proprietor may continue to reproduce or perform the work until the expiration of the copyright.

(e) If the assignment is only for part of the term the copyright reverts without applying this section.

(f) See last paragraph of sub-s.

(ii) of this proviso as to delivery of the notice.

(g) See s. 35, sub-s. (1), for the definition of "collective work," and see p. 18, ante.

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(b) where any person has, before the twenty-sixth day of July nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration (h).

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

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

(h) This proviso includes cases where mechanical contrivances have been lawfully made. Compare s. 19, sub-s. 7 (6).

(i) S. 19, sub-s. (7), makes certain provisions for payment of royalties, and assignment in the case of mechanical instruments reproducing musical works published before the commencement of this Act.

S. 19, sub-s. (8), gives copyright in "a record, perforated roll, or other contrivance by means of

which sounds may be mechanically reproduced," and made before the commencement of this Act in like manner as if the Act had been in force at the date of the making of the original plates.

Under s. 33, University copyright is preserved in respect of copyrights already possessed by the Universities or Colleges, but the Universities or Colleges cannot acquire copyright under the Act of 1775, after the commencement of this Act, and the Act of 1775 is

SECTION XXV.

Application to British Possessions.

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

Application
of Act of
British
Dominions.

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

repealed. The result is that no new and perpetual copyright can be acquired by any University or College. It is to be observed that the remedies and penalties for infringement of such University copyrights are to be under this Act.

(a) That is, those provisions dealing with Summary remedies, ss. 11, 12, 13.

(b) The Dominion of Canada, The Commonwealth of Australia, The Dominion of New Zealand, The Union of South Africa and

Newfoundland, s. 35, sub-s. 1.

(c) The words of this proviso are directly taken from the Resolution come to by the Imperial Copyright Conference, 1910, Resolution 2 (a).

In the case of Canada, the British North America Act, 1867, provides that the Dominion shall have exclusive power to legislate for Canada on copyright, but that does not prohibit Imperial legislation; *Mary v. Hubert* (1906), 15 Quebec K. B. 381, where it was held that the Berne Convention was in force throughout Canada,

Sect. 25. lawful for the Secretary of State to give such a certificate as aforesaid notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act (*d*).

The result is that until this Act either with or without modifications has been adopted by the self-governing dominions, the law in such dominions is in accordance with Imperial Acts which extend to such dominions, and the Colonial Acts in force there. The enactments repealed by this Act, so far as they are operative in such dominions, remain in force until repealed by the Legislatures of such dominions (*e*). In the case of Australia, the Australian Copyright Act, 1905 (*f*). In the case of Canada, the Canadian statutes (*g*).

SECTION XXVI.

Legislative powers of self-governing dominions.

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

(2) In any self-governing dominion to which this Act

(*d*) This sub-section is in accordance with resolution 2 (*e*) of the Imperial Copyright Conference, 1910.

(*e*) See s. 26, sub-s. (2), *infra*.

(*f*) This Act is not reprinted, since at the time of going to press, a new Australian Copyright Act is before the Commonwealth Parliament.

(*g*) The Canadian statutes at present are:

The Canada Copyright Act,

1875 (38 & 39 Vict c. 53).

The Canadian Revised Statutes, 1906, c. 70.

During 1911, a new Canadian Copyright Act was introduced. This Act, known as the Fisher Act, was dropped, but it is apprehended that a new Consolidating Act will shortly be passed.

(*a*) The sub-section is in accordance with Resolution 2 (*b*) of the Imperial Copyright Conference, 1910.

does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion (b). Sect. 26.

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

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

(b) Resolution 3, *ibid.* The enactments repealed by this Act, which at the time of going to press (December, 1911) remains operative, are notably the Inter-

national Copyright Act, 1886, in conjunction with the Literary Copyright Act, 1842. The local Acts are only operative within each dominion.

Sect. 26. For the purposes of this sub-section the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

The result of this section is that where a self-governing dominion does not adopt this Act, or pass substantially identical legislation, such dominion will not enjoy any rights except such as may be conferred by order in Council; but where adequate protection is given to British authors resident without the dominion, power is given by order in Council to extend to authors within the dominion, and to works first published therein, the protection given by this Act throughout the dominions to which the Act extends. Copyright Bills are, at the date of going to press, before both the Australian and Canadian Parliaments.

SECTION XXVII.

Power of Legislatures of British possessions to pass supplemental legislation.

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

(a) This sub-section corresponds to resolution 2 (b) of the Imperial Copyright Conference, 1910. It applies to all British possessions except the self-governing dominions unless adopted by those dominions. The result is that local Acts will only be operative within the possession.

The Interpretation Act, 1889,

defines "British possession" as 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 the central Legislature shall, for the purposes of this definition, be deemed to be one of "British possession."

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

(a) Any application to Cyprus by order in Council under this section would probably not apply to Turkish subjects. Cyprus is administered by England under a treaty of June 4, 1878.

PART II.

INTERNATIONAL COPYRIGHT.

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Power to
extend Act
to foreign
works.

SECTION XXIX.

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

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

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

Provided that—

- (i) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into

(a) This paragraph corresponds to paragraph (a) of s. 1.

(b) Paragraphs (b) and (c) corre-

spond to paragraph (b) of s. 1. See p. 34 as to the meaning of "the date of the making of a work."

a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I. of this Act (c) ;

- (ii) the Order in Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates (d) ;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order (e) ;
- (iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order (f) ;
- (v) in applying the provisions of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country (g) ;
- (vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any

(c) It may be assumed without question that the Union countries will come under this category.

(d) This is permissive and not mandatory.

(e) That is, s. 15, providing for the delivery of books to libraries.

This and the following proviso are consequential upon Article 4 of the Berlin Convention abolishing formalities.

(f) This is permissive.

(g) That is, s. 5.

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translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886 (*h*).

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

The effect of this section relating to international copyright is to enable Great Britain to come within the scope of the Berlin Convention of 1908. It substantially reproduces the old law, and the provisos make no material alterations. The result is that the Berlin Convention and the Order in Council ratifying it, will have exactly the same effect as if they had both been in the form of an ordinary British statute.

Proviso (vi).—This proviso must be carefully observed. It is permissive and not mandatory.

Under s. 5, sub-s. (2) of the International Copyright Act, 1886 (*i*), which is repealed by the present Act, where no authorised English translation of a work had been produced within ten years from the date of the first production of the original work, it was no infringement to produce in or import into the United Kingdom any unauthorised translation. Owing to the repeal of the Act of 1886 Proviso (vi) became necessary in order that there might be no revival under this Act of the right of preventing the production or importation of a translation, in cases where such right has lapsed by reason of the non-exercise by the original author of his translating

(*h*) See p. 230.

(*i*) S. 5 of the International Copyright Act, which has been repealed, is as follows:—

5.—(1) Where a work being a book or dramatic piece is first produced in a foreign country to which an Order in 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 transactions as are unrepealed by this Act, shall apply in like manner as if they were re-enacted in this section.

rights during the ten year period. The result is that where no authorised English translation has been produced during the ten year period in accordance with Article 5 of the Berne Convention as amended by the additional Act of Paris, the original author cannot sue for infringement of translating rights, where an unauthorised translation is lawfully produced in or imported into the United Kingdom. In applying this proviso the ten year period must have expired at the date when the proviso by Order in Council comes into force.

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PROVISO
(VI).

International Copyright.

In dealing with International Copyright Law, the various countries fall into two distinct classes—

- (i) Countries within the Copyright Union; and,
- (ii) Countries outside the Union.

With regard to the countries within the Union, which include most of the countries of Europe, the Revised Berne Convention of 1908, or as it is more conveniently called the Berlin Convention (*k*), which followed and improved upon the Berne Convention, 1886, and the additional Act of Paris of 1896, forms a copyright code binding upon all countries within the union which have ratified it. For those countries within the union that have not ratified the Berlin Convention, the Berne Convention of 1886, together with the additional Act of Paris, provide the code of Copyright Law. The fundamental principle of these conventions is, that each union State extends to the other Union States, the advantages given to authors in their own country; so that an author who complies with the law of his own country by first publication in his own country, or simultaneous publication in another country, secures copyright in all the other countries of the Union.

Countries that are outside the Copyright Union, amongst which are the United States, Austria, Russia, and Holland, are not bound by any international code, except the Pan-American and Montevideo Conventions, and in many cases an author can only obtain protection by simultaneous

(*k*) The object of the Berlin Convention was to bring the domestic law of each of the countries into harmony with one another, so as to secure the greatest possible International uniformity. The Copyright Committee of 1909 was appointed to examine in what respects the British Law would require alteration with a view to

giving effect to the Revised Convention. The Committee reported in December, 1909, and the present Act is the direct outcome of their report. See Appendix, p. 237, for the Berlin Convention set out in full and collated with the Berne Convention and the Additional Act of Paris.

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**INTERNATIONAL COPY-
 RIGHT.**

publication in the foreign country. In other cases the rights of authors are secured by treaties between the various countries, and it is necessary to look to them to find out such rights as in fact exist.

The Pan-American Convention of 1902 is a Union amongst certain of the Central and Southern American States, on lines similar to the Berlin Convention. Authors who belong to any of the countries within the Union, are entitled to protection in the other countries of the Union as if they were citizens on compliance with the formalities prescribed. The Convention has been ratified by the following countries:—

Costa Rica	Nicaragua
Guatemala	Salvador
Honduras	The United States

The Montevideo Convention of 1889 is in many respects similar to the Berlin Convention. Under it, works first published in one of the countries of the Union, are protected in the other countries of the Union on compliance with the formalities of the country of first publication. The countries within this Convention are:—

The Argentine Republic	Peru
Bolivia	Uruguay
Paraguay	

Further, Belgium, France, Italy and Spain have adhered to the Convention, and their adherence has been accepted by the Argentine Republic and Paraguay.

It is to be observed that neither the Pan-American nor the Montevideo Conventions provide for protection in the case of unpublished works.

The Law of Copyright in the United States is in accordance with the Law of July 1st, 1909, and is dealt with in Part II., p. 163.

COUNTRIES WITHIN THE COPYRIGHT UNION.

These are—

Belgium	Luxemburg
Denmark	Monaco
France	Norway
Germany	Portugal
Great Britain	Spain
Hayti	Sweden
Italy	Switzerland
Japan	Tunis.
Liberia	

Not all of these countries, however, have ratified the Berlin Convention, and some have only signed it subject to certain reservations. The various relations one with another may therefore be set out as follows:— (*l*)

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1. Countries under the Berlin Convention of 1908—

(a) Without reserve—

Belgium	Monaco
Germany	Portugal
Hayti	Spain
Liberia	Switzerland
Luxemburg	

(b) with reservations—

France } Works of applied art are under certain
Tunis } domestic stipulations.

Japan (i) The exclusive right of translation is subject to Art. 5 of the Berne Convention of 1886 as revised by the additional Act of Paris of 1896.

(ii) As to the public performance of musical works. The rights are governed by Art. 9 of the Berlin Convention of 1886.

Norway (i) As to works of Architecture. Art. 4 of the Berne Convention, 1886, applies.

(ii) As to newspaper articles and reviews Art. 7 of the Berne Convention, 1886.

(iii) As to retroactivity, Art. 14 of the Berne Convention, 1886, applies.

Great Britain.—Great Britain is included amongst the countries under the Berlin Convention, although at the time of going to press, the Convention has not been actually ratified. The intention is to ratify the Convention without delay, and the whole Act is framed with a view to such ratification.

2. Countries under the Berne Convention, 1886, and the additional Act, and Interpretative Declaration of Paris, 1896—

Denmark.

Italy.

(*l*) This is to December, 1911, the date of going to press. See "Le Droit d'Auteur" (1911) for September, *et seq.*

Sect. 29. 3. Countries under the Berne Convention, 1886, and the Additional Act of Paris, 1896—

Great Britain.

This is the case at the date of going to press, December, 1911. It may be assumed since this Copyright Act has become law that the Berlin Convention will be ratified almost immediately, and the law as stated is based upon this assumption.

4. Countries under the Berne Convention, 1886, and the Interpretative Declaration of Paris, 1896—

Sweden.

Articles 4, 5 and 6 of the Berlin Convention lay down the principles which determine an author's rights with respect to international copyright (*m*), and these will be first considered.

ARTICLE 4 (*n*).

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

The enjoyment and the exercise of those rights shall not be subject to the performance of any formality; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work. Consequently, apart from the express stipulations of the present Convention, the extent of protection, as well as the means of redress secured to the author to safeguard his rights,

(*m*) It should be observed that where a British author's rights in a foreign country have been infringed he must seek redress in that foreign country even when the person infringing is a British subject resident in Great Britain. *Morocco Bound Syndicate v. Harris*, [1895] 1 Ch. 534.

(*n*) In setting out these Arts., the provisions of the Berlin Convention, which differ from those

of the Berne Convention and the Additional Act of Paris, are shown in clarendon type. Art. 4, para. 1, and Art. 5 replace Art. 3 of the Berne Convention as amended by the Additional Act of Paris. This was required in consequence of the fact, that, under the other Conventions, a British author who published in a Union country other than his own, did not obtain the benefit of the Convention in his own country.

shall be governed exclusively by the laws of the country where protection is claimed. Sect. 29.

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

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

ARTICLE 5.

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

ARTICLE 6.

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

It is convenient in dealing with these articles in relation to the present Act to consider the two classes of works—

- (i) published works; and
- (ii) unpublished works.

Published Works.

First publication in any country of the Union secures protection both in the country of publication and in all the other countries of the Union independently of the nationality of the author.

This principle is the result of Art. 4, para. 1, and Art. 5.

By Art. 4, para. 1, an author first publishing in a country of

Sect. 29. the Union not his own, enjoys protection in all countries of the Union other than the country of publication, while Art. 5 secures protection in the country where he published (*o*).

Formalities are abolished (*p*) and an author's rights in each country are the same as if he were a citizen of that country except that the term during which the copyright is to subsist is to be governed exclusively by the laws of the country where protection is claimed, and must not exceed the term fixed in the country of first publication (*q*).

Where there is simultaneous publication (*r*) either in several countries of the Union, or in a country outside the Union, and in a country of the Union, the author enjoys under the Convention protection both in the country of publication and in all the other countries of the Union.

When the simultaneous publication takes place in several countries of the Union, the country of origin, that is, of first publication, is deemed to be the country the laws of which grant the shortest period of protection, while if the simultaneous publication takes place in a country outside the Union and in a country of the Union, the Union country is considered exclusively as the country of origin (*s*).

Unpublished Works.

An author who is a subject or citizen of one of the countries of the Union has protection in his unpublished works throughout the countries of the Union.

It is to be observed that "the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction

(*o*) Art. 5 is directly adopted in s. 29 (1) (*a*). "This Act . . . shall apply to works first published in a foreign country . . . in like manner as if they were first published within the Dominions to which the Act extends."

(*p*) Art. 4, para. 2, and the Act, s. 29 (1), provisos (iii) and (iv).

(*q*) See Arts. 7 and 19 of the Revised Convention, pp. 242 and 251. The Committee in their Report, p. 18, interpret these articles in the sense that while bound to give the lesser of two periods, namely, the period given in the United Kingdom and that given in the country of first publication, there is nothing to prevent the United Kingdom giving as much longer protection

as it considers fit to do. If this is the correct interpretation under the present Act, the period of protection in the United Kingdom given to works first published in another Union country will be the same as if the works were first published in the United Kingdom, although the term in the foreign country be shorter.

(*r*) S. 35, sub-s. 3. A work is deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days or such longer period as may be fixed by Order in Council.

(*s*) Art. 4, para. 3.

of an architectural work of art" do not constitute publication (*l*). A work, therefore, by an author who is a subject or citizen of an Union country, which is, say, performed in another Union country, or in a non-Union country, remains within the category of unpublished works, and as such is protected (*u*).

The above general statement of the law applies to all those countries that have ratified the Berlin Convention, but the reservations in certain cases must be observed.

The case of Denmark and Italy is somewhat different. They remain under the law as laid down by the Berne Convention, 1886, the Additional Act and Interpretative Declaration of Paris, 1896, the most important difference being that the author of a work first published in either of these two countries to obtain protection must comply with the formalities prescribed by the domestic law of the country (*x*). Denmark and Italy.

Again the right of translation, while continuing for the period of protection given to the original work, must be exercised within ten years of the date of publication of the original, otherwise it is lost. This restriction upon translating rights also applies to Japan (*y*).

The case of Sweden also requires special consideration and the law applicable is that of the Berne Convention of 1886, and the interpretative Act of Paris, 1896, Sweden having declined to accede to the Additional Act. The result therefore is that the nationality of the author must be looked at (*z*), and an author to secure protection must belong to one of the Union countries. If the author does not belong to a Union country, even though he first publish within a Union country, he does not have protection in Sweden unless he secures his rights through a publisher (*a*). Sweden.

The translating rights are also different. The author must belong to a Union country and the right of translation is limited to ten years from the date of publication of the original (*b*).

The case of Austria-Hungary is governed by treaty with Great Britain which is almost identical with the Berne Convention (*c*). Austria-Hungary.

(*l*) S. 1, sub-s. 3.

(*u*) This overrules *Boucicault v. Delafield* (1863), 1 H. & M. 597, according to which the British author of a work first performed in a non-Union country would have lost his exclusive right of performance in Great Britain.

(*x*) Berne Convention, Art. 2, s. 2. Under the Berne Convention all formalities are abolished.

(*y*) Berne Convention, Art. 5, as modified by the Additional Act.

(*z*) In other countries nationality is immaterial, the important factor being the country of origin, that is of first publication.

(*a*) Berne Convention, 1886, Arts. 2 and 3.

(*b*) Berne Convention, 1886, Art. 5.

(*c*) April 24, 1893.

Sect. 29. In Appendix 3 a list of the treaties and conventions between all the various countries is set out.

SECTION XXX.

Application
of Part II. to
British
possessions.

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

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

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

Under this section the self-governing dominions are enabled to make their own Orders in Council, applying the law in such dominion to foreign works. This is new law.

PART III.

SUPPLEMENTAL PROVISIONS.

SECTION XXXI.

Sect. 31.

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

SECTION XXXII.

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

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

(a) The result is that copyright subsists only under the Act. See s. 1 and notes, p. 9.

Sect. 33.

SECTION XXXIII.

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

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

The result of this section is that no new perpetual copyright can be acquired by any university or college.

The Copyright Commission of 1878 reported that Oxford possessed six copyrights and Cambridge had none.

The other universities and colleges mentioned in the Act of 1775 are Edinburgh, Glasgow, St. Andrews, and Aberdeen, each college at the universities of Oxford and Cambridge, Trinity College, Dublin, and the colleges of Eton, Westminster and Winchester.

SECTION XXXIV.

Saving of
compensation
to certain
libraries.

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

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

This section refers to the compensation payable to the libraries of Sion College, the four universities of Scotland, and of the King's Inns in Dublin, in respect of the books to which they were formerly entitled under the Copyright Act, 1836, 6 & 7 Will. IV. c. 110, which is repealed by this Act.

SECTION XXXV.

Sect. 35.
—

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

“Literary work” includes maps, charts, plans, tables, (Page 24.)
and compilations ;

“Dramatic work” includes any piece for recitation, (Page 25.)
choreographic work or entertainment in dumb
show the scenic arrangement or acting form of
which is fixed in writing or otherwise, and any
cinematograph production where the arrangement
or acting form or the combination of incidents
represented give the work an original character ;

“Artistic work” includes works of painting, drawing, (Page 28.)
sculpture and artistic craftsmanship, and architec-
tural works of art and engravings and photographs :

“Work of sculpture” includes casts and models ; (Page 29.)

“Architectural work of art” means any building or (Page 31.)
structure having an artistic character or design, in
respect of such character or design, or any model
for such building or structure provided that the
protection afforded by this Act shall be confined
to the artistic character and design, and shall not
extend to processes or methods of construction ;

“Engravings” include etchings, lithographs, wood-cuts, (Page 32.)
prints, and other similar works, not being photo-
graphs ;

“Photograph” includes photo-lithograph and any work (Page 32.)
produced by any process analogous to photography ;

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

“Collective work” means— (Page 18.)

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

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

Sect. 35.

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

(Page 43.)

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

(Page 36.)

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

(Page 36.)

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

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

(Page 36.)

“ Lecture ” includes address, speech, and sermon ;

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

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

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of

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

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

(*a*) Under s. 24 of the Patents Designs Act, 1907. the term "reasonable requirements of the public" is used with reference to compulsory licences. An attempt was made to introduce similar wording in s. 4 of this Act with respect to the granting of compulsory licences in the case of copyright, but the section as originally drafted was abandoned in committee. How far the meaning attached to the term under the Patent and Designs Act may be applied to the present sub-section is doubtful. In the Bill as introduced the words were—"by reason of the withholding of the work from the public, the reasonable requirements of the public with respect to the work are not satisfied." For the purposes of that section a work was "deemed to be withheld from the public if by reason of the excessive price charged for copies of the work, or the undue limitation of the number of copies issued . . . the demand of the public for the work is not reasonably met." It is probable that a similar construction would be placed upon the words "reasonable requirements of the public" as used in this sub-section.

Sect. 35.

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

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

SECTION 36.**Repeal.**

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

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

SECTION 37.**Short title
and com-
mencement.**

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

(2) This Act shall come into operation—

(a) in the United Kingdom, on the first day of July,

(b) "The domicile of any person is, in general, the place or country which is in fact his permanent home, but is in some cases the place or country which, whether it is in fact his home or not, is determined to be his home by rule of law." See Dicey, *Conflict of Laws*, 2nd ed., p. 82, *et seq.* *Whicker v. Hume* (1858), 7 H. L. Cas. 124; *Attorney-General v. Rowe* (1862), 1 H. & C. 31.

(c) That is to say the repeal under this Act. The result is that the enactments repealed by this Act remains in force in those self-

governing dominions, where they are at present operative, until repealed by legislation of such self-governing dominions.

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

Sect. 37.
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SCHEDULES.

FIRST SCHEDULE.

Existing Rights.

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

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

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

“ Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

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

SECOND SCHEDULE.

Enactments Repealed.

A.D. 1911.

Session and chapter.	Short title.	Extent of repeal.
8 Geo. 2, c. 13	The Engraving Copyright Act, 1734.	The whole Act.
7 Geo. 3, c. 38	The Engraving Copyright Act, 1767.	The whole Act.
15 Geo. 3, c. 53	The Copyright Act, 1775.	The whole Act.
17 Geo. 3, c. 57	The Prints Copyright Act, 1777.	The whole Act.
54 Geo. 3, c. 56	The Sculpture Copyright Act, 1814.	The whole Act.
3 & 4 Will. 4, c. 15	The Dramatic Copyright Act, 1833.	The whole Act.
5 & 6 Will. 4, c. 65	The Lectures Copyright Act, 1835.	The whole Act.

Session and chapter.	Short title.	Extent of repeal.
6 & 7 Will. 4, c. 59	The Prints and Engravings Copyright (Ireland) Act, 1836.	The whole Act.
6 & 7 Will. 4, c. 110	The Copyright Act, 1836.	The whole Act.
5 & 6 Vict. c. 45	The Copyright Act, 1842.	The whole Act.
7 & 8 Vict. c. 12	The International Copyright Act, 1844.	The whole Act.
10 & 11 Vict. c. 95	The Colonial Copyright Act, 1847.	The whole Act.
15 & 16 Vict. c. 12	The International Copyright Act, 1852.	The whole Act.
25 & 26 Vict. c. 68	The Fine Arts Copyright Act, 1862.	Sections one to six. In section eight the words "and pursuant to any Act for the protection of copyright engravings," and "in any such Act as aforesaid."
38 & 39 Vict. c. 12	The International Copyright Act, 1875.	Sections nine to twelve.
39 & 40 Vict. c. 36	The Customs Consolidation Act, 1876.	The whole Act.
		Section forty-two, from "Books wherein" to "such copyright will expire." Sections forty-four, forty-five, and one hundred and fifty-two.

Session and chapter.	Short title.	Extent of repeal.
45 & 46 Vict. c. 40	The Copyright (Musical Compositions) Act, 1882.	The whole Act.
49 & 50 Vict. c. 33	The International Copy- right Act, 1886.	The whole Act.
51 & 52 Vict. c. 17	The Copyright (Musical Compositions) Act, 1888.	The whole Act.
52 & 53 Vict. c. 42	The Revenue Act, 1889.	Section one, from "Books first published" to "as provided in that sec- tion."
6 Edw. 7, c. 36	The Musical Copyright Act, 1906.	In section three, the words "and which has been re- gistered in ac- cordance with the provisions of the Copy- right Act, 1842, or of the International Copyright Act, 1844, which registration may be effec- ted notwith- standing any- thing in the International Copyright Act, 1886."

PART II.

THE LAW OF COPYRIGHT IN THE UNITED STATES.

INTRODUCTION.

THE United States is one of the most important Countries; that has refused to enter the International Union. And a knowledge of the law relating to Copyright, and in particular literary Copyright, in the United States, is of great importance to British authors.

Until 1891 Copyright could not be obtained except by a citizen, or a person permanently residing in the United States. In that year an Act of Congress—commonly known as the *Chace Act*—gave, for the first time, Copyright in literary works, to authors who were neither citizens nor residents of the United States, provided that their works were printed from type set within the country. The Act of 1891 was subsequently modified by Acts of 1897 and 1905. All these Acts, however, have been repealed, and the Act now in force is a Consolidating Statute of March 4, 1909, entitled, “An Act to Amend and Consolidate the Acts respecting Copyright.”

Since this Act forms a complete Code of the Copyright Law in the United States, it has seemed most convenient to first set out the Rules and Regulations which have been made under the Act, and which have the advantage of being both clear and succinct. And then to give the Act itself.

The Rules and Regulations explain in a brief form—

- I. Who may secure Copyright ;
- II. The subject-matter to which Copyright relates ;
- III. How Copyright is secured by Registration ;
- IV. The manufacture in the United States of Copyright books ; and

certain other requirements respecting Notice of Copyright, Application for Registration, Forms, Fees, Assignments, and other matters of importance.

Cross references are given to both the Rules and the Acts, as well as references to the British Act, and in a few cases notes are added where the Act seemed to require them.

RULES AND REGULATIONS FOR THE REGISTRATION OF CLAIMS TO COPYRIGHT.*

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

Who may secure Copyright.

2. The persons entitled by the Act to copyright protection for their works are (c) :— Persons entitled to copyright.

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

(a) A citizen of the United States, or

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

(c) A citizen or subject of any country which grants either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens.

The existence of reciprocal copyright conditions is determined by presidential proclamation. (d)

(a) S. 9, p. 185.

(b) S. 11, p. 185.

(c) S. 8, p. 184. The author may secure renewal under s. 24. In the case of works made for hire, "author" includes employer under s. 62.

(d) Presidential copyright proclamations have been issued securing to the citizens or subjects of the following countries copyright

privileges in the United States: Austria, Belgium, Chile, China, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions, Guatemala, Honduras, Italy, Japan, Luxemburg, Mexico, Netherlands (Holland) and possessions, Nicaragua, Norway, Portugal, Salvador, Spain, and Switzerland.

* See Bulletin No. 15 issued by the Copyright Office.

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

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

Registration.

Copyright registration.

3. After the publication of any work entitled to copyright, the claimant of copyright should register this claim in the Copyright Office (*e*). An action for infringement of copyright cannot be maintained in Court until the provisions with respect to the deposit of copies and registration of such work shall have been complied with (*f*).

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

Subject-matter of Copyright.

Works subject to copyright.

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

Section 5 of the Act divides the works for which copyright may be secured into eleven classes, as follows (*i*)—

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

Blank books, etc., not copyrightable.

5. The term "book" cannot be applied to—

Blank books for use in business or in carrying out any

(*e*) S. 10, p. 185.

(*h*) S. 7, p. 184.

(*f*) S. 12, p. 186.

(*i*) S. 5, p. 181.

(*g*) Ss. 55 and 61, pp. 199, 201.

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

Directions on scales, or dials, or mathematical or other instruments; puzzles; games; rebuses; labels (*k*); wrappers; formulæ on boxes, bottles, and other receptacles of articles for sale or meant to accompany such articles.

Advertisements or catalogues which merely set forth the names, prices, and places where articles are for sale.

Prefaces or other introductory matter to works not themselves entitled to copyright protection, such as blank books.

Calendars are not capable of registration as such, but if they contain copyrightable reading matter or pictures they may be registered either as "books" or as "prints" according to the nature of the copyrightable matter.

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

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

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

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

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

Ordinary songs, even when intended to be sung from the Songs separately published.

(*k*) According to the opinion of the Attorney-General, the Copyright Act, June 18, 1874, is not repealed, and labels and prints

and designs to be used for articles of manufacture should therefore be registered in the Patent Office. See p. 189.

stage in a dramatic manner, or separately published songs from operas and operettas, should be registered as musical compositions, not dramatico-musical compositions.

Musical compositions.

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

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

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

Maps.

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

Works of art.

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

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

Toys, games, etc.

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

Reproductions of works of art.

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

Drawings of plastic works.

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

Photographs.

15. (j) Photographs.—This term covers all positive prints from photographic negatives, including those from moving-picture films (the entire series being counted as a single photograph), but not photogravures, half-tones, and other photo-engravings.

Prints and pictorial illustrations.

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

Articles for use not copyrightable.

Articles of utilitarian purpose do not become capable of copyright registration because they consist in part of pictures which in themselves are copyrightable, e.g. puzzles, games,

rebuses, badges, buttons, buckles, pins, novelties of every description, or similar articles.

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

Mere ornamental scrolls, combinations of lines and colors, decorative borders, and similar designs, or ornamental letters or forms of type are not included in the designation "prints and pictorial illustrations." Trade-marks can not be copyrighted nor registered in the Copyright Office.

How to secure Registration.

17. Copyright registration may be secured for:—

Registerable works.

(1) Unpublished works.

(2) Published works.

Unpublished Works.

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

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

18.—(1) In the case of lectures, sermons, addresses, and dramatic and musical compositions, deposit one type-written or manuscript copy of the work. Registration of unpublished works.

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

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

19.—(2) In the case of photographs, deposit one copy of a positive print of the work. (Photo-engravings or photo-gravures are not photographs within the meaning of this provision.) Unpublished photographs.

(l) S. 11, p. 185. Under s. 2, the right at common law to prevent the reproduction of an unpublished work is retained.

Photograph
of work of
art.

20.—(3) In the case of works of art, models or designs for works of art, or drawings or plastic works of a scientific or technical character, deposit a photographic reproduction.

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

Reproduction
of unpub-
lished work.

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

Published Works.

Deposit of Copies.

Deposit of
copies.

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

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

Definition of
“published
work.”

23. Published works are such as are printed or otherwise produced and “placed on sale, sold, or publicly distributed” (*i.e.*, so that all persons who desire copies may obtain them without restriction or condition other than that imposed by the Copyright law). Representation on the stage of a play is not a publication of it, nor is the public performance of a musical composition publication. Works intended for sale or general distribution must first be printed with the statutory form of copyright notice inscribed on every copy intended to be circulated.

Notice of Copyright.

Form of
notice.

24. The ordinary form of copyright notice for books, periodicals, dramatic and musical compositions is “Copyright, 19— (the year of publication), by A B (the name of the claimant).” The name of the claimant printed in the notice should be the real name of a living person, or his trade name if he always uses one (but not a pseudonym or pen

(*m*) S. 11, proviso, p. 185.

(*n*) S. 12, p. 186. Under s. 13

a fine is prescribed for failure to deposit copies after demand made.

name), or the name of the firm or corporation claiming to own the copyright. The copyright notice should not be printed in the name of one person *for the benefit of another*. The beneficiary's name should be printed in such cases (o).

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

Short form of notice.

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

Notice upon each copy.

American Manufacture of Copyright Books.

27. The following works must be *manufactured* in the *United States* in order to secure copyright (r):

Works produced in United States.

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

(b) All *illustrations* within a book produced by lithographic process or photo-engraving process and all *separate lithographs* or *photo-engravings* must be produced by lithographic or photo-engraving process wholly performed within the limits of the United States, except when the subjects represented in

(o) Ss. 18 and 19, p. 188. Under s. 20, omission of the notice by accident or mistake shall not invalidate copyright. But an innocent infringer in such cases is not liable.

(p) S. 18, p. 188.

(q) *Ibid.*

(r) S. 15, p. 187. See also R. 32, *et seq.*, requiring an affidavit of American manufacture.

such illustration in a book or such separate lithographs or photo-engravings "are located in a foreign country and illustrate a scientific work or reproduce a work of art."

Books by
foreign
authors.

Books printed
abroad.

28. Books by foreign authors in any language other than English are not required to be printed in the United States (s).

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

Application for Registration.

Application
for registra-
tion.

29. The application for copyright registration required to be sent with each work (see No. 20), must state the following facts, without which no registration can be made (u):

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

(2) The *nationality* of the author of the work.

(3) The *title* of the work.

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

(5) In the case of all *published* works the actual date (year, month, and day) when the work was published.

Name of
author.

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

Nationality
of author.

(s) S. 15, p. 187. Books in raised characters for the use of the blind need not be printed in the United States.

(t) Ss. 15, 21, and 22. See pp. 187, 190.

(u) S. 5, p. 181.

copyright claimant should be correctly stated in the application, and that they should agree exactly with the same statement made in the work itself.

Application Forms.

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

A¹. Book by citizen or resident of the United States.

A¹. New ed. New edition of book by citizen or resident of the United States.

A¹ for. Book by citizen or resident of a foreign country, but manufactured in the United States.

A². Edition printed in the United States of a book originally published abroad in the English language.

A³. Book by foreign author in foreign language.

A⁴. Ad interim. Book published abroad in the English language.

A⁵. Contribution to a newspaper or periodical.

B¹. Periodical. For registration of single issue.

B². Periodical. General application and deposit.

C. Lecture, sermon, or address.

D¹. Published dramatic composition.

D². Dramatic composition not reproduced for sale.

D³. Dramatico-musical composition.

E¹. Published musical composition.

E². Musical composition not reproduced for sale.

F. Published map.

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

H. Reproduction of a work of art.

I. Drawing or plastic work of a scientific or technical character.

J¹. Photograph published for sale.

J². Photograph not reproduced for sale.

K. Print or pictorial illustration.

Affidavit of Manufacture.

32. In the case of books by American authors and all books in the English language the application must be accompanied by an affidavit, showing the following facts (x):

(1) That the copies deposited have been printed from type set within the limits of the United States; or from plates made within the limits of the United States from type set

(x) S. 16, p. 187.

therein; or if the text be produced by lithographic process or photo-engraving process, that such process was wholly performed within the limits of the United States. Stating, in either case, the place and the establishment where such work was done.

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

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

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

Date of publication.

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

Affidavit must be under seal.

33. The affidavit may be made before any officer authorized to administer oaths within the United States who can affix his official seal to the instrument (*y*).

Errors by applicants.

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

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

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

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

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

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

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

Failure to obtain the seal of the notary.

(*y*) S. 16, p. 187.

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

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

The affidavit must never be made before the day of publication.

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

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

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

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

The affidavit is only required for Books.

Periodicals (Form B).

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

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

Contributions to Periodicals (Form A⁵).

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

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

The date of publication of a periodical is not necessarily the date stated on the title-page. The application should state the day on which the issue is "first placed on sale, sold, or

(z) S. 17, p. 188. Prescribes forfeiture and a fine in the case of a false affidavit.

(a) S. 3, p. 181. Provides for copyright in separate articles.

publicly distributed," which may be earlier or later than the date printed on the title-page.

Ad interim Applications (Form A⁴).

Ad interim
copyright.

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

The deposit must be made within thirty days from publication abroad. Whenever, within the thirty days' period of *ad interim* protection, an edition manufactured in the United States is published, and two copies are deposited, the copyright claim therein may be registered the same as any other book (Form A²).

Mailing Applications and Copies.

Address of
mail matter.

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

Copyright matter designed for deposit in the Copyright Office will be transmitted by the postmaster free of charge when requested. The postmaster will also, when requested, give a receipt for matter so delivered to him for transmission (*c*).

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

Fees.

Copyright
fees.

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

Remittances.

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

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

(*b*) S. 21, p. 190.

(*c*) S. 14, p. 187.

(*d*) S. 61, p. 201.

Assignments of Copyright.

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

After having been recorded the original assignment will be returned to the sender with a sealed certificate of record attached.

42. The fee for recording and certifying an assignment is Fee for recording assignment. \$1 up to 300 words ; \$2 from 300 to 1000 words ; and another dollar for each additional thousand words or fractions thereof over 300 words (f).

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

Notice of User of Musical Compositions.

44. Whenever the owner of the copyright in a musical com- Notice of user of music. position uses such music in phonographs himself or permits any one else to do so, he must send a notice of such use by him or by any other person to the Copyright Office to be recorded (h).

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

Application for the Renewal or Extension of Subsisting Copyrights.

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

- (1) The author of the work if still living ;
- (2) The widow, widower, or children of the author if the author is not living ;
- (3) The author's executor, if such author, widow, widower, or children be not living ;

(e) S. 44, p. 197.

(f) S. 61, p. 201.

(g) S. 46, p. 197.

(h) S. 25, p. 191.

(i) *Ibid.*

(k) Ss. 23 and 24, p. 190.

(4) If the author, widow, widower, and children are all dead, and the author left no will, then the next of kin.

Renewal for
composite
work.

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

Renewal fee.

48. The fee for the recording of the renewal claim is 50 cents. Application for the renewal or extension of copyright cannot be recorded in the name of an assignee nor in that of any person not expressly mentioned in section 24 of the Act (*m*).

Searches.

Searches.

49. Upon application to the Register of Copyrights search of the records, indexes, or deposits will be made for such information as they may contain relative to copyright claims. Persons desiring searches to be made should state clearly the nature of the work, its title, the name of the claimant of copyright and probable date of entry ; in the case of an assignment, the name of the assignor or assignee or both, and the name of the copyright claimant and the title of the music referred to in case of notice of user.

Search fee.

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

(*l*) S. 24, p. 191.

(*m*) S. 61, p. 201.

(*n*) S. 61, p. 201

AN ACT TO AMEND AND CONSOLIDATE THE ACTS RESPECTING COPYRIGHT.

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

(a) To print, reprint, publish (c), copy, and vend the copyrighted work;

(b) To translate the copyrighted work into other languages or dialects, or make any other version thereof, if it be a literary work; to dramatise it if it be a non-dramatic work; to convert it into a novel or other non-dramatic work if it be a drama; to arrange or adapt it if it be a musical work; to complete, execute, and finish it if it be a model or design for a work of art;

(c) To deliver or authorise the delivery of the copyrighted work in public for profit if it be a lecture, sermon, address, or similar production;

(d) To perform or represent the copyrighted work publicly if it be a drama or, if it be a dramatic work and not reproduced in copies for sale, to vend any manuscript or any record whatsoever thereof; to make or to procure the making of any transcription or record thereof by or from which, in whole or in part, it may in any manner or by any method be exhibited, performed, represented, produced, or reproduced; and to exhibit, perform, represent, or reproduce it in any manner or by any method whatsoever.

(a) S. 8.

(b) S. 9. Copyright is ordinarily secured by printing and publishing a copyrightable work with a notice of claim in the form prescribed. Registration can only be made *after* such publication. There is express provision for registration of MSS. in certain cases. See R. 1.

(c) R. 23. Published works are such as are printed or otherwise produced and "placed on sale, sold, or publicly distributed" (i.e. so that all persons who desire

copies may obtain them without restriction or condition other than that imposed by the Copyright Law). Representation on the stage of a play is not a publication of it, nor is the public performance of a musical composition publication. Works intended for sale or general distribution must first be printed with the statutory form of copyright notice inserted on every copy intended to be circulated. The definition of publication corresponds to the British law See p. 28.

Rights of owners.

To print, vend, etc.

copyrighted works.

Translate, dramatise, etc.

Deliver in public as lecture, etc.

Perform, exhibit, etc., if drama.

If a musical composition.	<p>(c) To perform the copyrighted work publicly for profit if it be a musical composition, and for the purpose of public performance for profit; and for the purposes set forth in subsection (a) hereof, to make any arrangement or setting of it or of the melody of it in any system of notation or any form of record in which the thought of an author may be recorded and from which it may be read or reproduced; <i>Provided</i>, That the provisions of this Act, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after this Act goes into effect, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights: <i>And provided further, and as a condition of extending the copyright control to such mechanical reproductions</i>, That whenever the owner of a musical copyright has used or permitted or knowingly acquiesced in the use of the copyrighted work upon the parts of instruments serving to reproduce mechanically the musical work, any other person may make similar use of the copyrighted work upon the payment to the copyright proprietor of a royalty of two cents on each such part manufactured, to be paid by the manufacturer thereof; and the copyright proprietor may require, and if so the manufacturer shall furnish, a report under oath on the twentieth day of each month on the number of parts of instruments manufactured during the previous month serving to reproduce mechanically said musical work, and royalties shall be due on the parts manufactured during any month upon the twentieth of the next succeeding month. The payment of the royalty provided for by this section shall free the articles or devices for which such royalty has been paid from further contribution to the copyright except in case of public performance for profit: <i>And provided further</i>, That it shall be the duty of the copyright owner, if he uses the musical composition himself for the manufacture of parts of instruments serving to reproduce mechanically the musical work, or licenses others to do so, to file notice thereof, accompanied by a recording fee, in the copyright office, and any failure to file such notice shall be a complete defence to any suit, action, or proceeding for any infringement of such copyright.</p> <p>In the case of the failure of such manufacturer to pay to the copyright proprietor within thirty days after demand in writing the full sum of royalties due at said rate at the date of such demand the court may award taxable costs to the</p>
Mechanical records.	
Restriction on control of mechanical reproduction.	
(See p. 303.) Royalty to owner by manufacturer.	
Monthly report.	
Effect of payment.	
Owner to file notice.	
Penalty for failure to pay royalty.	

plaintiff and a reasonable counsel fee, and the court may, in its discretion, enter judgment therein for any sum in addition over the amount found to be due as royalty in accordance with the terms of this Act, not exceeding three times such amount.

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

Sec. 2. That nothing in this Act shall be construed to annul or limit the right of the author or proprietor of an unpublished work, at common law or in equity, to prevent the copying, publication, or use of such unpublished work without his consent, and to obtain damages therefor. Rights at common law not impaired.

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

Sec. 4. That the works for which copyright may be secured under this Act shall include all the writings of an author (*d*). All writings of author included.

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

(*a*) Books, including composite and cyclopædic works, directories, gazetteers, and other compilations (*e*) ;

(*d*) See s. 7. Provides that no copyright shall subsist in the original text of any work published prior to July 1st, 1909, which has not been already copyrighted in the United States; or in any work which is in the public domain; or in Government publications.

results of mathematical computations, such as logarithmic tables; interest, cost, and wage tables, etc., single poems, and the words of a song when printed and published without music; librettos; descriptions of moving pictures or spectacles; encyclopædias; catalogues; directories; gazetteers and similar compilations; circulars or folders containing information in the form of reading matter other than mere lists of articles, names and addresses, and literary contributions to periodicals or newspapers.

The term "book" cannot be applied to—

Blank books for use in business or in carrying out any system of

(*e*) See rr. 4 and 5. The term *Books* includes all printed literary works (except dramatic compositions) whether published in the ordinary shape of a book or pamphlet, or printed as a leaflet, card, or single page. The term "book" as used in the law includes tabulated forms of information, frequently called charts; tables of figures showing the

- (b) Periodicals, including newspapers (*f*);
- (c) Lectures, sermons, addresses, prepared for oral delivery;
- (d) Dramatic or dramatico-musical compositions (*g*);
- (e) Musical compositions (*h*);
- (f) Maps (*i*);

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

Directions on scales, or dials, or mathematical or other instruments; puzzles; games; rebuses; labels; wrappers; formulæ on boxes, bottles, and other receptacles of articles for sale or meant to accompany such articles.

Advertisements or catalogues which merely set forth the names, prices, and places where articles are for sale.

Prefaces or other introductory matter to works not themselves entitled to copyright protection, such as blank books.

Calendars are not capable of registration as such, but if they contain copyrightable reading matter or pictures they may be registered either as "books" or as "prints" according to the nature of the copyrightable matter.

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

(*g*) See rr. 8 and 9.—*Dramatic and dramatico-musical compositions*, include works such as dramas, comedies, operas, operettas and similar works.

The designation "dramatic com-

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

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

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

(*h*) Sec R. 20.—*Musical compositions*, including other vocal and all instrumental compositions, with or without words.

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

"Adaptations" and "arrangements" may be registered as "new works" under s. 6. Mere transpositions into different keys are not expressly provided for; but if published with copyright notice and copies deposited with application, registration will be made.

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

- (g) Works of art (*k*) ; models or designs for works of art ;
- (h) Reproductions of a work of art (*l*) ;
- (i) Drawings or plastic works of a scientific or technical character (*m*) ;
- (j) Photographs (*n*) ;
- (k) Prints and pictorial illustrations (*o*) ;

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

Sec. 6. That compilations or abridgements, adaptations, arrangements, dramatisations, translations, or other versions of works in the public domain, or of copyrighted works when produced with the consent of the proprietor of the copyright in such works, or works republished with new matter, shall be regarded as new works subject to copyright under the

(*k*) R. 12. The term *works of art* includes all works belonging fairly to the so-called fine arts (paintings, drawings, and sculpture).

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

No copyright exists in toys, dolls, advertising novelties, instruments or tools of any kind, glassware, embroideries, garments, laces, woven fabrics, or any similar articles. Cf. British law, p. 30.

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

(*m*) R. 14. This term includes diagrams of models illustrating scientific or technical works, architect's plans, designs for engineering work, etc.

(*n*) R. 15. This term covers all positive prints from photographic negatives, including those from moving-picture films (the entire source being counted as a single photograph), but not photo-gravure half tones, and other photo-engravings.

(*o*) R. 16. This term comprises all printed pictures not included in various other classes. Articles of utilitarian purpose do not become capable of copyright registration because they consist in part of pictures which in themselves are copyrightable, e.g. puzzles, games, rebuses, badges, buttons, buckles, pins, novelties of every description, or similar articles.

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

Mere ornamental scrolls, combinations of lines and colours, decorative borders, and similar designs, or ornamental letters or forms of type are not included in the designation "prints and pictorial illustrations." Trade marks cannot be copyrighted nor registered in the Copyright Office.

(*p*) *Green v. Luckey* (1910), 127 Fed. Rep. 287. Classification of a dramatic musical composition as a dramatic composition held not to affect the validity of the copyright.

Subject-matter not limited, etc.

Compilations, etc., of works in public domain, etc.

Subsisting copyrights not affected. provisions of this Act (*q*); but the publication of any such new works shall not affect the force or validity of any subsisting copyright upon the matter employed or any part thereof or be construed to imply an exclusive right to such use of the original works, or to secure or extend copyright in such original works.

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

Government publication of copyrighted material, etc. Issue of, to author, assigns, etc. Sec. 8. That the author or proprietor (*r*) of any work made the subject of copyright by this Act, or his executors, administrators, or assigns (*s*), shall have copyright for such work under the conditions and for the terms specified in this Act: *Provided, however,* That the copyright secured by this Act shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only:

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

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

(*q*) *West Publishing Co. v. Edward Thompson Co.* (1910), 176 Fed. Rep. 833. The addition of new matter to a copyrighted work in a second or subsequent edition, makes it a new book subject to copyright as an original work.

(*r*) The word "proprietor" is here used to indicate a person who derives his title to the work from the author. If the author

of the work should be a person who could not himself claim the benefit of the Copyright Act, the proprietor cannot claim it. See *r. 2*.

(*s*) *White-Smith Music Publishing Co. v. Goff* (1910), 180 Fed. Rep. 256. The proprietor and assignee of a copyrighted musical composition held not entitled to a renewal under *s. 24*.

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

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

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

Sec. 10. That such person may obtain registration of his claim to copyright by complying with the provisions of this Act, including the deposit of copies (*x*), and upon such compliance the register of copyrights shall issue to him the certificate provided for in section fifty-five of this Act. Certificate of deposit of copies.

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

(*t*) Such proclamations have been issued securing to the citizens or subjects of the following countries copyright privileges in the United States: Austria, Belgium, Chile, China, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions, Guatemala, Honduras, Italy, Japan, Luxemburg, Mexico, Netherlands and her possessions, Nicaragua, Norway, Portugal, Salvador, Spain, Sweden, and Switzerland. And see p. 203.

(*u*) S. 18.

(*x*) S. 12 and rr. 3, 22. In the case of periodicals, rr. 36 and 37 apply. See pp. 170 and 175.

The application for registration must give the following particulars: (1) the *name* and address of the claimant of copyright; (2) the *nationality*, *i.e.* the citizenship, of the author; (3) the title of the work; (4) the name and address of the person to whom the certificate is to be sent; (5) in the case of all published works the day, month, and year of publication. See r. 29, p. 172. The name of the author may be omitted. R. 30, p. 172.

Application forms have been issued by the Copyright Office, and will be furnished on request. R. 31, p. 173.

of this Act where the work is later reproduced in copies for sale (*y*).

Deposit of
two copies
required.

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

(*y*) R. 12. The copies must not have been reproduced for sale or publicly distributed. In the case of a lecture or similar production or a dramatic or musical composition, a typewritten or MSS. copy should be deposited. The entire work should be deposited. It is not sufficient to deposit a mere outline or epitome, or, in the case of a play, a mere scenario, or a scenario with the synopsis of the dialogue.

Photo-engravings or photogravures are not photographs within the meaning of this provision.

Under s. 2 the common law right to prevent the reproduction of an unpublished work is retained.

Where later the work is reproduced for sale, ss. 12 and 13 apply, and two copies must be deposited, accompanied by the application for registration and the fee, in the same manner as is required in the case of works published in the first place. R. 21.

(*z*) The word "promptly" has

been defined as "without unnecessary delay." It is not essential, however, that the deposit be made on the very day of publication.

(*a*) S. 14. Copyright matter will be transmitted free of charge. See also r. 39, p. 176.

(*b*) In the case of a periodical, no affidavit is required. Separate registration is required for each number of the periodical published with a notice of copyright, and can only be made after publication. It is not possible to register the title of a periodical in advance of publication. See r. 36, p. 175.

(*c*) S. 3 provides for copyright in separate articles, and see r. 37, p. 175, under which the entire copy must be sent, not simply the contribution. The application should state the day on which the issue is "first placed on sale, sold or publicly distributed." This may not be the same date as that printed on the title page.

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

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

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

Sec. 16. That in the case of the book the copies so deposited shall be accompanied by an affidavit, under the official seal Affidavits required.

(*d*) S. 21.

of any officer authorised to administer oaths within the United States (*e*), duly made by the person claiming copyright or by his duly authorised agent or representative residing in the United States, or by the printer who has printed the book (*f*), setting forth that the copies deposited have been printed from type set within the limits of the United States, or from plates made within the limits of the United States from type set therein; or, if the text be produced by lithographic process, or photo-engraving process, that such process was wholly performed within the limits of the United States, and that the printing of the text and binding of the said book have also been performed within the limits of the United States (*g*). Such affidavit shall state also the place where and the establishment or establishments in which such type was set or plates were made or lithographic process, or photo-engraving process or printing and binding were performed and the date of the completion of the printing of the book or the date of publication (*h*).

Penalty for
false state-
ments.

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

Form of
notice
required on
books, etc.

Sec. 18. That the notice of copyright required by section nine of this Act shall consist either of the word "Copyright" or the abbreviation "Copr.", accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication (*i*).

(*e*) See r. 33.

(*f*) The affidavit must state in which capacity the applicant is claiming copyright.

(*g*) If unbound this is omitted.

(*h*) S. 62 defines the date of publication as "the earliest date when copies of the first authorised edition were placed on sale, sold, or publicly distributed by the proprietor of the copyright or under his authority."

It is to be observed that an affidavit is not required in the case of a foreign author applying for a book in a language other than English, since such books are not subject to s. 15. See r. 35, p. 175.

In the case of *ad interim* protection, the affidavit must be filed when it is sought to extend the protection to the full term.

(*i*) The notice must be affixed to each copy of the work published or offered for sale in the United States. But no notice is required in the case of foreign books printed abroad seeking *ad interim* protection. See r. 26, p. 171.

The name of the claimant printed in the notice should be the real name of a living person, or his trade name (but not pseudonym or pen name) or the name of the firm or corporation claiming to own the copyright. The copyright

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

Name of copyright proprietor, etc.

Manner of entry.

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

Place of application.

One notice sufficient.

Sec. 20. That where the copyright proprietor has sought to comply with the provisions of this Act with respect to

Effect of accidental omissions.

notice should not be printed in the name of one person *for the benefit of another*. The beneficiary's name should be printed in such cases. See r. 24, p. 170.

The ordinary form of notice is "Copyright, 19—(year of publication), by A B (the name of the claimant)."

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

"Entered according to Act of Congress, in the year —, by A B, in the office of the Librarian of Congress, at Washington;" or . . . the word "copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out, thus: "Copyright, 18—, by A B." In the opinion of the Att.-Gen. the Act of June 18, 1874, is not repealed. Labels or prints designed to be used for articles of manufacture should

therefore be registered in the Patent Office. S. 3 of the Act of June 18, 1874, is as follows—

S. 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.

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

Ad interim protection if published abroad. Deposit of copy.

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

Full term allowed.

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

Duration of term, 28 years.

Sec. 23. That the copyright secured by this Act shall endure for twenty-eight years from the date of first publication, whether the copyrighted work bears the author's true name or is published anonymously or under an assumed name : *Provided*, That in the case of any posthumous work or of any periodical, cyclopædic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of twenty-eight years when application for such renewal

Renewals and extension of posthumous works, etc.

Application time limit.

(l) R. 28.

and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopædic or other composite work when such contribution has been separately registered, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or, if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall determine at the expiration of twenty-eight years from first publication (*m*).

Further term for separately registered works.

Termination on failure to register.

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

Renewals, etc.

Composite work.

Application time limit.

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

Infringement.

- (a) To an injunction restraining such infringement;
- (b) To pay to the copyright proprietor such damages as the

Injunction to restrain. Damages.

(*m*) Rr. 46, 47, and 48.
 (*n*) *White-Smith Music Publishing Co. v. Goff* (1910), 180 Fed. Rep. 256, where the proprietor

and assignee of a copyright musical composition was held not entitled to a renewal under this section.

- copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits such damages as to the court shall appear to be just, and in assessing such damages the court may, in its discretion, allow the amounts as hereinafter stated, but in the case of a newspaper reproduction of a copyrighted photograph such damages shall not exceed the sum of two hundred dollars nor be less than the sum of fifty dollars, and such damages shall in no other case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty :
- Newspaper reproductions of photographs. Limit of damages, etc.** First. In the case of a painting, statue, or sculpture, ten dollars for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees ;
- Paintings, statuary, etc.** Second. In the case of any work enumerated in section five of this Act, except a painting, statue, or sculpture, one dollar for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees ;
- Lectures, sermons, etc.** Third. In the case of a lecture, sermon, or address, fifty dollars for every infringing delivery ;
- Dramatic, etc. composition.** Fourth. In the case of dramatic or dramatico-musical or a choral or orchestral composition, one hundred dollars for the first and fifty dollars for every subsequent infringing performance ; in the case of other musical compositions, ten dollars for every infringing performance ;
- Delivery of infringing articles.** (c) To deliver up on oath, to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all articles alleged to infringe a copyright ;
- Destruction of plates, etc.** (d) To deliver up on oath for destruction all the infringing copies or devices, as well as all plates, moulds, matrices, or other means for making such infringing copies as the court may order ;
- Use of mechanical reproduction of musical works.** (e) Whenever the owner of a musical copyright has used or permitted the use of the copyrighted work upon the parts of musical instruments serving to reproduce mechanically the musical work, then in case of infringement of such copyright by the unauthorised manufacture, use, or sale of interchangeable parts, such as disks, rolls, bands, or cylinders for use in mechanical music-producing machines adapted to reproduce the copyrighted music, no criminal action shall be brought, but in a civil action an injunction may be granted upon such terms as the court may impose, and the plaintiff shall be entitled to recover in lieu of profits and damages a royalty

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

Rules and regulations for practice and procedure under this Rules, etc., of
section shall be prescribed by the Supreme Court of the United procedure.
States (p).

Sec. 26. That any court given jurisdiction under section Enforcement
thirty-four of this Act may proceed in any action, suit, or of remedies.
proceeding instituted for violation of any provision hereof
to enter a judgment or decree enforcing the remedies herein
provided.

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

Sec. 28. That any person who wilfully and for profit shall Penalty for
infringe any copyright secured by this Act, or who shall infringement.
knowingly and wilfully aid or abet such infringement, shall be
deemed guilty of a misdemeanor, and upon conviction thereof
shall be punished by imprisonment for not exceeding one year
or by a fine of not less than one hundred dollars nor more
than one thousand dollars, or both, in the discretion of the
court: *Provided, however,* That nothing in this Act shall be so Exceptions.
construed as to prevent the performance of religious or secular
works, such as oratorios, cantatas, masses, or octavo choruses
by public schools, church choirs, or vocal societies, rented,
borrowed, or obtained from some public library, public school,
church choir, school choir, or vocal society, provided the
performance is given for charitable or educational purposes
and not for profit.

(o) R. 44. The owner of the
copyright in a musical composition
using such music in phonographs
himself or permitting any one else

to do so, must send a notice of
such use by him or by any other
person to the copyright office.

(p) For rules, see p. 204.

Fraudulent
copyright
notice.

Penalty.

Sec. 29. That any person who, with fraudulent intent, shall insert or impress any notice of copyright required by this Act, or words of the same purport, in or upon any uncopyrighted article, or with fraudulent intent shall remove or alter the copyright notice upon any article duly copyrighted shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars and not more than one thousand dollars. Any person who shall knowingly issue or sell any article bearing a notice of United States copyright which has not yet been copyrighted in this country, or who shall knowingly import any article bearing such notice or words of the same purport, which has not been copyrighted in this country, shall be liable to a fine of one hundred dollars.

Importation
of articles
with false
notice.

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

Piratical,
etc., copies.

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

Exceptions.

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

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

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

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

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

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

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

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

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

Books purchased for libraries, etc.

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

Unlawful use of imported copies.

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

Forfeiture, etc., of prohibited articles.

Destruction.

Exception.

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

Rules, etc., to prevent importation of.

prohibited importation by this Act, and which infringe the rights of such copyright proprietors or injured parties.

Courts given cognizance of copyright cases.

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

Institutions of suits.

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

Injunctions.

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

Enforcement of.

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

Appeals.

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

Criminal action.

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

Time limit.

Allowance of costs, etc.

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

Sec. 41. That the copyright is distinct from the property

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

Distinction between copyright and material object copyrighted.

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

Assignments, etc.

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

Assignments executed abroad.

Certificate of acknowledgment, etc.

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

Recording assignments.

Time limit.

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

Certificate of record, etc.

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

Use of Assignee's name in copyright notice.

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

Copyright office.

Preservation of records, etc., in.

Sec. 48. That there shall be appointed by the Librarian of Congress a register of copyrights, at a salary of four thousand dollars per annum, and one assistant register of copyrights, at a salary of three thousand dollars per annum, who shall have

Register of copyrights, assistant, etc.

Appointment of.

authority during the absence of the register of copyrights to attach the Copyright Office seal to all papers issued from the said office and to sign such certificates and other papers as may be necessary. There shall also be appointed by the Librarian such subordinate assistants to the register as may from time to time be authorized by law.

Deposit of receipts.

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

Reports.

Bond.

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

Annual report.

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

Seal, etc.

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

Rules and regulations.

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

Record books required.

Sec. 54. That the register of copyrights shall provide and keep such record books in the Copyright Office as are required

(*q*) Rules and regulations in accordance with this section have been put into force. They are published by the Copyright Office,

as Bulletin No. 15, and can be obtained from that office upon request. They are reprinted here at p. 165.

to carry out the provisions of this Act, and whenever deposit has been made in the Copyright Office of a copy of any work under the provisions of this Act, he shall make entry thereof.

Sec. 55. That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the Copyright Office, to contain his name and address, the title of the work upon which copyright is claimed, the date of the deposit of the copies of such work, and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book the certificate shall also state the receipt of the affidavit as provided by section sixteen of this Act, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The register of copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for, which certificate, sealed with the seal of the Copyright Office, shall upon payment of the prescribed fee, be given to any person making application for the same, and the said certificate shall be admitted in any Court as *prima facie* evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration.

Certificate of registration.

Receipt for deposited copies.

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

Catalogue of copyright entries.

Preparation, etc.

Legal effect of.

Sec. 57. That the said printed current catalogues as they are issued shall be promptly distributed by the Copyright Office to the collectors of customs of the United States and to the postmasters of all exchange offices of receipt of foreign mails, in accordance with revised lists of such collectors of customs and postmasters prepared by the Secretary of the Treasury and the Postmaster-General, and they shall also be furnished to all parties desiring them at a price to be determined by the register of copyrights, not exceeding five dollars per

Distribution and sale of current catalogues.

Price.

annum for the complete catalogue of copyright entries and not exceeding one dollar per annum for the catalogues issued during the year for any one class of subjects. The consolidated catalogues and indexes shall also be supplied to all persons ordering them at such prices as may be determined to be reasonable, and all subscriptions for the catalogues shall be received by the Superintendent of Public Documents, who shall forward the said publications; and the moneys thus received shall be paid into the Treasury of the United States and accounted for under such laws and Treasury regulations as shall be in force at the time.

Use of proceeds.

Records open to inspection.

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

Disposition of.

Deposited articles.

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

Destruction of articles undisposed of.

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

Notice to owners before destroying.

Manuscripts of unpublished works, etc.

copyright proprietor of record, permitting him to claim and remove it.

Sec. 61. That the register of copyrights shall receive, and the persons to whom the services designated are rendered shall pay, the following fees: For the registration of any work subject to copyright, deposited under the provisions of this Act, one dollar, which sum is to include a certificate of registration under seal: *Provided*, That in the case of photographs the fee shall be fifty cents where a certificate is not demanded. For every additional certificate of registration made, fifty cents. For recording and certifying any instrument of writing for the assignment of copyright, on any such licence specified in section one, sub-section (e), or for any copy of such assignment or licence, duly certified, if not over three hundred words in length, one dollar; if more than three hundred and less than one thousand in length, two dollars; if more than one thousand words in length, one dollar additional for each one thousand words or fraction thereof over three hundred words. For recording the notice of user or acquiescence specified in section one, sub-section (e), twenty-five cents for each notice if not over fifty words, and an additional twenty-five cents for each additional one hundred words. For comparing any copy of an assignment with the record of such document in the Copyright Office and certifying the same under seal, one dollar. For recording the extension or renewal of copyright provided for in sections twenty-three and twenty-four of this Act, fifty cents. For recording the transfer of the proprietorship of copyrighted articles, ten cents for each title of a book or other article, in addition to the fee prescribed for recording the instrument of assignment. For any requested search of Copyright Office records, indexes, or deposits, fifty cents for each full hour of time consumed in making such search: *Provided*, That only one registration at one fee shall be required in the case of several volumes of the same book deposited at the same time (r).

Fees with certificate.

Photographs without certificates, etc.

One registration fee, etc.

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

Construction of "date of publication."

"Author."

Sec. 63. That all laws or parts of laws in conflict with the

(r) See rr. 40, 41, 48, and 49, pp. 176—178.

Repeal of
conflicting
laws.
Pending
cases not
affected.

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

In effect
July 1, 1909.

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

Approved, March 4, 1909.

PRESIDENTIAL PROCLAMATIONS.

(SEE S. 8, P. 185.)

The following proclamations have been issued by the President, by which copyright protection is granted in the United States to works of authors who are citizens or subjects of the countries named :—

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

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

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

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

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

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

February 25, 1896—Mexico. (Stat. L., vol. 29, p. 877.)

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

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

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

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

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

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

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

September 20, 1907—Austria. (But not including Hungary.) (Stat. L., vol. 35, pt. 2, p. 2155.)

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

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

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

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

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

May 26, 1911—Sweden.

This table gives the law down to October, 1911.

PRESIDENTIAL PROCLAMATIONS UNDER SECTION 1 (*e*).

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

June 14, 1911—Belgium, Luxemburg, and Norway.

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

1.

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

2.

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

3.

Upon the institution of any action, suit, or proceeding, or at any time thereafter, and before the entry of final judgment or decree therein, the plaintiff or complainant, or his authorized agent or attorney, may file with the clerk of any court given jurisdiction under section 34 of the act of March 4, 1909, an affidavit stating upon the best of his knowledge, information, and belief, the number and location, as near as may be, of the alleged infringing copies, records, plates, molds, matrices, etc., or other means for making the copies alleged to infringe the copyright, and the value of the same, and with such affidavit shall file with the clerk a bond executed by at least two sureties and approved by the court or a commissioner thereof.

4.

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

5.

The marshal shall thereupon seize said articles or any smaller or larger part thereof he may then or thereafter find, using such force as may be reasonably necessary in the premises, and serve on the defendant a copy of the affidavit, writ, and bond by delivering the same to him personally, if he can be found within the district, or if he can not be found, to his agent, if any, or to the person from whose possession the articles are taken, or if the owner, agent, or such person can not be found within the district by leaving said copy at

the usual place of abode of such owner or agent, with a person of suitable age and discretion, or at the place where said articles are found, and shall make immediate return of such seizure, or attempted seizure, to the court. He shall also attach to said articles a tag or label stating the fact of such seizure and warning all persons from in any manner interfering therewith.

6.

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

7.

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

8.

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

9.

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

10.

Thereupon the court in its discretion, and after such hearing as it may direct, may order such return upon the filing by the

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

11.

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

12.

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

13.

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

COPYRIGHT.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.
A PROCLAMATION.

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

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

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

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

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

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

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

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

W. H. TAFT.

By the President :

P. C. KNOX,
Secretary of State.

In "The Statutes at Large of the United States of America, from March, 1909, to March, 1911." Vol. 36, part 1, 8vo, Washington, 1911, pp. 2685—2686.

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THE COPYRIGHT ACT, 1911.

ARRANGEMENT OF CLAUSES.

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SCHEDULES.

 THE COPYRIGHT ACT, 1911.

A.D. 1911. An Act to amend and consolidate the Law relating to Copyright.

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

PART I.

IMPERIAL COPYRIGHT.

Rights.

Copyright. 1.—(1) Subject to the provisions of this Act, copyright shall subsist
(Pages 7-40.) throughout the parts of His Majesty's dominions to which this Act

extends for the term hereinafter mentioned in every original literary dramatic musical and artistic work, if—

- (a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid ; and
 - (b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid ;
- but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

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

- (a) to produce, reproduce, perform, or publish any translation of the work ; (Pages 40-43.)
- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work ;
- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise ;
- (d) in the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered,

and to authorise any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but for the purposes of this provision the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works. (Pages 38-40.)

2.—(1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright : Provided that the following acts shall not constitute an infringement of copyright :— (Pages 48-60.)

- (i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary : (Pages 57-59.)
- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work :
- (iii) The making or publishing of paintings, drawings, engravings,

A.D. 1911.

or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings, or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art :

(Page 51.)

(iv) The publication in a collection, mainly composed of non-copyright matter, bona fide intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged :

(Page 52.)

(v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries :

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

(Pages 53, 54.)

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

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

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

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

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

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

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

Term of copy-
right.

(Pages 60-68.)

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

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and for the purposes of this proviso the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

A.D. 1911.

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

Compulsory licences.

(Page 68.)

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

Ownership of copyright, &c.

Provided that—

(Pages 67-88.)

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

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

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject

A.D. 1911. to limitations to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorised agent :

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

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

Civil Remedies.

Civil remedies for infringement of copyright.

(Pages 83-86.)

6.—(1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

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

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

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

(b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by

which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

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

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

(Page 87.)

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for suspecting that copyright subsisted in the work.

Exemption of innocent infringer from liability to pay damages, &c.

(Page 88.)

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

Restriction on remedies in the case of architecture.

(Pages 89, 90.)

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

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

Limitation of actions.

(Pages 90, 91.)

Summary Remedies.

11.—(1) If any person knowingly—

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

Penalties for dealing with infringing copies, &c.

(Pages 91-101.)

he shall be guilty of an offence under this Act and be liable on summary conviction to a fine not exceeding forty shillings for every copy dealt with in contravention of this section, but not exceeding

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fifty pounds in respect of the same transaction ; or in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

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

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

2 Edw. 7.
c. 15.
6 Edw. 7.
c. 36.

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

(Page 101.)

Appeals to
quarter
sessions.

(Page 101.)

Extent of
provisions as
to summary
remedies.

Importation
of copies.

(Pages 102-104.)

39 & 40 Vict.
c. 36.

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

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

Importation of Copies.

14.—(1) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions contained in section forty-two of the Customs Consolidation Act, 1876, and that section shall apply accordingly.

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

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this

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section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

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

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

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

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

Delivery of Books to Libraries.

15.—(1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

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

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

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies

Delivery of
copies to
British
Museum and
other
libraries.

(Pages 104-
107.)

A.D. 1911. of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

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

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

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

Special Provisions as to certain Works.

Works of joint authors. (Pages 107-109.) 16.—(1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

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

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

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

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

Posthumous works. (Pages 109, 110.) 17.—(1) In the case of a literary dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or

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musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

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

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

Provisions as to Government publications.

(Pages 111-113.)

19.—(1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and where such owner is a body corporate the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

Provisions as to mechanical instruments.

(Pages 113-122.)

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

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

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

Provided that—

(i) nothing in this provision shall authorise any alterations in or omissions from the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by or

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with the consent or acquiescence of the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and

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

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

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

(b) in the case of contrivances sold as aforesaid after the expiration of that period five per cent.

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall in no case be less than a halfpenny for each separate musical work in which copyright subsists reproduced thereon, and where the royalty calculated as aforesaid includes a fraction of a farthing such fraction shall be reckoned as a farthing.

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

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

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

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

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

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

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

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

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

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

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

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

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Provided that—

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

Provision as to political speeches.

(Pages 122, 123.)

Provisions as to photographs.

(Pages 123, 124.)

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

(Pages 124-128.)

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

(Page 128.)

Existing works.

(Pages 129-132.)

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

21. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and where such owner is a body corporate the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

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

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

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

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

Provided that—

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(a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has before that date assigned the right or granted any interest therein for the whole term of the right, then at the date when but for the passing of this Act the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either—

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

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

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

(b) where any person has, before the twenty-sixth day of July nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

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

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

Application to British Possessions.

Application
of Act to
British
dominions.
(Pages 133,
134.)

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

(2) If the Secretary of State certifies by notice published in the London Gazette that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoys within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall for the purposes of the rights conferred by this Act be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

Legislative
powers
of self-
governing
dominions.
(Pages 134-
136.)

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

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

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may for the purpose of giving

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

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

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

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

Power of Legislatures of British possessions to pass supplemental legislation.

(Page 136.)

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

Application to protectorates.

(Page 137.)

PART II.

INTERNATIONAL COPYRIGHT.

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

Power to extend Act to foreign works.

(a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;

(Pages 138–148.)

(b) to literary dramatic musical and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which

A.D. 1911.

the order relates, in like manner as if the authors were British subjects ;

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

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

Provided that—

- (i) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I. of this Act ;
- (ii) the Order in Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates ;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order ;
- (iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order ;
- (v) in applying the provision of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country ;
- (vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886.

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

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

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions

49 & 50 Vict.
c. 33.

Application
of Part II.
to British
possessions.
(Page 148.)

other than self-governing dominions, and the provisions of this Part of this Act shall, with the necessary modifications, apply accordingly.

A.D. 1911.

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

PART III.

SUPPLEMENTAL PROVISIONS.

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

Abrogation of common law rights. (Page 148.)

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

Provisions as to Orders in Council. (Page 148.)

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

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

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

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

(Page 150) Saving of compensation to certain libraries.

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

(Page 150.)

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

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

Interpretation.

(Pages 24, 151.)

- A.D. 1911.
 (Page 25.)
- (Page 28.)
- (Page 29.)
 (Page 31.)
- (Page 32.)
- (Page 18.)
- (Page 43.)
- (Page 36.)
- (Page 36.)
- “Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character ;
- “Artistic work” includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs ;
- “Work of sculpture” includes casts and models ;
- “Architectural work of art” means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction.
- “Engravings” include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs ;
- “Photograph” includes photo-lithograph and any work produced by any process analogous to photography ;
- “Cinematograph” includes any work produced by any process analogous to cinematography ;
- “Collective work” means—
- (a) an encyclopædia, dictionary, year book, or similar work ;
 - (b) a newspaper, review, magazine, or similar periodical ; and
 - (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated ;
- “Infringing,” when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act ;
- “Performance” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument ;
- “Delivery,” in relation to a lecture, includes delivery by means of any mechanical instrument ;
- “Plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made ;
- “Lecture” includes address, speech, and sermon ;
- “Self-governing dominion” means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

A.D. 1911.

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

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

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

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

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

Repeal.

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

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

Short title and commencement.

(2) This Act shall come into operation—

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



SCHEDULES.

FIRST SCHEDULE.

EXISTING RIGHTS.

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

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

“Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

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

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

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short title.	Extent of Repeal.
8 Geo. 2. c. 13	The Engraving Copyright Act, 1734.	The whole Act.
7 Geo. 3. c. 38	The Engraving Copyright Act, 1767.	The whole Act.
15 Geo. 3. c. 53.	The Copyright Act, 1775.	The whole Act.
17 Geo. 3. c. 57.	The Prints Copyright Act, 1777	The whole Act.
54 Geo. 3. c. 56.	The Sculpture Copyright Act, 1814.	The whole Act.
3 & 4 Will. 4. c. 15.	The Dramatic Copyright Act, 1833.	The whole Act.
5 & 6 Will. 4. c. 65.	The Lectures Copyright Act, 1835.	The whole Act.
6 & 7 Will. 4. c. 59.	The Prints and Engravings Copyright (Ireland) Act, 1836.	The whole Act.
6 & 7 Will. 4. c. 110.	The Copyright Act, 1836.	The whole Act.
5 & 6 Vict. c. 45.	The Copyright Act, 1842.	The whole Act.
7 & 8 Vict. c. 12.	The International Copyright Act, 1844.	The whole Act.
10 & 11 Vict. c. 95.	The Colonial Copyright Act, 1847.	The whole Act.
15 & 16 Vict. c. 12.	The International Copyright Act, 1852.	The whole Act.
25 & 26 Vict. c. 68.	The Fine Arts Copyright Act, 1862.	Sections one to six. In section eight the words "and pursuant to any Act for the protection of copyright engravings," and "in any such Act as aforesaid." Sections nine to twelve.
38 & 39 Vict. c. 12.	The International Copyright Act, 1875.	The whole Act.
39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876.	Section forty-two, from "Books wherein" to "such copyright will expire." Sections forty-four, forty-five, and one hundred and fifty-two.

Session and Chapter.	Short title.	Extent of Repeal.
45 & 46 Vict. c. 40.	The Copyright (Musical Compositions) Act, 1882.	The whole Act.
49 & 50 Vict. c. 33.	The International Copyright Act, 1886.	The whole Act.
51 & 52 Vict. c. 17.	The Copyright (Musical Compositions) Act, 1888.	The whole Act.
52 & 53 Vict. c. 42.	The Revenue Act, 1889.	Section one, from "Books first published" to "as provided in that section."
6 Edw. 7. c.36.	The Musical Copyright Act, 1906.	In section three the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886."

APPENDIX II.

THE REVISED BERLIN CONVENTION OF 1908*

COLLATED WITH

THE BERNE CONVENTION OF 1886

AND THE

ACTS OF PARIS OF 1896.

NOTE.—The alterations (other than drafting amendments) embodied in the Revised Convention, as compared with the Berne Convention and the additional Act of Paris, are shown in thick type (column (1)).

The provisions of the texts of 1886 and 1896, which are entirely omitted from the Revised Convention, are shown in *italics* (column (2)).

(1)	(2)
Revised Convention as signed at Berlin on November 13th, 1908.	Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896. (NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Berne Convention.

Article 1.—The Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.

Article 2.—The expression “literary and artistic works” shall include any production in the literary, scientific, or artistic domain, whatever may be the mode or form of its reproduction, such as books, pamphlets, and other writings; dramatic or dramatico-musical works, choreographic works and pantomimes, the acting form of which is fixed in writing or otherwise: musical com-

Article 1.—The Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.

Article 4.—The expression “literary and artistic works” shall include books, pamphlets, and all other writings; dramatic or dramatico-musical works and musical compositions, with or without words: works of design, painting, sculpture and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relating to geography, topography, architecture, or

* Reprinted from the Report of the Copyright Committee, 1909.

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

positions with or without words, works of design, painting, architecture, sculpture, engraving and lithography; illustrations, geographical charts, plans, sketches and plastic works relative to geography, topography, architecture, or science.

Berne Convention.

to the sciences in general; finally, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction whatever.

Closing Protocol.—2. With reference to Article 9, it is agreed that those countries of the Union the law of which implicitly includes choreographic works amongst dramatico-musical works, expressly admit the said works to the benefit of the provisions of the Convention concluded this day.

It is, however, understood that disputes which may arise upon the application of this clause shall be reserved for the decision of the respective Courts.

Additional Act.

Revised Closing Protocol.—1. With reference to Article 4, it is agreed as follows:—

A. In the countries of the Union in which protection is accorded not only to architectural plans, but also to works of architecture themselves, those works are admitted to the benefit of the provisions of the Berne Convention and of the present additional Act.

Berne Convention.

Article 6.—Lawful translations shall be protected as original works. Hence they shall enjoy the protection stipulated for in Articles 2 and 3 as regards their unauthorised reproduction in the countries of the Union.

It is understood that in the case of a work for which the translating right has

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

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

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

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

Article 3.—The present convention shall apply to photographic works and to works produced by a process analogous to photography. The contracting countries shall be bound to make provision for their protection.

Berne Convention.

fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

Closing Protocol.—1. As regards Article 4, 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 shall, however, not be 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, within the meaning of the said Convention, so long as the principal right of reproduction of the work itself subsists, and within the limits of private agreements between the parties entitled.

Additional Act.

Revised Closing Protocol.—1. With reference to Article 4, it is agreed as follows:—

* * * * *

B. Photographic works, and works obtained by analogous processes, shall be admitted to the benefit of the provisions of those Acts, in so far as the domestic law of each country allows this to be done, and in the measure of the protection that it accords to similar national works.

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

Article 4.—Authors who are subjects or citizens of any of the countries of the Union shall enjoy in countries, other than the country of origin of the work, for their works, whether unpublished or first published in a country of the Union, the rights which the respective laws do now or may hereafter grant to natives as well as the rights specially granted by the present convention.

The enjoyment and the exercise of these rights shall not be subject to the performance of any formality; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work. Consequently, apart from the express stipulations of the present convention, the extent of protection, as well as the

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Berne Convention.

It is understood that an authorised photograph of a protected work of art shall enjoy legal protection, in all the countries of the Union, within the meaning of the Berne Convention, and of the present additional Act, so long as the principal right of reproduction of the work itself subsists, and within the limits of private agreements between the parties entitled.

Berne Convention.

Article 2.—Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works whether published in one of those countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives.

Additional Act.

Article 2.—Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether unpublished or published or published for the first time in one of those countries, the rights which the respective laws do now or may hereafter grant to natives.

Berne Convention.

Article 2, § 2.—The enjoyment of these rights shall be subject to the accomplishment of the conditions and formalities prescribed by the law of the country of origin of the work. . . .

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

means of redress secured to the author to safeguard his rights shall be governed exclusively by the laws of the country where protection is claimed.

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

By "published works" must be understood, for the purposes of the present convention, works copies of which are issued by a publisher. The representation of a dramatic or dramatico-musical work, the perfor-

O.C.

Interpretative Declaration.

§ 1.—With reference to the terms of Article 2, § 2, of the Convention, the protection assured by the aforesaid Acts shall depend solely upon the accomplishment, in the country of the origin of the work, of the conditions and formalities which are prescribed by the law of that country. The same shall hold good for the protection of the photographic works mentioned in § 1, B. of the revised closing Protocol.

Berne Convention.

Article 2, § 3.—The country of first publication, or, if that publication takes place simultaneously in several countries of the Union, that one of them in which the shortest period of protection is granted by law, shall be considered to be the country of origin of the work.

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

Interpretative Declaration.

§ 2.—By "works published" must be understood works copies of which are issued by a publisher in one of the countries of the Union. Consequently the representation of a dramatic or dramatico-musical work,

R

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

mance of a musical work, the exhibition of a work of art, and the construction of a work of architecture shall not constitute a publication.

Article 5.—Authors being subjects or citizens of one of the countries of the Union, who first publish their works in another country of the Union, shall have in this latter country the same rights as native authors.

Article 6.—Authors not being subjects or citizens of one of the countries of the Union, who first publish their works in one of those countries shall enjoy in that country the same rights as native authors, and in the other countries of the Union the rights granted by the present convention.

Article 7.—The term of protection granted by the present convention shall include the life of the author and fifty years after his death.

Nevertheless, in case such term of protection should not be uniformly adopted by all the countries of the Union, the term shall be regulated by the law of the country where pro-

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Berne Convention.

the performance of a musical work, and the exhibition of a work of art shall not constitute a publication in the sense of the aforesaid Acts.

Berne Convention.

Article 3.—The stipulations of the present Convention shall 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.

Additional Act.

Article 3.—Authors not belonging to any country of the Union, if they have first published their literary or artistic works, or caused them to be first published, in one of those countries, shall enjoy for such works the protection granted by the Berne Convention and by the present Additional Act.

Berne Convention.

Article 2, § 2.— . . . it (the enjoyment of these rights) must not exceed, in the other countries, the duration of the protection granted in the said country of origin.

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

tection is claimed, and must not exceed the term fixed in the country of origin of the work. Consequently the contracting countries shall only be bound to apply the provisions of the preceding paragraph in so far as such provisions are consistent with their domestic laws.

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

Article 8.—The authors of unpublished works, being subjects or citizens of one of the countries of the Union, and the authors of works first published in one of those countries, shall enjoy, in the other countries of the Union, during the whole term of the right in the original work the exclusive right of making or authorising a translation of their works.

Additional Act.

Article 2.—Posthumous works shall be included among the works protected.

Berne Convention.

Article 5.—Authors being subjects or citizens of one 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 by instalments, the period of ten years shall not begin to run until the publication of the last instalment of the original work.

For works composed of several volumes published at intervals as well as for reports or papers published by literary or learned societies or by individuals, each volume, report, or paper shall be, with regard to the period of ten years considered as a separate work,

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Berne Convention.

In the cases provided for by the present Article, the 31st December of the year in which the work was published shall be considered as the date of publication for the purpose of calculating the period of protection.

Additional Act.

Article 5.—Authors being subjects or citizens of one of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorising translations of their works during the whole term of the right in the original work. Nevertheless, the exclusive right of translation shall cease to exist when the author shall not have made use of it within a period of ten years from the time of the first publication of the original work, by publishing or causing to be published, in one of the countries of the Union, a translation in the language for which protection is claimed.

Berne Convention.

Article 7.—Articles in newspapers or magazines published in any country 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 magazines it is sufficient if the prohibition is made in a general manner at the beginning of each number of the magazine.

No prohibition can in any case apply to articles of political discussion or to the reproduction of news of the day or miscellaneous items.

Article 9.—Serial stories, tales, and all other works, whether literary, scientific, or artistic, whatever their object, published in the newspapers or periodicals of one of the countries of the Union may not be reproduced in the other countries without the consent of the authors.

With the exception of serial stories and tales, any newspaper article may be reproduced by another newspaper unless the reproduction thereof is expressly forbidden. Nevertheless,

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

the source must be indicated; the legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.

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

Article 10.—As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational purposes, or having a scientific character, or for chrestomathies, the effect of the legislation of each country of the Union and of special arrangements existing or to be concluded between them is not affected by the present Convention.

Article 11.—The stipulations of the present convention shall apply to the public representation of dramatic or dramatico-musical works and to the public performance of musical works,

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Additional Act.

Article 7.—Serial novels, including short stories, published in the newspapers or magazines of any country of the Union may not be reproduced, in original or in translation, in the other countries, without the authorisation of the authors or their lawful representatives.

This applies equally to other articles in newspapers or magazines, whenever the authors or publishers shall have expressly declared in the newspaper or magazine in which they have published such articles that they forbid the reproduction of these. *For magazines it is sufficient if the prohibition is made in a general manner at the beginning of each number.*

In the absence of prohibition, reproduction shall be permitted on condition of indicating the source.

No prohibition can in any case apply to articles of political discussion, news of the day, or miscellaneous items.

Berne Convention.

Article 8.—As regards the liberty of extracting portions from literary or artistic works for use in publications destined for education, or having a scientific character, or for chrestomathies, the effect of the legislation of each country of the Union and of special arrangements existing or to be concluded between them is not affected by the present Convention.

Article 9.—The stipulations of Article 2 shall apply to the public representation of dramatic or dramatico-musical works, whether such works be published or not.

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Berne Convention.

whether such works be published or not.

Authors of dramatic or dramatico-musical works shall be protected during the existence of their right over the original work against the authorised public representation of translations of their works.

In order to enjoy the protection of the present Article, authors shall not be bound in publishing their works to forbid the public representation or performance thereof.

Article 12.—The following shall be specially included among the unlawful reproductions to which the present Convention applies:—Unauthorised indirect appropriations of a literary or artistic work, such as adaptations, musical arrangements, transformations of a novel, tale or piece of poetry into a dramatic piece or vice versa, &c., when they are only the reproduction of that work in the same form or in another form, without essential alterations, additions, or abridgments, and do not present the character of a new original work.

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

The stipulations of Article 2 shall apply equally to the public performance of unpublished musical works, and of published works as to which the author has expressly declared upon the title-page or at the commencement of the work that he forbids their public performance.

Article 10.—The following shall be specially included among the unlawful reproductions to which the present Convention applies:—Unauthorised indirect appropriations of a literary or artistic work, known by various names, such as adaptations, arrangements of music, etc., when they are only the reproduction of such a work in the same form or in another form, without essential alterations, additions, or abridgments, and do not in other respects present the character of a new original work.

It is understood that, in the application of the present Articles, the Courts of the various countries of the Union shall, if occasion arises, take into account the reservations of their respective laws.

Interpretative Declaration.

§ 3. The transformation of a novel into a play or of a play into a novel shall come within the stipulations of Article 10.

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Berne Convention.

Article 13.—The authors of musical works shall have the exclusive right of authorising (1) the adaptation of those works to instruments which can produce them mechanically; (2) the public performance of the said works by means of these instruments.

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

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

Adaptations made in virtue of paragraphs 2 and 3 of the present article and imported without the authority of the interested parties into a country where they would not be lawful, shall be liable to seizure in that country.

Article 14.—Authors of literary, scientific, or artistic works shall have the exclusive right of authorising the reproduction and public representation of their works by cinematography.

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

Closing Protocol.—§ 3. It is understood that the manufacture and sale of instruments serving to reproduce mechanically musical airs in which copyright subsists shall not be considered as constituting infringement of musical copyright.

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

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

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

Article 15.—In order that the authors of works protected by the present Convention may, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

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

Article 16.—Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.

In such a country the seizure may also apply to reproductions imported from a country where the work is not

Berne Convention.

Article 11.—In order that the authors of works protected by the present Convention may, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

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

It is understood, nevertheless, that the courts may, if necessary, require the production of a certificate from the competent authority, stating that the formalities prescribed, according to Article 2, by the law of the country of origin have been fulfilled.

Article 12.—Pirated works may be seized upon importation into those countries of the Union in which the original work has a right to legal protection.

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

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

protected, or has ceased to be protected.

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

Article 17.—The provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

Article 18.—The present Convention shall apply to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin through the expiration of the term of protection.

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

The application of this principle shall take effect according to the

Additional Act.

Article 12.—Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.

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

Berne Convention.

Article 13.—It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit by measures of domestic legislation or police the circulation, representation, and exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

Article 14.—The present Convention, under the reservations and conditions to be determined by a common agreement, shall apply to all works which, at the time of its coming into force, have not yet fallen into the public domain in their country of origin.

Closing Protocol.—§ 4. The common agreement provided for in

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

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

Berne Convention.

Article 14 of the Convention is concluded as follows:—

The application of the Convention to works not fallen into public domain at the time of its coming into force, shall take effect according to the stipulations relative thereto, contained in special treaties existing, or to be concluded for the purpose.

In the absence of such stipulations between countries of the Union, the respective countries shall regulate, each for itself, by domestic law, the manner in which the principle contained in Article 14 is to be applied.

Additional Act.

Closing Protocol.—§ 4. The common agreement provided for in Article 14 of the Convention is concluded as follows:—

The application of the Berne Convention and of the present additional Act to works not fallen into the public domain in their country of origin at the time of the coming into force of those Acts, shall take effect according to the stipulations relative thereto contained in special Conventions existing or to be concluded for the purpose.

In the absence of such stipulations between countries of the Union, the respective countries shall regulate, each for itself, by domestic law, the manner in which the principle contained in Article 14 is to be applied.

The stipulations of Article 14 of the Berne Convention, and of this paragraph of the Closing Protocol, shall apply equally to the exclusive right of

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

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

Article 19.—The provisions of the present convention shall not prevent a claim being made for the application of any wider provisions which may be made by the legislation of a country of the Union in favour of foreigners in general.

Article 20.—The Governments of the countries of the Union reserve to themselves the right to enter into special arrangements between each other, provided always that such arrangements confer upon authors more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention. The provisions of existing arrangements which answer to the above-mentioned conditions shall remain applicable.

Article 21.—The International Office established under the name of the

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Additional Act.

translation as granted by the present additional Acts.

The above-mentioned temporary provisions shall be applicable in case of new accessions to the Union.

Berne Convention.

Article 15.—It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to make separately particular arrangements between themselves, provided always that such arrangements confer upon authors or their representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

Additional Article.

The Convention concluded this day shall not in any way affect the maintenance of the treaties already existing between the contracting countries, so far as those treaties confer upon authors or their representatives rights more extended than those accorded by the Union, or embody other stipulations which are not contrary to this Convention.

Article 16.—An International Office shall be established under the name

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

“Office of the International Union for the Protection of Literary and Artistic Works” shall be maintained.

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

The official language of the office shall be French.

Article 22.—The International Office collects every kind of information relative to the protection of the rights of authors over their literary and artistic works. It arranges and publishes such information. It undertakes the study of questions of general interest concerning the Union, and by the aid of documents placed at its disposal by the different Administrations, edits a periodical publication in the French language on the questions which concern the objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorise by common accord the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.

Additional Article.

of the “Office of the International Union for the Protection of Literary and Artistic Works.”

That Office, the expenses of which shall 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 supervision. Its function shall be determined by common agreement between the countries of the Union.

Closing Protocol.—§ 5. The organisation of the International Office provided for by Article 16 of the Convention shall be settled by a regulation which shall be drawn up by the Government of the Swiss Confederation.

The official language of the International Office shall be French.

Closing Protocol.—§ 5 (*continued*). The International Office shall collect every kind of information relative to the protection of the rights of authors over their literary and artistic works. It shall arrange and publish such information. It shall undertake the study of questions of the general interest concerning the Union, and by the aid of documents placed at its disposal by the different Administrations shall edit a periodical publication in the French language on the questions which concern the objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorise by common accord the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

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

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

Article 23.—The expenses of the Office of the International Union shall be shared by the contracting countries. Until a fresh decision is arrived at, they cannot exceed the sum of 60,000 fr. a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in Article 24.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which shall contribute in the proportion of a certain number of units, viz. :—

1st class	.	.	.	25 units.
2nd	„	.	.	20 „
3rd	„	.	.	15 „
4th	„	.	.	10 „
5th	„	.	.	5 „
6th	„	.	.	3 „

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

Additional Article.

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

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

Closing Protocol.—§ 5 (*continued*). The expenses of the Office of the International Union shall be shared by the contracting countries. Until a fresh decision is arrived at, they cannot exceed the sum of 60,000 fr. a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in Article 17.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which shall contribute in the proportion of a certain number of units, viz. :—

1st class	.	.	.	25 units.
2nd	„	.	.	20 „
3rd	„	.	.	15 „
4th	„	.	.	10 „
5th	„	.	.	5 „
6th	„	.	.	3 „

These coefficients shall be multiplied by the number of countries of each class, and the total product thus obtained will give the number of units by which the total expense is to be

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

The quotient gives the amount of the unit of expense.

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

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

Article 24.—The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

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

The Administration of the country where a Conference is to meet, prepares, with the assistance of the International Office, the work of the Conference. The Director of the Office shall attend at the sittings of the Conferences, and shall take part in the discussions without the right to vote.

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

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Additional Article.

divided. The quotient will give the amount of the unit of expense.

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

The Swiss Administration shall prepare the Budget of the Office, and superintend its expenditure, make the necessary advances, and draw up the annual account, which will be communicated to all the other Administrations.

Article 17.—The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

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

Closing Protocol.—§ 5. The Administration of the country where a Conference is to meet shall prepare, with the assistance of the International Office, the work of the said Conference.

The Director of the International Office shall attend at the sittings of the Conferences, and shall take part in the discussions without the right to vote.

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.

Closing Protocol. § 6. *The next Conference shall take place at Paris within a period of from four to six years*

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Additional Article.

from the date of the coming into force of the Convention.

The French Government shall fix the date of this Conference within these limits, after having consulted the International Office.

Article 25.—States outside the Union which make provision for the legal protection of rights forming the object of the present Convention may accede thereto on request to that effect.

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

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

Article 26.—Contracting countries shall have the right to accede to the present Convention at any time for their Colonies or foreign possessions.

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

Such Declaration shall be notified in writing to the Government of the

Article 18.—Countries which have not been parties to the present Convention and make provision in their own territory for the legal protection of the rights forming the objects of 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 adherence to all the clauses and admission to all the advantages provided by the present Convention.

Article 19.—Countries acceding to the present Convention shall also have the right to accede thereto at any time for their Colonies or foreign possessions.

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

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

Swiss Confederation, who will communicate it to all the other countries of the Union.

Article 27.—The present Convention shall replace, in regard to the relations between the contracting states, the Convention of Berne of the 9th September, 1886, including the additional article and the final Protocol of the same date, as well as the additional Act and the interpretative Declaration of the 4th May, 1896. These instruments shall remain in force in regard to relations with States which do not ratify the present Convention.

The signatory States of the present Convention may declare at the exchange of ratifications that they desire to remain bound, as regards any specific point, by the provisions of the Conventions which they have previously signed.

Article 28.—The present Convention shall be ratified and the ratifications exchanged at Berlin not later than the 1st July, 1910.

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

Article 29.—The present Convention shall be put in force three months after the exchange of rati-

Article 21.—The present Convention shall be ratified, and the ratifications exchanged at Berne, within a period of one year at the latest.

Closing Protocol.—§ 7. It is agreed that, as regards the exchange of ratifications provided for by Article 21, each Contracting Party shall deliver a single instrument, which shall be deposited with those of the other countries in the archives of the Government of the Swiss Confederation. Each Party shall receive in return a copy of the *precis verbal* of the exchange of the ratifications signed by the Plenipotentiaries who took part.

Article 20.—The present Convention shall be put in force three months after the exchange of the ratifications,

(1)

Revised Convention as signed at Berlin on November 13th, 1908.

(2)

Berne Convention of September 9th, 1886, Additional Act of Paris, and Interpretative Declaration of May 4th, 1896.

(NOTE.—The Interpretative Declaration was not signed by Great Britain.)

fications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.

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

Article 30.—The States which shall introduce in their legislation the duration of protection for fifty years contemplated by Article 7, first paragraph, of the present Convention, shall give notice thereof in writing to the Government of the Swiss Confederation, who will communicate it at once to all the other States of the Union.

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

In faith whereof, &c.

Additional Article.

and shall remain in force for an indefinite period, until the termination of a year from the day on which it may have been denounced.

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

Additional Act.

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

APPENDIX III.

TABLEAUX SYNOPTIQUES DES TRAITÉS ET ARRANGEMENTS PARTICULIERS CONCERNANT LA PROTECTION INTERNATIONALE DES OEUVRES LITTÉRAIRES ET ARTISTIQUES.*

I. TRAITÉS ET ARRANGEMENTS PARTICULIERS CONCLUS ENTRE LES DIVERS PAYS.

NOTE.—La lettre (N) figurant dans la quatrième colonne signifie que le traité ou l'arrangement renferme la clause de la *nation* la plus favorisée. Countries whose names are printed in italics are Unionist countries.

Pays.		Date.	Nature des Actes.
Allemagne . (Pays union- iste)	Autriche-Hongrie	30 décembre 1899	Convention.
	<i>Belgique</i> . .	16 octobre 1907	Convention (N).
	Etats-Unis . .	15 janvier 1892	Convention.
	<i>France</i> . . .	8 avril 1907	Convention (N).
	<i>Italie</i> . . .	9 novembre 1907	Convention (N).
Argentine (Rép.)	Bolivie, Para- guay, Pérou, Uruguay.	19 décembre 1894	Convention de Mon- tevideo.
	<i>Belgique</i> . . .	1 juin 1903	} Décrets argentins déclarant en vi- gueur la Conven- tion de Monté- video dans les rapports avec ces pays.
	<i>Espagne</i> . . .	30 janvier 1900	
	<i>France</i> . . .	3 mars 1896	
	<i>Italie</i> . . .	18 avril 1900	
Autriche . .	<i>Danemark</i> . .	18 juillet 1907	Accord. Ordon- nance.
	Etats-Unis . .	9 décembre 1907	Accord. Ordon- nance.
	Hongroie . . .	8 octobre 1907	Convention, Proto- cole de clôture <i>ad</i> article 17, Dé- claration.

* See Blue Book of Correspondence respecting the Revised Convention of Berne, Cd. 4467, p. 169.

Pays.		Date.	Nature des Actes.
Autriche . .	Roumania . .	2 mars 1908	Convention.
	Suède . .	17 mai 1908	Accord. Ordon- nance.
Autriche-Hongrie	Allemagne . .	30 décembre 1899	Convention.
	France . .	11 décembre 1866	Convention.
		5 janvier 1879	
		7 novembre 1881	
		18 février 1884	
		24 avril 1893	Convention.
	Grande-Bretagne	24 avril 1893	Convention.
	Italie . .	8 juillet 1890	Convention.
Belgique . . (Pays unioniste)	Allemagne . .	16 octobre 1907	Convention (N).
	Argentine (Rép.)	17 septembre 1903	Adhésion à la Con- vention de Monte- video.
	Espagne . .	26 juin 1880	Convention (N).
	États-Unis . .	1 juillet 1891	Proclamation.
	Mexique . .	7 juin 1895	Traité d'amitié. Article 5 (N).
	Paraguay . .	17 septembre 1903	Adhésion à la Con- vention de Monte- video.
	Pays-Bas . .	30 août 1858	Convention (N).
	Portugal . .	11 octobre 1866	Convention.
Bolivie . .	Roumania . .	10 avril 1910	Convention.
	Argentine, (Rép.) Paraguay, Pérou Uruguay.	5 novembre 1903	Convention de Montevideo.
	France . .	8 septembre 1887	Déclaration.
	Portugal . .	9 septembre 1889	Déclaration.
Chili . .	États-Unis . .	25 mai 1896	Proclamation.
Chine . .	États-Unis . .	8 octobre 1903	Traité de com- merce Act. 11.
	Japon . .	8 octobre 1903	Traité additionnel de commerce. Art. 5.
Colombie . .	Espagne . .	28 novembre 1885	Convention (N).
	Italie . .	27 octobre 1892	Déclaration.
Costa-Rica . .	Espagne . .	14 novembre 1893	Convention.
	États-Unis . .	26 août 1899	Décret.
	France . .	28 août 1896	Convention.
	Guatémala, Hon- duras Nicaragua Salvador.	20 décembre 1907	Traité général de paix. Article 8.
Cuba . .	États-Unis . .	17 novembre 1903	Proclamation.
	Italie . .	29 décembre 1903	Traité d'amitié. Article 4 (N).

Pays.		Date.	Nature des Actes.
Danemark (Pays unioniste)	Autriche . . .	12 juillet 1907	Accord. Ordon- nance.
	États-Unis . . .	8 mai 1893	Proclamation.
	France . . .	6 novembre 1858	Déclaration.
Dominicaine (Rép.)	<i>Suède-Norvège</i> . . .	5 mai 1866	Déclaration.
	Mexique . . .	27 novembre 1879	Traité d'amitié. Article 2 (N).
		29 mars 1890	
Équateur . . .	<i>Espagne</i> . . .	30 juin 1900	Convention (N).
	<i>France</i> . . .	9 mai 1898	Convention Proto- cole additionel (N).
	Mexique . . .	1 juillet 1905	Traité d'amitié. Article 2 (N).
Espagne . . . (Pays unioniste)	Argentine (Rép.)	10 avril 1900	Décrets royaux dé- clarant en vi- gueur la Conven- tion de Monte- video dans les rapports avec ces pays.
	Paraguay . . .	28 mai 1900	
	<i>Belgique</i> . . .	26 juin 1880	Convention (N).
	Colombie . . .	28 novembre 1885	Convention (N).
	Costa-Rica . . .	14 novembre 1893	Convention.
	Équateur . . .	30 juin 1900	Convention (N).
	États-Unis . . .	6/15 juillet 1895 et 29 janvier/26 no- vembre 1902	Échange des notes
	États-Unis . . .	10 décembre 1898	Traité de paix. Article 10.
	<i>France</i> . . .	16 juin 1880	Convention (N).
	Guatemala . . .	25 mai 1893	Convention (N).
	<i>Italie</i> . . .	28 juin 1880	Convention (N).
	Mexique . . .	26 mars 1903	Convention (N).
	<i>Portugal</i> . . .	9 août 1880	Convention (N).
	Salvador . . .	23 juin 1884	Convention.
	États-Unis d'Amérique	<i>Allemagne</i> . . .	15 janvier 1892
Autriche . . .		20 septembre 1907	Proclamation.
<i>Belgique</i> . . .		1 juillet 1891	Proclamation.
Chili . . .		25 mai 1896	Proclamation.
Chine . . .		8 octobre 1903	Traité de commerce. Article 11.
Costa-Rica . . .		19 octobre 1899	Proclamation.
Cuba . . .		17 novembre 1903	Proclamation.
<i>Danemark</i> . . .		8 mai 1893	Proclamation.

Pays.	Date.	Nature des Actes.	
États-Unis d'Amérique	<i>Espagne</i> . . .	10 juillet 1895	Proclamation.
	" . . .	10 décembre 1898	Traité de paix. Art. 13.
	" . . .	29 janvier/26 novembre 1902	Échange de notes.
	<i>France</i> . . .	1er juillet 1891	Proclamation.
	<i>Grande-Bretagne</i>	1er juillet 1891	Proclamation.
	<i>Italie</i> . . .	31 octobre 1892	Proclamation.
	<i>Japon</i> . . .	10 novembre 1905	Convention.
	" . . .	19 mai 1908	Convention (Protection réciproque en Chine).
	" . . .	19 mai 1908	Convention (protection réciproque en Corée).
	<i>Mexique</i> . . .	27 février 1896	Proclamation.
	<i>Norvège</i> . . .	1er juillet 1905	Proclamation.
	<i>Pays-Bas</i> . . .	20 novembre 1899	Proclamation.
	<i>Portugal</i> . . .	20 juillet 1893	Proclamation.
	<i>Suisse</i> . . .	1er juillet 1891	Proclamation.
France . . . (Pays unioniste)	<i>Allemagne</i> . . .	8 avril 1907	Convention (N).
France (suite) . . .	<i>Argentine (Rép.)</i>	17 août 1897	Décrets français déclarant en vigueur la Convention de Montevideo dans les rapports avec ces pays.
	<i>Paraguay</i> . . .	24 mai 1900	
	<i>Autriche-Hongrie</i>	11 décembre 1866	Convention.
		5 janvier 1879	
		7 novembre 1881	
		18 février 1884	
	<i>Bolivie</i> . . .	8 septembre 1887	Déclaration.
	<i>Costz-Rica</i> . . .	28 août 1896	Convention.
	<i>Danemark</i> . . .	6 novembre 1858 and 5 mai 1866	Déclaration.
	<i>Équateur</i> . . .	9 mai 1898	Convention, Protocole additionel (N).
		1er juillet 1905	
	<i>Espagne</i> . . .	16 juin 1880	Convention (N).
	<i>États-Unis</i> . . .	1er juillet 1891	Proclamation.
	<i>Guatemala</i> . . .	21 août 1895	Convention.
	<i>Italie</i> . . .	9 juillet 1884	Convention (N).
	<i>Mexique</i> . . .	27 novembre 1886	Traité de commerce. Article 2 (N).

Pays.		Date.	Nature des Actes.
France (suite) .	<i>Monaco</i> . . .	9 novembre 1865	Convention douanière. Article 8.
	<i>Monténégro</i> . . .	11 janvier 1902	Convention.
	<i>Pays-Bas</i> . . .	29 mars 1855	Convention. Ar-
		27 avril 1860	rangement sup-
		19 avril 1884.	plémentaire.
			Déclaration.
	<i>Portugal</i> . . .	11 juillet 1866	Convention.
	<i>Roumanie</i> . . .	6 mars 1907	Arrangement (N).
	<i>Salvador</i> . . .	9 juin 1880	Convention.
	<i>Suède et Norvège</i>	30 décembre 1881	Traité de commerce.
		13 janvier 1892	Article additionel.
			Prorogation.
	" " . . .	15 février 1884	Convention (protec-
			tion des auteurs
			suédois).
Grande-Bretagne	<i>Autriche-Hongrie</i>	24 avril 1893	Convention.
(Pays unioniste)	<i>États-Unis</i> . . .	1er juillet 1891	Proclamation.
<i>Guatémala</i> . . .	<i>Costa-Rica, Hon-</i>	20 décembre 1907	Traité général de
	<i>duras, Nicara-</i>		paix. Article 8.
	<i>gua, Salvador.</i>		
	<i>Espagne</i> . . .	25 mai 1893	Convention (N).
	<i>France</i> . . .	21 août 1895	Convention.
Honduras . . .	<i>Costa-Rica, Gua-</i>	20 décembre 1907	Traité général de
	<i>témala, Nicara-</i>		paix. Article 8.
	<i>gua, Salvador</i>		
Hongroie . . .	<i>Autriche (voir</i>	8 octobre 1907	Convention. Pro-
	<i>Autriche-Hongrie)</i>		tocolo de clôture
			<i>ad</i> article 17,
			Déclaration.
Italie . . .	<i>Allemagne</i> . . .	9 novembre 1907	Convention (N).
(Pays unioniste)	<i>Argentine (Rép.)</i>	10 juin 1900	Décrets royaux dé-
	<i>Paraguay</i> . . .	20 juillet 1900	clarant en vi-
			gueur la Conven-
			tion de Monte-
			video dans les
			rapports avec ces
			pays.
	<i>Autriche-Hongrie</i>	8 juillet 1890	Convention.
	<i>Colombie</i> . . .	27 octobre 1892	Déclaration.
	<i>Cuba</i> . . .	29 décembre 1903	Traité d'amité.
			Article 4 (N).
	<i>Espagne</i> . . .	28 juin 1880	Convention (N).
	<i>États-Unis</i> . . .	28 octobre 1892	Échange de notes.

Pays.		Date.	Nature des Actes.
Italie . . . (Pays unioniste)	<i>France</i> . . .	9 juillet 1884	Convention (N).
	<i>Mexique</i> . . .	16 avril 1890	Traité d'amitié. Article 4 (N).
	<i>Monténégro</i> . . .	27 novembre 1900	Convention.
	<i>Nicaragua</i> . . .	25 janvier 1906	Traité d'amitié. Article 18.
	<i>Portugal</i> . . .	12 mai 1906	Échange de notes.
	<i>Roumanie</i> . . .	5 décembre 1906	Convention.
	<i>Saint-Marin</i> . . .	28 juin 1897	Traité d'amitié. Articles 41 & 43.
	<i>Suède et Norvège</i>	9 octobre 1884	Convention.
Japon . . . (Pays unioniste)	<i>Chine</i> . . .	8 octobre 1903	Traité additionnel de commerce. Art. 5.
	<i>États-Unis</i> . . .	10 novembre 1905	Convention.
	„ . . .	19 mai 1908	Convention (protec- tion réciproque en Chine.)
	„ . . .	19 mai 1908	Convention (protec- tion réciproque en Corée.)
	<i>Suisse</i> . . .	10 novembre 1896	Traité d'amitié. Art. 11, denoucé 16 juillet 1911.
Mexique . . .	<i>Belgique</i> . . .	7 juin 1895	Traité d'amitié. Article 5 (N).
	<i>Dominicaine</i> (Rép.)	20 mars 1890	Traité d'amitié. Article 2 (N).
	<i>Equateur</i> . . .	10 juillet 1888	Traité d'amitié. Article 2 (N).
	<i>Espagne</i> . . .	26 mars 1903	Convention (N).
	<i>États-Unis</i> . . .	27 février 1896	Proclamation.
	<i>France</i> . . .	27 novembre 1886	Traité de commerce. Article 2 (N).
	<i>Italie</i> . . .	16 avril 1890	Traité d'amitié. Article 4 (N).
	<i>France</i> . . .	9 novembre 1865	Convention doua- nière. Article 8.
Monaco . . . (Pays unioniste)	<i>France</i> . . .	11 janvier 1902	Convention.
Monténégro . . .	<i>Italie</i> . . .	27 novembre 1900	Convention.
Nicaragua . . .	<i>Costa-Rica, Gua- témala, Hon- duras, Salvador.</i>	20 décembre 1907	Traité général de paix. Article 8.
	<i>Italie</i> . . .	25 janvier 1906	Traité de commerce. Article 18.

Pays.		Date.	Nature des Actes.
Norvège . (Pays unioniste)	États-Unis .	25 mai 1905	Arrêté royal.
	<i>Suède</i> (voir <i>Suede</i> et <i>Norvège</i>) .	16 novembre 1877	Arrêtés royaux.
		4 février 1881	
Paraguay .	Argentine (Rép.) Bolivie, Pérou, Uruguay.	2 septembre 1889	Convention de Montevideo.
	<i>Belgique</i> . . .	22 juin 1903	Décrets de Paraguay déclarant en vigueur la Convention de Montevideo dans les rapports avec ces pays.
	<i>Espagne</i> . . .	21 mars 1900	
	<i>France</i> . . .	7 avril 1900	
	<i>Italie</i> . . .	16 mai 1900	
Pays-Bas .	<i>Belgique</i> . . .	30 août 1858	Convention (N).
	États-Unis . . .	20 novembre 1899	Proclamation.
	<i>France</i> . . .	29 mars 1855	Convention. Arrangement supplémentaire. Déclaration.
		27 avril 1860 19 avril 1884	
Pérou . . .	Argentine (Rép.) Bolivie, Paraguay, Uruguay.	25 octobre 1889	Convention de Montevideo.
Portugal . . .	<i>Belgique</i> . . .	11 octobre 1886	Convention.
	Brésil . . .	9 septembre 1889	Déclaration.
	<i>Espagne</i> . . .	9 août 1880	Convention (N).
	États-Unis . . .	20 juillet 1893	Proclamation.
	<i>France</i> . . .	11 juillet 1866	Convention.
	<i>Italie</i> . . .	12 mai 1906	Échange de notes.
	Autriche . . .	2 mars 1909	Convention.
	<i>Belgique</i> . . .	10 avril 1910	Convention.
Roumanie . . .	<i>France</i> . . .	6 mars 1907	Arrangement (N).
	<i>Italie</i> . . .	5 décembre 1906	Convention.
Saint-Marin . . .	<i>Italie</i> . . .	28 juin 1897	Traité d'amitié.
Salvador . . .	Costa-Rica, Guatemala, Honduras, Nicaragua.	20 décembre 1907	Articles 41 & 43. Traité général de paix. Article 8.
	<i>Espagne</i> . . .	23 juin 1884	Convention.
	<i>France</i> . . .	9 juin 1880	Convention.
Suède . . . (Pays unioniste)	Autriche . . .	29 mai 1908	Arrêté royal.
	Norvège . . .	16 novembre 1877	Arrêtés royaux.
		4 février 1881.	

Pays.		Date.	Nature des Actes.
Suède et Norvège (Pays unionistes)	<i>Danemark</i> . . .	27 novembre 1879	Declaration.
	<i>France</i> . . .	{ 30 décembre 1881	Traité de commerce.
		{ 13 janvier 1892	Article additional
		{ 15 février 1884	Prorogation Con- vention (protec- tion des auteurs suédois).
Suisse . . . (Pays unioniste)	<i>Italie</i> . . .	9 octobre 1884	Déclaration.
	<i>États-Unis</i> . . .	1er juillet 1891	Proclamation.
	<i>Japon</i> . . .	10 novembre 1896	Traité d'amitié. Article 11.
Uruguay . . .	Argentine (Rép.) Bolivie, Pérou, Paraguay.	1er octobre 1892	Convention de Mon- tevideo.

2. TRAITÉS ET ARRANGEMENTS PARTICULIERS CONCLUS ENTRE PAYS UNIONISTES.

(A.) Traités littéraires proprement dits.

Pays.	Date.	Nature des Actes.
Allemagne-Belgique . . .	16 octobre 1907	Substitué au traité du 12 décembre 1883.
Allemagne-France . . .	8 avril 1907	Substitué au traité du 19 avril 1883.
Allemagne-Italie . . .	9 novembre 1907	Substitué au traité du 20 juin 1884.
Belgique Espagne . . .	26 juin 1880	Neuf articles.
Espagne-France . . .	16 juin 1880	Onze articles. Protocole de clôture. Procès-verbal d'é- change.
Espagne-Italie . . .	28 juin 1880	Huit articles.
France-Italie . . .	9 juillet, 1884	Quinze articles. Protocole. France : décret et circu- laire du 20 avril 1885. Italie : circulaire du 14 avril 1885.

Pays.	Date.	Nature des Actes.
Italie-Suède & Norvège .	9 octobre 1884	Cinq articles. Italie : circulaire du 1er janvier 1885. Norvège : arrêté royal du 6 décembre 1884. Suède : Arrêté royal du 7 novembre 1884.

(B.) Simple Arrangements.

Danemark-Suède-Norvège	27 novembre 1879	Déclaration échangée : traitement national réciproque.
Danemark-France . .	6 novembre 1858 & 5 mai 1866	Ordonnances royales danoises : traitement national réciproque.
France-Monaco . . .	9 novembre 1885	Convention douanière et de voisinage, Article 8 : interdiction des publications françaises prohibées.
France-Suède & Norvège	30 décembre 1881 & 13 janvier 1892	Traité de commerce, article additionnel ; traitement national réciproque.
France-Suède . . .	15 février 1884	Arrangement ne liant que la Suède et prévoyant la forme du certificat à produire devant les tribunaux de l'autre pays.
Japon Suisse . . .	10 novembre 1896	Traité d'amitié, d'établissement et de commerce, article 11 : traitement national réciproque.
Norvège-Suède . . .	16 novembre 1877 & 4 février 1881	Doubles arrêtés royaux : traitement national réciproque.

APPENDIX IV.

TABLE OF LAWS OF CERTAIN FOREIGN COUNTRIES.

Country.	Law.	Term of Protection.
<i>Argentine Republic</i>	Law of 23rd September 1910	Life and 20 years.
<i>Austria</i>	Laws of 26th December 1895 26th February 1907.	Life and 30 years.
<i>Belgium</i>	Law of the 22nd March 1886. Law of the 23rd May 1910. Adopting the Berlin Convention.	Life of the author and 50 years after his death.
<i>Denmark</i>	Laws of 24th March 1865. 12th April 1889. 29th March 1904. 24th February 1908. 13th May 1911.	Life and 50 years.
<i>France</i>	Laws of 13/19th January 1791. 19th July /6th August 1791. 19/24th July 1793. September 1793. 13th June 1795. Decrees of 22nd and 29th March 1805. 8th June 1806. 20th February 1809. 5th February 1810. Penal Code of 1810, Arts. 425, <i>et seq.</i> Decree of 15th October 1812. Ordinance of 6th June 1814. Law of 6th May 1841. Ordinance of 13th December 1842. Law of 3/17th August 1844.	Life and 50 years

Country.	Law.	Term of Protection.
<i>France</i>	Decree of 28/31st March 1852. Law of 8/15th April 1854. Decree of 9/31st December 1857. 29th November 1859. Laws of 16/25th May 1866. 14/19th July 1866. 29th July 1881. Decree of 29th October 1887. Law of 9th February 1895. 11th March 1902. 9th April 1910.	
<i>Germany</i>	Law of the 19th June 1901. 9th January 1907. 22nd May 1910.	Life and 30 years.
<i>Holland</i>	Law of 28th June 1881.	50 years from date of publication.
<i>Italy</i>	Law of 19th September 1882. Penal Code of 1889, Arts. 296, 297. Civil Code, Art. 437. Law of 7th July 1910.	(i) Life of the author or 40 years after publication. (ii) For a further period of 40 years restricted copyright upon payment of royalties.
<i>Japan</i>	Law of 3rd March 1899. Amended 14th June 1910.	Life and 30 years.
<i>Luxemburg</i>	Law of 10th May 1898.	Life and 50 years.
<i>Norway</i>	Law of 12th May 1877. 4th July 1893. 11th May 1910. 25th July 1910. Amending the law of July 1893.	Life and 50 years.
<i>Portugal</i>	Civil Code of 1867, Arts. 570 to 612. Penal Code of 1887, Arts. 457 to 460.	Life and 50 years. Life and 50 years.
<i>Russia</i>	Law of 20th March 1911.	Life and 50 years.

Country.	Law.	Term of Protection.
<i>Spain</i>	Penal Code of 1870, Arts. 63, 550 and 552. Law of 10th January 1879. Order of 3rd September 1880. Civil Code of 1899, Arts. 428 and 429.	Life and 80 years, with certain re- strictive provi- sions.
<i>Sweden</i>	Laws of 10th August 1877. 10th January 1883. 28th May 1897. 29th April 1904. 17th June 1908.	Life and 50 years.
<i>Switzerland</i>	Constitution of 1874, Art. 64. Law of 23rd April 1883.	Life and 30 years.
<i>Turkey</i>	Law of 8th May 1910	Life and 30 years.
<i>United States</i>	Law of 4th March 1909.	28 years with rights of renewal in cer- tain cases for a further period of 28 years.

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