

they are directed ; and cannot be published by any other person, who by chance may have obtained possession of them. (*f*)

The property in a pamphlet is exactly the same as that in a common book.

2. Property in pamphlets.

The property in a newspaper is personal, and may be dealt with like all other personalty. It may, however, be useful to collect the cases that relate particularly to them.

3. Property in a newspaper.

It may be devised. The printer of a newspaper (the *Bath Chronicle*) (*g*) bequeathed to his widow the benefit of that trade, subject to the trust of maintaining and educating her family. The foreman, by her assistance in giving him the use of the letter press, &c. on the premises, set up a paper bearing the same name. An injunction was granted, at the request of the executors, to restrain him from carrying it on.

The interest in a newspaper, although of a fluctuating nature, comes within the meaning of “goods and chattels” in the bankrupt statutes ; and therefore passes by the assignment of the commissioners, if the proprietor become a bankrupt. (*h*)

Bankruptcy of proprietor.

And if the printer and publisher of a newspaper assign his interest in it to a creditor as a security, but continues to print and publish as

(*f*) 8 Ves. 215.

(*g*) *Keene v. Harris*, cited in 17 Ves. 338 ; and see *Cruikwell v. Lye*, 17 Ves. 335 ; and 8 Ves. 217.

(*h*) *Longman v. Tripp and Another*, 2 New Rep. 67. See as to bankrupt patentee of an invention, ante, 219.

before, and *no affidavit of the change of interest has been delivered* to the commissioners of stamps, and he become bankrupt, the right to the paper will pass to his assignees. (i)

V. LEGAL PROCEEDINGS PECULIAR TO PERIODICAL PUBLICATIONS.

The legal proceedings in respect of periodical publications, independent of those which may be taken to protect the copyright in them, take place by summons before *justices of the peace*, or by indictment, or action in the courts of law. The manner in which the copyright *in general* to a book is protected will be investigated hereafter: but, inasmuch as the present chapter is devoted to publications that appear periodically, this place seems most proper for introducing the practical part of the law peculiar to them.

1. Justices of the peace.

The power given to justices of the peace over newspapers is very great. (j)

2. The indictment.

Legal proceedings may be maintained against the authors and publishers of periodical works for misconduct, in the same manner as against other publishers, by indictment or information; (k) except as to the evidence of publication, which has been detailed in this chapter. (l)

3. Actions at law.

The penalties inflicted by the 6 & 7 Wm. 4, c. 76, may be recovered by action of debt, bill,

(i) 2 New Rep. 67.

(j) 6 & 7 Wm. 4, c. 76, s. 22, 27, and 28.

(k) See post, Chap. VIII.

(l) Ante, p. 359; and see post, p. 379.

plaint, or information in the Court of Exchequer, and, if not exceeding 20*l.*, by information or complaint before a justice of the peace. (*m*)

All actions and prosecutions must be brought against any person for any thing done in pursuance or under the authority of the 6 & 7 Wm. 4, c. 76, within three calendar months next after the fact committed and tried in the county where the cause of action arose, and notice in writing of such action, and of the cause thereof, must be given to the defendant one calendar month before action, and the defendant may plead the general issue; and if the defendant should have a verdict, or the plaintiff be nonsuited, the defendant would be entitled to his full costs of suit as between attorney and client.

If a party declare *in tort*, as the proprietor, editor, and publisher of a newspaper, and it appear in evidence that another person is the editor, but that it is conducted under the inspection of the plaintiff, the averment is entire; and he cannot recover as proprietor, (*n*) not even for distinct injuries committed against him in his separate rights of proprietor and publisher.

Actions on newspapers. Declaration, variance.

The manner in which newspapers must be published, and also the mode, pointed out by the 6 & 7 Wm. 4, c. 76, of producing them (*o*) in evidence against the proprietors, has been stated.

Evidence of newspaper.

(*m*) 6 & 7 Wm. 4, c. 76, s. 27.

(*n*) *Heriot v. Stuart*, 1 Esp. N. P. C. 438.

(*o*) Ante, 359.

The construction which has been put upon the clauses of the repealed statute, 38 Geo. 3, c. 78, are useful to elucidate 6 & 7 Wm. 4, c. 76. It has been decided that the affidavit (now declaration) left at the stamp office, and a newspaper answering the *whole* description contained in that affidavit, produced by a person from the stamp office, was evidence, not only of the publication of the paper, but that it took place *in the county in which it was described as having been printed*; and that the provisions in the 11th section, which make it unnecessary to prove that the newspaper to which the trial relates was purchased at any house, apply to plaintiffs in *civil suits*, and prosecutors in *criminal ones*, as well as to persons seeking to recover *penalties*. (o)

And the certified copy of the certificate sworn to by the defendants at the stamp office, and a newspaper corresponding with the title of the newspaper described in the affidavit, were held to be sufficient evidence to support a count in an information charging the defendants with composing, printing, and publishing a libel. (p)

With respect to the certificate, (q) if it does not appear in the jurat that the person before whom it was made had authority to take it, proof must be adduced that he had such power. (r)

(o) *The King v. Hart and Another*, 10 East, 94.

(p) *Rex v. Hunt and Another*, 2 Campb. N. P. C. 583.

(q) Phil. on Evidence, p. 243.

(r) *Rex v. White*, 3 Campb. N. P. C. 99.

However, when the plaintiff is otherwise at a fault, he may have recourse to *common law*, at which it is sufficient evidence of publication, to give *the original affidavit* (now declaration) signed by the defendant, stating, that the party is the sole proprietor of the newspaper in question, and also naming the place where it is to be published, *accompanied by a newspaper* of a corresponding title, (containing the alleged libel,) which had been purchased at the place described in the affidavit. (r)

Evidence at common law.

Before the passing of 38 Geo. 3, other modes had been resorted to in order to connect persons with the publication of newspapers. Thus it was considered sufficient evidence that a person was the publisher of a newspaper, when it was proved, that it was sold at his office, and that he, as proprietor of the paper, had given a bond to the stamp office pursuant to the 29 Geo. 3, c. 30, s. 10, for securing the duties on the advertisements, and that he had occasionally applied there respecting the duties on it. (s) And the publication of a newspaper was sufficiently proved by the evidence of the printer, who said that it was published in the usual way. (t) But now the

Evidence.

(r) *Id.* 100.

(s) *The King v. Topham*, 4 T. R. 126.

(t) *Peake*, N. P. C. 76. In the case of *The King v. Weaver*, Jan. 1821, K. B. MSS., it appeared that the place of publication, mentioned in the affidavit, and the one printed on the paper, were not the same. It was held not to be sufficient evidence of publication that the names on the paper were the

mode of giving it, in evidence, is regulated by 6 & 7 Wm. 4. (*u*)

Though a publisher was liable to a penalty of 20*l.* for not having his newspaper stamped, yet, thus *unstamped*, it might have been given in evidence ; for this case is not like that of deeds and agreements, where the acts of Parliament expressly declare that no such instrument shall be read in evidence until it is stamped. (*v*)

To explain the libel, and to mitigate the damages, the defendant has a right to have read in evidence extracts from a *different part* of the same newspaper, connected with the subject of the libellous passage. (*w*)

The publication of a weekly paper called "*Cobbett's Political Register*," containing a libel on Mr. Plunkett, was substantiated by proof of a copy having been bought at his shop. (*x*) For the purpose of shewing that the first paper was circulated regularly and deliberately, the witness was asked, whether he had since purchased other papers of the same title at the same office.

Bill in Chancery to discover names.

But if a person has been libelled in a newspaper, and suspects the author to be a proprietor not named in the affidavit, he may file a bill in

same as those on the door of the house where the paper produced was bought.

(*u*) c. 76, s. 8. See ante, p. 359.

(*v*) *The King v Pearce*, Peake N. P. C. 75.

(*w*) *R. v Lambert*, 2 Campb. N. P. C. 400 ; and see *Tabart v. Tipper*, 1 Campb. N. P. C. 350.

(*x*) *Plunkett v. Cobbett*, 5 Esp. N. P. C. 136.

Chancery for a discovery of the names of any persons concerned in it. The defendants are not allowed to plead or demur, but must make the discovery required. Such information, when obtained, cannot, however, be used in any other proceeding, except in that for which the discovery is made. (y)

(y) 6 & 7 Wm. 4, c. 76, s. 19.

CHAP. VI.

OF MUSICAL AND DRAMATIC COMPOSITIONS.

THE laws respecting the copyright in dramatic works and musical compositions, are very similar. It, therefore, seems proper to place them together in the same chapter.

I. MUSICAL COMPOSITIONS.

The decisions on this branch of the law with regard to music will lead to the consideration of,

1. Whether a musical composition is protected by the copyright acts.
2. What property the composer has in it.
3. The manner of assigning it.
4. Piracy by taking it down at Theatre.

Musical compositions are books to be protected, by the statute of 8 Anne, and those acts of parliament which enlarge the benefits to be derived from it. (a)

(a) *Bach v. Longman*, Cowp. 623. This was a case sent from the Court of Chancery for the opinion of the Court of Law, whether a musical composition, a *Sonata* for the harpsichord, was within the statute of 8 Anne, c. 19.

We have seen what kind of publications are considered as books within the meaning of the words of that statute “books and *other writings*.” Whence it appears that the protection is extended to a piece of music published on a *single sheet* of paper. (b) And that it is not material whether the matter pirated be several sheets of music, or some one tune of a particular name in a work bearing a different title. (c)

Lord Mansfield.—The words of the act of Parliament are very large:—“*Books and other writings*.” It is not confined to language or letters. Music is a science: it may be *written*; and the mode of conveying the ideas is by signs and marks. A person may use the copyright by playing it: but he has no right to rob the author of the profit, by multiplying copies, and disposing of them to his own use. If the narrow interpretation contended for in the argument were to hold, it would equally apply to algebra, mathematics, arithmetic, hieroglyphics. All these are conveyed by signs and figures. There is no colour for saying that music is not within the act.

(b) *Clementi v. Golding* (or *Goulding*), 11 East, 244. 2 Campb. N. P. C. 25, S. C.

(c) *White v. Geroch*, 1 Chit. Rep. 26. (S. C. in 2 Barn. & Ald. 298; ante, p. 324.) Abbott, C. J.—I am of opinion that the words of this act of Parliament (54 Geo. 3, c. 156) mean all original compositions, whether they are large or small; and are consequently entitled to the protection intended by the legislature. It has been held that a musical composition is a book; and that an action is maintainable for pirating a single sheet of music. The only distinction here is, that this piece of music is found in company with others instead of being printed by itself; and it seems to me that that does not make any difference in the principle of the question. Many different books or subjects may be found in

2. Property in. The *property* in a piece of music is exactly the same as that in a book. And therefore, upon a person proving that he was the *composer* of a musical air, although the piracy was endeavoured to be justified, by shewing that the song was composed to be sung at the Italian Opera House, and that all songs brought out there belonged to the establishment, Lord Kenyon held, that such defence could not be supported; that the statute vests the property in the author; and that no such private regulation could be allowed to interfere with the public right. (*d*)

3. Assignment
of.

The *assignment* of the copyright of music must be in writing. (*e*) Even where a composer had acquiesced for six years in the publication of

one: but this is no reason why each should not have the protection of the statute. Rule for a new trial refused.

(*d*) *Storace v. Longman*, 2 Camp. N. P. C. 27, n.; and see *Wyatt v. Barnard*, 3 Ves. & B. 77; also *De Pinna v. Polhill*, 8 C. & P. 78. Since the new rules of pleading, the denial of the promise in assumpsit is not a denial of that on which it is founded; therefore, where a declaration stated that the plaintiff had composed and written the music and poetry of an opera, and, as such composer and author, had a right to the music and poetry, and in consideration of the premises, and that the plaintiff would sell him such right, the defendant undertook to buy it, &c.; the defendant pleaded only that he did not undertake and promise in manner and form, &c. The Court held, that under this plea he was not at liberty to contend either that the plaintiff did not sell, or that he had not the right, or that he was not the author.

(*e*) See *Power v. Walker*, 4 Camp. N. P. C. 8. 3 M. & S. 7, S. C.; and see *Morris v. Kelly*, 1 Jac. & Walk. 481; and post, Chap. VII., "*Author and his Assignee.*"

a piece of music, and had given a receipt for the price of it, the court did not consider that he had transferred his interest in the copyright. (*f*) But if he has given leave to several persons to copy his book, or has not asserted his right, against violations by many persons, for several years, (*g*) the Lord Chancellor will not grant an injunction to restrain any one from pirating the work, until the author's right at common law be first established. (*h*)

On the same principles by which persons are not allowed to take down a play in short hand at a Theatre, and publish it, they, who can write music as they hear it publicly rehearsed, may be prevented by injunction from violating the property of the composer, by publishing it. (*i*)

4. Piracy of
by taking it
down at theatre

It may be observed that as the copyright in music is founded on the statute of 8 Anne, c. 19, all the reasoning respecting *books in general* applies to works on music. (*j*)

II. DRAMATIC WRITINGS.

The laws respecting dramatic writings or plays will perhaps be best explained by a consideration of plays,

(*f*) *Latour v. Bland*, 2 Stark. N. P. C. 382; and see *Moore v. Walker*, 4 Camp. N. P. C. 9, n.

(*g*) *Platt v. Button*, Coop. 303, S. C. 19 Ves. 447.

(*h*) As to Foreign works on music, see ante, 332, and *Clementi v. Walker*, 4 D. & R. 598; and 2 B. & C. 861.

(*i*) Post, p. 389.

(*j*) See ante, p. 322 and *Rennett v. Thompson*, cited in 2 Bro. C. C. 80, as to the resulting term.

1. Whenever they are printed.
2. Whilst they continue in manuscript.
3. Whenever they have been publicly represented.
4. The act of 3 Wm. 4, c. 15.

1. Printed
pieces.

Plays or dramatic pieces of every description, when printed and published, are books within the meaning of the statute of 8 Anne, c. 19; and no one with impunity can multiply copies of them. (*k*)

2. Manuscript
plays.

The protection of the law is also extended to a dramatic composition, whilst it is yet in manuscript, and has not been publicly represented, in the same manner as to manuscripts in general. (*l*)

There is not any case in the courts of *common law*, in which it is determined whether the *representation* of a dramatic composition, that has *not been printed*, but of which a copy has been obtained, is a piracy; but it would appear from the decision in *Coleman v. Walthen*, (*m*) that it is not. However, *injunctions* were always granted to restrain persons from *acting* and also from *printing* plays which had not been published: thus, where a farce had not been published by its author, and a person was employed to take it down from the

(*k*) See post, Chap. VIII., as to piracy in general. Observations on performances at a theatre are not libellous, unless it appear that they are malevolent. *Dibdin v. Swann*, 1 Esp. N. P. C. 28. *Ashley v. Harrison*, Peake Rep. 194; and see *Clifford v. Brandon*, 2 Campb. 358.

(*l*) See ante, p. 325.

(*m*) 5 T. R. 245.

mouth of the performers, an injunction was granted, after some part of it had appeared in a magazine, to prevent the insertion of the remainder. (*n*)

Much doubt formerly existed, whether the mere *acting* of a play, which had been *printed and published*, constituted a piracy, or an infringement of the copyright. In the *common law* courts, it has been decided that proof, that the defendant acted a piece on the stage, of which the plaintiff had bought the copyright, was not evidence of a publication. (*o*)

3. Publication by acting them.

And an action could not be maintained against a person, who at his theatre publicly represented for profit an entertainment, which was *an abridgment* or alteration of a play printed and published by its author. (*p*)

(*n*) *Macklin v. Richardson*, Amb. 694.

(*o*) *Coleman v. Walthen*, 5 T. R. 245. This was an action on the statute of Anne for publishing an entertainment called *The Agreeable Surprise*. The plaintiff had purchased the copyright from O'Keefe, the author; and the only evidence of the publication by the defendant was the representation of this piece upon his stage at Richmond.

Lord Kenyon, C. J.—The statute for the protection of copyright only extends to prohibit the publication of the book itself by any other than the author. It was so held in the great copyright case by the House of Lords. But here was no publication. Buller, J.—Reporting any thing from memory can never be a publication within the meaning of the statute. The mere act of repeating such a performance cannot be left as evidence to the jury that the defendant had pirated the work itself.

(*p*) *Murray v. Elliston*, 5 Barn. & Ald. 657; and S. C.

But *in equity* injunctions had been continually granted, to stop the performance of printed dramatic pieces, at the instance or request of the author or proprietors of them. (*q*)

4. The act of
3 Wm. 4, c. 15.

The property in dramatic works is now secured by an Act of Parliament passed in 1833. By the 3 Wm. 4, c. 15, it was enacted, that “the author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed, and not printed and published by the author thereof or his assignee, or which thereafter should be composed, and *not printed* or published by the author thereof or his assignee, or the assignee of such author, should have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of *Great Britain and Ireland*, in the Isles of *Man, Jersey, Guernsey*, or in any part of the *British Dominions*, any such production as aforesaid, not printed and published by the author thereof or his assignee, and should be deemed and taken to be the proprietor thereof; and that the author of any such production, *printed* and published within *ten* years before the passing of that act by the author thereof, or

1 Dowl. & Ryl. 299. As to abridgments in general, see ante, p. 344.

(*q*) *Morris v. Harris*, 1814, MSS. *Morris v. Kelly*, 1 Jac. & Walk. 481.

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

(r) A person to whom the copyright of a dramatic piece has been assigned previously to and within ten years of the passing stat. 3 & 4 Wm. 4, c. 15 (10th June, 1833), is an assignee within that clause of the act which gives to the author's assignee, in the case of a dramatic work published within ten years, the sole liberty of representing it. *Cumberland v. Planché*, 1 Ad. & E. 580.

It was further enacted, That if any person should represent, or cause to be represented, without the consent in writing of the author or other proprietor, at any place of dramatic entertainment, any such production, or any part thereof (s), every such offender should be liable, for each and every such representation, to the payment of an amount not less than forty shillings, or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever should be the greater damages, to the author or other proprietor of such production so represented to be recovered, together with double costs of suit (t).

Players.

The transition from plays to players (u) is so

(s) What constitutes the representation of *a part* of a dramatic production, within sec. 2 of 3 & 4 Wm. 4, c. 16, is a question for the jury, under all the circumstances of the particular case, and not a question of law for the judge or the Court. Therefore, in an action on the statute, for the singing of three songs from an opera written by the plaintiff, the Court refused to disturb a verdict for the plaintiff, under the direction of the judge to the jury, that the question was, whether there had been a representation of a part of the plaintiff's production within the act of Parliament. *Planche v. Braham*, 16 Law Journal Rep. 25.

(t) See *De Pinna v Polhill*, 8 C. & P. 78.

(u) A forfeiture of one hundred marks is incurred by representing a play derogatory of the book of *Common Prayer*, 3 Jac. 1, c. 21; and ten pounds for jesting of the holy name of God, or of Jesus Christ, or of the Holy Ghost or Trinity, 1 Car. 1, c. 1. And also three shillings and sixpence for acting on a Sunday, 1 Eliz. c. 2, s. 9.

easy and natural, that the wish to make this Treatise full and satisfactory to every class of

Unlicensed players are rogues and vagabonds, 10 Geo. 2, c. 28. 25 Geo. 2, c. 36. 28 Geo. 2, c. 19. 3 Geo. 4, c. 40, 5 Geo. 4, c. 83. 6 Geo. 4, c. 21. And see Skinner, Rep. 625 to 630. *King v. Bellerton*, 5 Mod. 142. Skin. 625, S. C. *Rex v. Handy*, 6 T. R. 286. Jacob Hall's case, 1 Mod. Rep. 76. 1 Ventr. 169, S. C. *Ashley v. Harrison*, Peak. 194. 1 Esp. 48, S. C.; and *Taylor v. Neri*, 1 Esp. N. P. C. 386.

Respecting *country theatres*, see 10 Geo. 2, c. 28, s. 6, and 16 Geo. 3, c. 13.

For the authority of the *Lord Chamberlain*, see 10 Geo. 2, c. 28. By the third section it is enacted, that no person shall, for hire, gain, or reward, act, or cause to be acted, any new play, or any part therein, or any new part added to an old play, or any new prologue or epilogue, unless a true copy thereof be sent to the Lord Chamberlain fourteen days before the acting, together with an account when and where it is intended to be acted, signed by one of the managers. The Lord Chamberlain may prohibit the same as he thinks fit; and if any such person shall, for hire, &c., act, or cause to be acted, without such copy being sent, or against such prohibition, he shall forfeit fifty pounds, and the license of the playhouse shall be void. See *Levy v. Yates*, 3 Nev. & P. 249.

For the power of the *Universities* over players see 10 Geo. 2, c. 19, s. 1.

By 16 Geo. 3, c. 31, and 28 Geo. 3, c. 30, certain funds for *charitable purposes* are secured to Drury Lane and Covent Garden.

As to the interference of the *Court of Chancery* in the affairs of a Theatre, see 7 Ves. 617.

A place kept for *public dancing*, music, or other public entertainment of the like kind, must be *licensed*; the magistrates, 25 Geo. 2, c. 36, s. 2, made perpetual by 28 Geo. 2, c. 19. A theatre without its license, *Gallini v. Laborie*, 5 T. R. 242. 6 T. R. 286; private houses in which persons

readers who may consult it, induces me briefly to state the law as it respect *players*. The principal part of it will be found in the note, placed there for convenience.

are indiscriminately admitted to dance, whether money is paid for admission, *Clarke v. Searle*, 1 Esp. 25 ; or not, *Archer v. Willingrice*, 4 Esp. 186, are within the statutes : but neither a dancing master's room, *Bellis v. Burghall*, 2 Esp. 722, nor one used on a particular festival, *Shutt v. Lewis*, 5 Esp. 128, comes within its intention. A public room at a tea garden, with an organ in it, must be licensed, *Bellis v. Beal*, 2 Esp. 592. See the late cases of *Gregory v Tuffs*, 6 C. & P. 271. S. C. M. & Rob. 313. *Gregory v. Tavernor*, 6 C. & P. 281. And see the important cases *Ewing v. Osbaldeston*, 2 Myl. & Cr. 53 ; *Lewis v. Arnold*, 4 C. & P. 354 ; *Kemble v. Kean*, 6 Simon, 333 : *Flight v. Glossip*, 2 Scott, 220, S. C. 2 Bing. N. C. 125, 1 Hodges, 263.

CHAP. VI.

OF THE FINE ARTS.

UPON the same principles, and for the same reasons, that the legislature have protected the SCHOLAR in the enjoyment of the fruits of his knowledge and industry ; so it has provided that the ARTIST shall not exert his skill and ingenuity without a hope of reward from a limited monopoly in the result of his labours.

This Chapter for convenience and distinctness, will be divided into three parts :—

- I. *Engravings or prints.*
- II. *Designs for Articles of Manufacture, as Carpets, &c.*
- III. *Sculptures, models, &c.*

I. ENGRAVINGS OR PRINTS.

It will be necessary to consider the law on engravings or prints in almost all the different ways in which the law respecting *a book* has been examined. By stating the statutes on which the right to a limited monopoly in them is founded, and the construction which they have received ; by enumerating the different kinds of

engravings, as prints in general, prints accompanying letter press, and charts or maps; by shewing how far the subject of an engraving is an original compilation, or an abridgment or a reduction; by investigating the nature of the subject, whether it be seditious or libellous, the property in prints, and the manner of making an assignment of them; and by examining, how far publications may be similar without a piracy having been committed: with the peculiar remedies which the statutes have provided for any injuries sustained by the artist.

The matter of this section will, therefore, be best elucidated by considering—

1. *The statutes* giving the right.
2. *The construction* as to the date, &c.
3. Prints accompanying letter press.
4. *Maps*, charts, &c.
5. *The subject* of an engraving.
6. Seditious or libellous prints.
7. *The property* in, and assignment of, prints.
8. What amounts to a *piracy*.
9. *The remedies* for an infringement.

1. The statutes.

A property in prints is secured to the inventors and engravers by several acts of parliament. By the first (a) it is enacted, “That from and after the 24th day of June, 1735, every person who shall *invent and design*, engrave, etch, or work in mezzotinto or chiaro oscuro, or *from his own*

(a) 8 Geo. 2, c. 13.

works and inventions shall cause to be designed and engraved, etched or worked in mezzotinto or chiaro oscuro, any *historical* or other print or prints; shall have the sole right and liberty of printing and reprinting the same for the term of fourteen years, to commence from the *day of first publishing* thereof, which shall be truly engraved, with the *name of the proprietor*, on each plate, and printed on every such print or prints." (b)

Thus it appears that the property in historical and *other prints* was by the first act vested in the engravers, who took them from their *own designs*. This privilege was extended by the statute 7 Geo. 3; (c) and made to exist in the prints of any portrait, conversation, landscape, or architecture, *map, chart, or plan*, or any other prints whatsoever, whether they were taken from the artist's own original designs, or from *any* picture, drawing, model, or sculpture, either ancient or modern. (d)

The term for enjoying that right was enlarged from fourteen to *twenty-eight* years. (e)

It has been shewn that by the 8 Geo. II. (f)

2. The name
and day of
publication

(b) The fifth clause of 8 Geo. 2, c. 13, secures the property to John Pine in his prints of the Spanish invasion, although not taken from designs of his own invention, but from the tapestry in the House of Lords, &c.

(c) c. 38, s. 1.

(d) Id. s. 2.

(e) Id. s. 7. By this act the sole right of publishing Hogarth's prints was vested in his widow for twenty years.

(f) c. 13, s. 1. The acts respecting printers do not extend to engravers, 39 Geo. 3, c. 79, s. 31.

the day of publication, and the name of the proprietor must be truly engraved on each plate and appear on every print. No doubt can be entertained that the directions of the act must be strictly followed; that the day and name must appear, to entitle the party to the *penalties* imposed by it. (*g*)

But a question arose, whether it was absolutely necessary to comply with the enactment to support an action at law, or a bill in equity for an injunction and an account. Lord Hardwicke (*h*) and Lord Ellenborough (*i*) have at different times held that the clause was only *directory*, and that the property was at once absolutely vested in the engraver: but Lord Alvanley (*j*) and Lord Kenyon, and Buller, J., entertained the opposite opinion. (*k*) The latter judge, after observing that he differed from Lord Hardwicke, said that he believed the insertion of the name and date to be essential to the inventor's right.

By the statute 17 Geo. III. c. 57, (*l*) a special

(*g*) *Sayer v. Dicey*, 3 Wilson, 60.

(*h*) *Blackwell v. Harper*, 2 Atk. 95. Barn. Chan. Rep. 210, S. C.

(*i*) *Roworth v. Wilkes*, 1 Campb. N. P. C. 97.

(*j*) *Harrison v. Hogg*, 2 Ves. jun. 323.

(*k*) *Thompson v. Symonds*. 5 T. R. 41.

(*l*) Extended to Ireland by 6 & 7 Wm. 4, c. 59. By sec. 2 it is enacted, that if any engraver, etcher, printseller, or other person shall, within the time limited by the aforesaid recited acts, engrave, etch, or publish, or cause to be engraved, etched, or published, any engraving or print of any description what-

action on the case and double costs are given. It is now settled that, in order to maintain an action for pirating prints under 17 Geo. 3. c. 57, the proprietor's name and the date of publication must appear on the original print, pursuant to 8 G. 2, c. 13, but it is not necessary that the designation "proprietor" should be added to the name. (m)

The prints that ornament and illustrate works are as fully protected by these statutes as those which are published alone. They are not, as it has been contended, merely accessory to the letter press, like the diagrams of Euclid; and, therefore, to be copied and published by any one who purchases the work. (n) But if a person

3. Prints that accompany letter press.

ever, either in whole or in part, which may have been or which shall hereafter be published in any part of *Great Britain* or *Ireland*, without the express consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him, her, or them respectively, with his, her, or their own hand or hands, in the presence of and attested by two or more credible witnesses, then every such proprietor shall and may, by and in a separate action upon the case, to be brought against the person so offending in any court of law in *Great Britain* or *Ireland*, recover such damages as a jury on the trial of such action or on the execution of a writ of inquiry thereon shall give or assess, together with double costs of suit.

(m) *Newton v. Cowie and Another*, 4 Bing. 234, and S. F. *Brooks v. Cock*, 3 Ad. & E. 138.

(n) *Roworth v. Wilkes*, 1 Campb. N. P. C. 97; and see *Wilkins v. Aikin*, 17 Ves. 422. In which case Lord Eldon decided whether a work on architecture was original, with the fair use of another work composed of plates and letter press, by quotation and compilation.

should *bona fide* make drawings from a perusal of the text, although there might, as of necessity there would be, a great similarity between them, yet he would acquire a copyright in the engraving which he had thus made. (o)

4. Maps,
charts, &c.

It has been observed that Lord Mansfield held, that maps came within the spirit and meaning of the copyright acts. (p) To remove all doubt, maps, charts, and plans, are enumerated among the different kinds of prints; and the same protection is afforded to their proprietor as to other artists. (q)

5. The subject
of an engraving.

Prints, like books, may be the offspring of the imagination of the artist, or may be taken from objects that have actual existence.

When an engraving is made of an object in nature, as of a particular flower or plant, the artist cannot restrain any one from executing a similar print of the same flower or plant: but no one is allowed to copy from the work of another person; each must draw from nature. When it was contended before Lord Hardwicke (r) that some engravings of plants could not be protected, because every herbal-book had prints of those plants in them, he observed, “The defendant, to make out the case he aims at, must shew me that

(o) By Lord Ellenborough, 1 Campb. N. P. C. 99.

(p) 1 East, 361, n.

(q) 7 Geo. 3, c. 38, s. 1; and 17 Geo. 3, c. 57. And they come within the meaning of the word “Book” in the International Copyright Act, 1 & 2 Vict. c. 59.

(r) *Blackwell v. Harper*, 2 Atk. 94. Barn. 210, S. C.

these prints of medicinal plants or in any book or herbal whatsoever, in the *same manner and form* as they are represented here ; for they are represented in all their several gradations, the flower, the flower cup, the seed vessel, and the seed.”

The subjects of engravings are almost always *general* ones, and cannot be monopolized. Each particular print is protected by the statutes : but the subject is open to every artist. The prohibition extends only to the piracy of the particular prints ; no exclusive right is created over the picture or common design. (s)

The subject of a *map or chart* is also a general one, on which every person may exert his skill and ingenuity.

An artist had, with the assistance of many manuscript journals and printed books, made four maps of a particular district from all the charts and maps extant. Another person making a chart of the same place, employed an engraver to take a draft of some parts of those maps ; yet, inasmuch as he had *combined* the four maps together upon a more correct and useful principle, it was considered by the Court that no piracy had been committed. (t)

(s) See Compilations, ante, p. 335 ; and Stark. N. P. C. 548.

(t) *Sayre and Others v. Moore*, 1 East, 361, n. ; and see *Wilkins v. Aikin*, 17 Ves. 422 ; ante, p. 340. Lord Mansfield, C. J.—The rule of decision in this case is a matter of great consequence to the country. In deciding it, we must take care to guard against two extremes equally prejudicial :

6. Seditious
or libellous
prints.

It will be shewn (*u*) that there cannot be any property in an immoral, obscene, or libellous book. That doctrine equally applies to pictures

the one, that men of ability, who have employed their time for the service of the community, may not be deprived of their just merits, and the reward of their ingenuity and labour; the other, that the world may not be deprived of improvements, nor the progress of the arts be retarded. The act that secures copyright to authors guards against the piracy of the words and sentiments: but it does not prohibit writing on the same subject. As in the case of histories and dictionaries: in the first, a man may give a relation of the same facts, and in the same order of time; in the latter, an interpretation is given of the identical same words. In all these cases the question of fact to come before a jury is, *whether the alteration be colourable or not?* There must be such a similitude as to make it probable and reasonable to suppose that one is a transcript of the other, and nothing more than a transcript. So, in the *case of prints*, no doubt different men may take engravings from the same picture. The same principle holds with respect to *charts*: whoever has it in his intention to publish a chart may take advantage of all prior publications. There is no monopoly of the subject here, any more than in the other instances: but, upon any question of this nature, the jury will decide whether it is a servile imitation or not. If an erroneous chart be made, God forbid it should not be corrected, even in a small degree, if it thereby become more serviceable and useful for the purposes to which it is applied. But here you are told that there are various and very material alterations. This chart of the plaintiff is upon a wrong principle, inapplicable to navigation. The defendant has, therefore, been correcting errors, and not servilely copying. If you think so, you will find for the defendant: if you think it is a mere servile imitation, and pirated from the other, you will find for the plaintiffs. Verdict for the defendant.

(*u*) Post, Chap. VIII.

and prints. (v) An action of assumpsit cannot be maintained for the value of them, even against a purchaser at the suit of the person who sold them. (w)

The property in prints, by the several acts of parliament, is vested in him who *shall invent* and design, engrave, &c. or from his own works and inventions *shall cause* to be designed and engraved, &c. any print. (x) 7. The property in prints.

What things may be the subjects of engravings have already been explained. (y)

But it was held by Lord Hardwicke, in a case before him, that a person *procuring a drawing* to be made was not entitled to any monopoly to be derived from the statutes protecting engravings. (z) From which decision and the words

(v) *Du Bost v. Beresford*, 2 Campb. N. P. C. 511.

(w) *Fores v. Johnes*, 4 Esp. N. P. C. 97.

(x) 8 Geo. 2, c. 13, s. 1.

(y) Ante, p. 400.

(z) *Jefferys v. Baldwin*, Ambl. 164; see as to the gift of a translation, *Wyatt v. Barnard*, 3 Ves. & Beam. 77. The bill set forth that the plaintiff *had procured* a drawing or design to be made of the busses of the society of British herring fishery; that defendant had printed same in the *London Magazine*. It was objected, on demurrer, that it was not a work of ingenuity of plaintiff, and therefore not within the statute. Lord Hardwicke, C.—The plaintiff has not made a case for relief; therefore, need not go into the question as to discovery. It is not within the statute, which was made for encouragement of genius and art: if it was, any person *who employs a printer or engraver* would be so too. This statute is in that respect like the statute of new inventions, from whence it was taken. If he cannot claim property, he

of the act, it may be inferred, that although ha person might procure another to make an engraving from a design of his own inventing, and claim a copyright in it; yet he cannot monopolize a print which has been made for him, without any assistance having been given by him, in its design or formation.

Assignment of
prints.

The property in prints is vested in the artist: but no mention is made of his *assigns*. It is, however, enacted, “That any person, who shall thereafter purchase any plate for printing from the original proprietors thereof, may print and reprint from the same, without incurring the penalties.” (a) And moreover it is necessary, before a print can be copied with impunity, to obtain “the *consent* of the proprietor thereof *in writing*, signed by him in the presence of two witnesses.” (b)

And, therefore, it was decided, that on these statutes *the assignee* of a print may maintain an action against any person who has pirated it. (c)

8. Piracy of
engravings, &c.

A *fac simile* of an engraving is of course a gross infringement. By the statutes it is enacted that a piracy is committed, if any person “in any manner copy in the whole or in part by *varying, adding to, or diminishing from* the main design” of any print whatsoever. (d)

is not entitled to relief, which would only enable him to sue at law. Bill is frivolous; allow demurrer.

(a) 8 Geo. 2, c. 13, s. 2.

(b) *Id.* s. 1.

(c) *Thompson v. Symonds*, 5 T. R. 41; and see 3 Wils. 60.

(d) 8 Geo. 2, c. 13. 7 Geo. 3, c. 38. 17 Geo. 3, c. 57;

The subject of an engraving, it has been shewn, (*e*) is often a general one, which cannot be monopolized ; and the question for the jury to consider will be, whether the particular works have been engraved by the two artists from the general subject, be it a picture or plant, or any object in nature, or whether the similitude, which is supposed to exist between them, arises from accident, or from the nature of the subject ; (*f*) or whether, in the case of plates to a printed work, they are satisfied that the artist sketched the designs from the text : or whether the one print is merely a copy from the other. (*g*)

Not only must no person whatever infringe the right of the artist by *copying* his work : but any one who *sells* or *imports* for sale any pirated copies of an engraving is liable to the penalties inflicted by the statutes.

The seller of
pirated prints.

In the first legislative provisions (*h*) respecting prints, the words “ *knowing* the same to be so printed or reprinted without such consent, shall publish, *sell*,” &c. occur : but they are not to be found in the last act of parliament on this subject. (*i*) And in consequence, although an

and see 5 Barn. & Ald. 737. 1 Dowl. & Ryl. 400. 3 Campb. N. P. C. 111. *De Berenger v. Wheble*, 2 Stark. N. P. C. 548, and 1 East, 361, n. As to an abridgment or reduction of an engraving, see 17 Ves. 422, and see *Martin v. Wright*, 6 Sim. Rep. 297, for an enlargement of a print for a *diorama*.

(*e*) Ante, p. 400.

(*f*) Ante, p. 401.

(*g*) 1 Campb. N. P. C. 99.

(*h*) 8 Geo. 2, c. 13, s. 1.

(*i*) 17 Geo. 3, c. 57.

attempt was made in argument to shew that the vendor or seller of a print was only liable to an action for disposing of *exact* copies, it was decided that the vendor of a print, which, with some trifling variations, is a copy of the main design of another print, is liable to an action for damages at the suit of the proprietor, although *he did not know* that the print which he was selling was a piracy. (*j*)

(*j*) *West v. Francis*, 5 Barn. & Ald. 741 ; and S. C. 1 Dowl. & Ryl. 400. Abbott, C. J.—This act of Parliament was intended to preserve to artists the property of their works. The question is, what is the meaning of the word “*copy*” of a print ? Now, in common parlance, there may be a copy of a print where there exist small variations from the original ; and the question is, whether the words are used in their popular sense in this act of Parliament : that is to be collected from looking at the whole clause, by which it is provided, that if any one shall engrave, &c., or in any other manner copy, in the whole or in part, by varying, adding to, or diminishing from, the main design, or shall print or reprint, or import for sale, or publish, sell, or otherwise dispose of any copy of any print, he shall be liable to an action. Now, if the selling of a copy with colourable variations is not within the act of Parliament, the printing or importing for sale such copies will not be prohibited. The whole must be taken as one sentence ; and the sale of any copy of a print, although there may be some colourable alteration, is within the act of Parliament. The case of *Gahagan v. Cooper*, proceeded upon a different act of Parliament. In this case, I am satisfied the verdict is right ; and, therefore, this rule must be discharged.

Bayley, J.—I am of the same opinion. The provisions of the 8 Geo. 2, c. 13, are entitled to great weight in the construction of this latter act of Parliament. That act imposes, first, a penalty upon any persons who shall engrave, copy,

What amounts to a piracy has been stated. The penalty incurred by him, who has thus infringed the right of the artist, is to forfeit *the plates* on which the prints are copied, and *every sheet* on which the engraving has been printed, to the proprietor of the original print, who must forthwith damask or destroy them : and he must also forfeit *five shillings* for every print found in his custody. The same penalties attached to him who has published, exposed to sale, or disposed of any pirated engravings :

9. Remedies
for an infring-
ment.
Penalties.

and sell, or cause to be copied and sold, in the whole or in part, by varying, adding to, or diminishing from the main design ; and, secondly, upon persons selling the same, knowing them to be so printed or reprinted. The act of 17 Geo. 3, c. 57, was passed to remedy the same mischief ; and the words “ knowing the same to be so reprinted,” are omitted. It may, therefore, be fairly inferred, that the legislature meant to make a seller liable, who did not even know that they were copies. The former part of the 17 Geo. 3, c. 57, s. 1, applies to persons who actually make the copy, and who, therefore, must know that it is a copy. But the latter branch applies to all persons who shall import for sale, or sell a copy of a print. Every person, therefore, who sells a copy which comes so near the original as this, is thereby made liable to an action. There can be no reason why a person should not be liable where he sells a copy with a mere collusive variation ; and, I think, we should put a narrow construction on the statute, if we held such a collusive variation from the original not to be a copy. A copy is that which comes so near to the original as to give to every person seeing it the idea created by the original. For these reasons, I think, the plaintiff is entitled to recover : and, consequently, that the rule must be discharged.

one moiety passes to the Queen, the other is given to the informer. (*k*)

Special action
on the case.

Further, it is enacted by the 17 Geo. III. c. 57, “that a *special action on the case* may be brought against the person offending, to recover such damages as a jury on the trial of such action, or on the execution of a writ of inquiry, may give.” (*l*)

Limitation of
action.

All actions for anything done in pursuance of the acts 8 Geo. II. c. 13, and 7 Geo. III. c. 38, must be brought within *six* calendar months after the fact committed : but no time of limitation is mentioned in 17 Geo. III. c. 57, which gives the special action on the case.

The parties.

Not only the original proprietor, but also the assignee of a print, may maintain an action on 7 Geo. III. against any person who pirates it. (*m*)

(*k*) 8 Geo. 2, c. 13, s. 1 ; and see 7 T. R. 620, and 1 Campb. N. P. C. 98, where it is held, that statute having given a right, the common law gives the remedy by action without the conditions of the statute being complied with.

(*l*) A. being employed by B. to engrave plates from drawings belonging to B., took off from the plates so engraved by him a number of proof impressions, which he retained for his own use. A. afterwards became bankrupt, and the proofs of which he had so possessed himself were advertised by his assignees for sale. Held, that neither he nor his assignees were liable by the 17 Geo. 3, c. 57, to an action for having disposed of pirated prints without the consent of the proprietor, inasmuch as that statute applied to impressions of engravings pirated from other engravings, and not to prints taken from a lawful plate. *Murray v. Heath and Others*, 1 B. & Ad. 84.

(*m*) 5 T. R. 41.

As pirated copies are made very much to re- Déclaration.
semble the original in particular parts, and to be
totally distinct in other parts, care must be taken
to draw the declaration, for *copying a part*, as
well as for copying the whole. (*n*)

The defendant is permitted to plead the ge- Plea.
neral issue, and to give any special matter in
evidence under it. (*o*)

In this action it is not necessary to produce Evidence.
the plate itself, for one of the prints taken from
the original plate is sufficient evidence. (*p*)

It seems the best way to continue the name of
the first proprietor on the print; for it is doubtful
whether a plate with the name of the assignee
(although the date be correct) be good evi-
dence. (*q*)

Although no mention is made of proceedings Equity.
to be taken in equity, yet it follows as a matter
of course that the Court of Chancery will, in
aid of the statutes, interpose with an injunction
to prevent or stop the injury sustained by the
artist from a piracy of his work. (*r*)

(*n*) 5 Barn. & Ald. 737, and 1 Dowl. & Ryl. 400, S. C.

(*o*) 8 Geo. 2, c. 13, s. 3, and 7 Geo. 3, c. 38, s. 8.

(*p*) *Thompson v. Symonds*, 5 T. R. 41.

(*q*) In *Bonner v. Field*, cited in 5 T. R. 44, Lord Mans-
field nonsuited a plaintiff under similar circumstances.

(*r*) *Fradella v. Weller*, 2 Russ. & M. 247. In a suit to
restrain the sale of pirated copies of a print, where the answer
did not suggest that the prints complained of were not pirated
copies, a decree was made under the particular circumstances,
though the prints which had been exhibited to the witness who
proved the offence were not produced at the hearing. Where

Costs.

If the plaintiff is successful in suing for penalties, he is entitled to his *full costs*; (s) if he succeed in the special action on the case, then he is to have *double costs* of suits. (t) And to the defendant, when the plaintiff is nonsuited or discontinues, full costs are to be allowed. (u)

II. DESIGNS FOR ARTICLES OF MANUFACTURE— LINENS, CARPETS, &c.

The pattern of a piece of printed linen or other article often increases the value of the commodity, from its novelty and beauty. Great ingenuity and skill are necessarily exerted in its formation. The Legislature has by several acts of Parliament given a limited monopoly to him who designed it.—We shall consider the subject as it relates to,

I. *As to Patterns printed on Linens, &c.*

1. The statutes giving the right.
2. The construction of them as to the date, &c.
3. The property in, and assignment of, the pattern.
4. A piracy and remedy at law.

II. *As to patterns to be worked into or on articles of manufacture, as Carpets, &c.*

the plaintiff is entitled to have the injunction made perpetual, the defendant will have to pay the costs of the suit, however trivial the subject matter of the suit may be, if he did not, after the injunction was granted, tender the costs up to that time.

(s) 7 Geo. 3, c. 38, s. 5.

(t) 17 Geo. 3, c. 57.

(u) *Id.* s. 8.

I. *As to Patterns printed on Linens, &c.*

This monopoly limited at first to two months, but afterwards extended to *three months*, (v) is given “to the proprietor of any new and original pattern for printing *linens, cottons, calicoes, or muslins*, to commence from the day of first publishing thereof, which must be truly printed with the name of the printer or proprietor at each end of every such piece of linen.”

1. The statutes.

By the 2 Vict. c. 13, the benefits of the 27 Geo. III. c. 38, and 34 Geo. III. c. 23, are extended to Ireland, and the articles protected are enumerated to be to fabrics composed of *wool, silk, or hair*; to mixed fabrics composed of any two or more of the following materials, (that is to say) linen, cotton, wool, silk, or hair.

The much agitated question, (w) whether it is necessary to comply with the directions of the statute, as to the date and name, in order to support an action at law, was here raised. It came before the Court in arrest of judgment (x) on an alleged defect in the declaration, which stated, that the defendant pirated the pattern “within the term of three months from the day of the first publishing thereof, and whilst the said plaintiffs were such proprietors of the said pattern

2. The name and day of publication.

(v) 27 Geo. 3, c. 33, made for one year, and afterwards enlarged by 29 Geo. 3, c. 19, and made perpetual by 34 Geo. 3, c. 23.

(w) Ante, p. 398.

(x) *Macmurdo v. Smith*, 7 T. R. 518.

as aforesaid, and were entitled to have the sole right and liberty of printing and reprinting the same." It was contended that the day of publication ought to have been averred. The Court held that as the plaintiff must necessarily have proved that the date was on the linen to entitle him to a verdict, they must after verdict infer that he had adduced such proof; and, therefore, that the declaration was aided after verdict.

3. The property in, and assignment.

The property in these patterns is given to the inventors or proprietors. No mention is made of assigns. But it is enacted (*y*) that "no one shall print, work, copy, or cause to be printed, &c. such original pattern, or shall publish, *sell*, or expose to sale, or *cause* to be published, &c. any linen, &c. so printed without the consent of the proprietor first obtained *in writing*, signed by him, in the presence of two or more credible witnesses, *knowing* the same to be so printed."

From which a power to *assign* may be inferred. (*z*) It is worthy of remark that it is probable, that a *sale* of a copied pattern would be no offence, if the vendor did *not know* that it was a pirated one, although we have seen that the law respecting the sale of pirated engravings is quite different. (*a*)

4. Piracy, and remedy for it.

The remedy for an infringement is a *special action* in the case, to recover such damages as a jury, on the trial of the action, or at the execution of a writ of inquiry may assess.

(*y*) 34 Geo. 3, c. 23, s. 1.

(*z*) Ante, p. 404.

(*a*) Ante, p. 405.

The *time limited* for bringing actions in pursuance of these acts is *six months*. Limitation of action.

The defendant may plead the general issue, and give the special matter in evidence. (*b*) Plea.

Equitable jurisdiction upon the 34 Geo. III. c. 23, is not excluded by the special remedy thereby provided. Independent of that remedy, the statute vests in the inventor a right of property which, though only of three months' duration, equity will protect by injunction, if the title be satisfactorily established: and the Court of Equity will compare and decide upon alleged piracies by inspection, where that can be easily and safely done. (*c*) Equity.

Full costs are given to the plaintiff, if he succeed: (*d*) but if he discontinues, or is nonsuited, or the verdict is against him, then the defendant has full costs allowed him. (*e*) Costs.

II. *As to patterns to be worked into or on articles of Manufacture.*

By the 2 Vict. c. 17, it is enacted, that every proprietor of a new and original design made for any of the following purposes, and not published before the first day of July one thousand eight hundred and thirty-nine, shall have the sole right to use the same for any such purpose during the term of *twelve calendar months*, to be computed from the time of the same being registered according to this Act:

(*b*) 34 Geo. 3, c. 23, s. 2.

(*c*) *Sheriff v. Coates*, 1 R. & M. 159.

(*d*) 34 Geo. 3, c. 23, s. 1.

(*e*) *Id.* s. 2.

First.—For the pattern or print, to be either worked into or worked on, or printed on or painted on, any article of manufacture, being a tissue or textile fabric, except lace, and also except linens, cottons, calicos, muslins, and any other article within the meaning of the acts above mentioned. (*f*)

Second.—For the modelling, or the casting, or the embossment, or the chasing, or the engraving, or for any other kind of impression or ornament, on any article of manufacture, not being a tissue or textile fabric.

Third.—For the shape or configuration of any article of manufacture, except lace, and also except linens, cottons, calicos, muslins, and any other article within the meaning of the above mentioned Acts.

Provided always, that every proprietor of a new and original design made for the *modelling*, or the casting, or the embossment, or the chasing, or the engraving, or for any other kind of impression or ornament on any article of manufacture, being of any *metal* or mixed metals, shall have the sole right to use the same during the term of *three years*, to be computed from the time of the same being registered according to this act; but no person shall be entitled to the benefit of this Act unless the design have before publication been registered according to this Act; and unless such person be registered according

(*f*) 27 Geo. 3, c. 38. 29 Geo. 3, c. 19. 34 Geo. 3, c. 23, and 2 Vict. c. 13. See ante, p. 410.

to this Act as the proprietor of the design, an unless after publication of the design every article of manufacture published by him, on which such design is used, and have thereon the name of the first registered proprietor, and the number of the design in the register, and the date of the registration thereof: and the author of every such new and original design shall be considered the proprietor, unless he have executed the work on behalf of another person for a valuable consideration, in which case such person shall be considered the proprietor, and shall be entitled to be registered in the place of the author; and every person purchasing for a valuable consideration a new and original design, or the exclusive or the partial right to use the same for any one or more of the above-mentioned purposes, in relation to any one or more articles of manufacture, shall be considered as the proprietor of the design for all or any one or more of such purposes, as the case happens to be.

It is further enacted, (*g*) that during the existence of such exclusive or partial right no person shall either do or cause to be done any of the following Acts in regard to a registered design, without the license or consent in writing of the registered proprietor thereof; (that is to say,)

For preventing piracy.

No person shall use for the purposes aforesaid, or any of them, or print or work or copy, such registered design, or any original part thereof, on any article of manufacture for sale:

No person shall publish, or sell or expose to sale or barter, or in any other manner dispose of for profit, any article whereon such registered design or any original part thereof has been used, knowing that the proprietor of such design has not given his consent to the use thereof upon such article :

Penalty.

No person shall adopt any such registered design on any article of manufacture for sale, either wholly or partially, by making any addition to any original part thereof, or by making any subtraction from any original part thereof : and if any person commit any such Act he shall for every offence forfeit a sum not less than five pounds and not exceeding thirty pounds, to the proprietor of the design in respect of which such offence has been committed. (*h*)

(*h*) It is further enacted, that the party injured by any such act may recover such penalty as follows :

In *England*, either by an action of debt or on the case against the party offending, or by summary proceeding before two justices having jurisdiction where the party offending resides : and if the party injured proceed by such summary proceeding, any justice of the peace acting for the county, riding, division, city, or borough where the party offending resides, and not being concerned either in the sale or manufacture of the article of manufacture or in the design to which such summary proceeding relates, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than eight days from the date thereof ; and every such summons shall be served on the party offending, either in person or at his usual place of abode ; and either upon the appearance or upon the default to appear of the party offending any two or more of such justices may

For the purposes of this act a *Register of Designs* is appointed by the Lords of the Privy Council (*h*) who will give a certificate of such registration. (*i*)

proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending or upon the oath or affirmation of one or more credible witnesses, which such justices are hereby authorized to administer, may convict the offender in a penalty of not less than five pounds or more than thirty pounds, as aforesaid, for each offence, as to such justices doth seem fit; and if the amount of such penalty or of such penalties, and the costs attending the conviction, so assessed by such justices, be not forthwith paid, the amount of the penalty or of the penalties, and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels of the offender wherever the same happen to be in *England*; and the justices before whom the party has been convicted, or, on proof of the conviction, any two justices acting for any county, riding, division, city, or borough in *England* where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale; and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand.

(*h*) 2 Vict. c. 17, s. 5.

(*i*) *Id.* s. 7. It is further enacted, that upon any original design so registered, and upon every copy thereof received for the purpose of being registered, or for the purpose of such registration being certified thereon, the registrar shall certify under his hand that the design has been so registered, the date of such registration, and the name of the registered proprietor; and such certificate made on every such original design, or on such copy thereof, and purporting to be signed by the registrar or deputy registrar, and purporting to have the seal of office of such registrar affixed thereto, shall, in the absence of evidence to the contrary, be sufficient proof, as follows:

It is difficult to discover any valid reason why patterns which come within the meaning of 2 Vict. c. 17, should be registered : and those which are protected by the 2 Vict. c. 13, should not be subject to the same attention.

The statutes 2 Vict. c. 13, and c. 17 were introduced into Parliament by the late President of the Board of Trade (*j*) and it certainly would have been better if the statutes 27 Geo. 3, c. 38 and 34 Geo. 3, c. 23, had been repealed, and the whole law on this subject had been comprised in one act instead of those acts being enlarged by the 2 Vict. c. 13, and new articles taken under protection by 2 Vict. c. 17.

Great attention is required from the artist to distinguish accurately whether his new pattern comes within the meaning of 2 Vict. c. 13, or 2 Vict. c. 17, and he must be careful to register his design, if it be necessary for his protection.

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

Of the commencement of the period of registry ; and

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

Of the originality of the design ; and

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

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

(*j*) The Right Hon. Mr. Poulet Thomson.

III. SCULPTURES, MODELS, &c.

There is yet another limited monopoly, creating a property in the productions of the inventive faculties of genius ; but which can scarcely be called Literary Property. It is given to the first maker of all original sculptures, models, copies, and casts.

The same order of investigation will be pursued as in the last section, as to,

1. The statutes giving the right.
2. The construction of them.
3. The property in, and assignment of, a model, &c.
4. A piracy, and the remedy at law.

The first act (*k*) on this subject was found on trial to be so defective, that it was held to be no offence under it *to make* a cast of a bust, provided it were a *perfect* fac-simile of the original. And on the other hand, although it was evident that a piracy had been committed, yet, if there was some addition to, or diminution from, the original, a person was not liable to an action for *selling* a cast thus pirated.

To remedy these defects another Act of Parliament (*l*) was obtained, by which the property, *in all sorts* of sculptures, models, copies and casts,

(*k*) 38 Geo. 3, c. 71. *Gahagan v. Cooper*, 3 Camp. 111 ; and see *West v. Francis*, 5 Barn. & Ald. 737 ; and S. C. 1 Dowl. & Ryl. 400.

(*l*) 54 Geo. 3, c. 56.

particularized and enumerated at great length, so as to include every species of them, is vested in the inventor for fourteen years ; provided the proprietor causes his name, with the date, to be put on them before they are published ; with the same term in addition, if he should be living at the end of the first period, unless he has parted with his invention before the time at which that act passed.

The provisions of the second statute extended as well to those sculptures, &c. which *had been* put forth under the protection of the first, as to those *thereafter* to be made.

2. The construction of the acts.

No case has been decided on the new act, as to the insertion of the name, and day of publication : but from analogy it is clear, that the reasoning on the statutes giving monopolies in prints and in patterns for linen will apply to that Act of Parliament. (*m*)

3. The property in, and assignment of, model.

The property in the models is given to inventors. And it is enacted that the purchaser, if by a deed in writing, of any original sculpture or model, shall be exempted from an action for copying, or casting, or vending the same. (*n*)

4. Piracy and remedy at law.

The enactment against piracy—against making, selling, or importing, any thing mentioned in the statute, is very general ; and gives to the proprietor or his assignee *an action on the case* for damages (with double costs) to be brought

(*m*) Ante, p. 411.

(*n*) 54 Geo. 3, c. 56, s. 4.

within six months against all persons who shall *in any way* imitate the sculpture, &c. (*p*)

The limitation for all actions either for things done *in pursuance* of, or *against* this statute must be brought within six months.

In the former case the defendant, if successful, is entitled to full *costs*. (*r*)

(*o*) 54 Geo. 3, c. 56, s. 3.

(*p*) *Id.* s. 5.

CHAP. VII.

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

HAVING in the first Chapter of this Book, explained the nature of copyright in general—by stating the enactments of the several acts of parliament respecting it, and the construction which has been put upon them—an attempt was made to investigate the law, as it relates to the different kinds of literary property. That task being accomplished, it is proper in the next place to lay before the reader an account of the *Persons and Corporate Bodies* that are peculiarly interested in the publication of books: which will be done in the following order,—

- I. *The Author and his Assignee.*
- II. *The Queen and her Majesty's Printers.*
- III. *The Company of Stationers.*
- IV. *The Universities.*
- V. *The Courts of Justice.*
- VI. *Printers.*
- VII. *Booksellers.*

I. THE AUTHOR AND HIS ASSIGNEE.

To explain the nature of the property acquired by any one in a literary work, of whatever description it may be, it will be necessary to examine the *right* originally vested in the author or composer—the *extent* to which a book may be affected by its contents,—and the modes by which it may be *disposed of* by the author.

The right of authors and men of science, over the productions of their minds, has been shortly stated in the several chapters in which each kind of literary property has been investigated. It may be useful to collect the whole matter into one place, and to add to it such rules and observations as could not, without destroying the unity of the descriptions, be before introduced. Thus :

1. The property in manuscripts.
2. In all kinds of literary works.
3. In the productions of the fine arts.
4. How affected by their contents.
5. The assignment of literary property.
6. Devise of it.
7. When taken under an execution, &c.
8. Abandonment of it by the author.

An author has an absolute property, independent of the statute law, over his work whilst it continues in manuscript. (a) Nor will the mere

1. Property
in MS.

(a) 4 Burr. 2340, 2379. 2 Meriv. 435. See ante, p. 325.

delivery of the manuscript copy to the printer divest the author of his right; for the consent to be allowed to print must be in writing. (*b*)

And a bookseller was restrained from publishing certain manuscripts of which he had gained possession, but which had been left by Dr. Paley for the use of his own parishioners. (*c*)

Neither is a person, to whom a manuscript has been lent, with liberty to take a copy of it, and to make what use of it he thinks fit, at liberty to print and publish the work. (*d*)

Authors engaging to write.

On the other hand if an author engage to furnish a bookseller with a manuscript, he must answer in damages for not fulfilling his contract. (*e*)

And Lord Eldon held, that a covenant in articles of agreement, by which Mr. Colman undertook not to write dramatic pieces for any other than the Haymarket Theatre, was a legal covenant. (*f*)

But where a gentleman had contracted to supply a bookseller with Reports of the Cases argued in the Court of Exchequer (*g*) upon certain terms, and afterwards sold them to another bookseller; the Lord Chancellor would not grant an injunction to restrain the publication, and force

(*b*) *Knapcock v. Curl*, 4 Vin. Abr. 278.

(*c*) Cited in 2 Ves. & Beam. 23.

(*d*) *Duke of Queensberry v. Shebbeare*, 2 Eden Rep. 329. See 4 Burr. 2397.

(*e*) *Gale v. Lechie*, 2 Stark. N. P. C. 107.

(*f*) *Morris v. Colman*, 18 Ves. 437.

(*g*) *Clarke v. Price*, 2 Wils. Ch. Rep. 157.

him to report and give his manuscript to the bookseller ; observing that he could not grant an injunction whereby *the person* of the defendant would not be at liberty.

Where an author was engaged to write for a certain sum an article to appear among others in a work called “The Juvenile Library,” and before he had completed his article, and before any portion of it was published, the work was discontinued : the Court held, that the publishers were not entitled to claim the completion of the article, so that it might be published in a separate form for general readers, but they were bound to pay the author a reasonable sum for the part which he had prepared. (*h*)

We have seen, that if an author, at common law, had the sole right of publishing a *printed work* in perpetuity, it was modified by the stat. 8 Ann. c. 19, (*i*) by which act the time limited for

2. Property
in a book.

(*h*) *Planche v. Colburn and Others*, 5 C. & P. 58. See *Barfield v. Nicholson*, 2 Sim. & S. 1. An author having sold the copyright of a work published under his own name, and covenanted with the purchaser not to publish any other work to prejudice the sale of it ; *semble*, that another publisher who had no notice of this covenant, will be restrained from publishing a work subsequently purchased by him from the same author, and published under his name, on the same subject, but under a different title, although there be no piracy of the first work.

(*i*) 2 Bro. P. C. 145, and 4 Burr. 2408 ; ante, p. 322. By 7 Geo. 2, c. 24, the sole liberty of printing and reprinting the *Histories of Thuanus*, with additions and improvements during the time therein limited, is granted to Samuel Buckley.

an author enjoying the copyright in his work was confined to fourteen years, with a second term of fourteen years, if he was alive at the end of the first period. (*j*)

And also, that the time was afterwards altered, and that now the copyright in all books, published since the 29th July, 1814, is to continue for twenty-eight years, and to the end of the author's life, if he should survive that period. (*k*)

But that the resulting term for life could not be enjoyed by one whose work had been published twenty-eight years before the 29th July, 1814. (*l*)

And, moreover, if a person who had published a work *before* the 29th July, 1814, was alive on that day; but died before the fourteen years, from the day of publishing his book, had transpired; then a further term of fourteen years was given to his *personal representatives*, but without prejudice to the assignees of all or any part of the former term. (*m*)

(*j*) 8 Ann. c. 19, s. 1 and 11.

(*k*) 54 Geo. 3, c. 156, ss. 1, 4, and 9; ante, Chap. I. In the case of a *joint authorship*, would the copyright continue to the end of the life of the survivor, supposing both of them outlived the twenty-eight years from the day of publication? And would there be any resulting term, supposing one of the authors died within the twenty-eight years?

(*l*) 1 Barn. & Ald. 396.

(*m*) 54 Geo. 3, c. 156, s. 8; ante, Chap. I. Supposing the two authors of one joint work to be alive on the 29th July, 1814, and both to die (one before the other) before the first fourteen years had transpired, to whom would the work pass?

Copyright is a property which depends for its continuance on the life of the author, and all control over a work should be derived from him : and yet he is not bound to put his name in the title page in order to preserve it. (*n*)

Name of author.

Lord Eldon doubted, how far he could relieve the publisher of a work with a fictitious name : (*o*) but he granted an injunction, until answer or further order, to restrain the publication of a work in the name of Lord Byron, who was abroad, upon an affidavit of his lordship's agent, of circumstances making it highly probable that it was not a work by his lordship, and on the refusal of the defendant to swear as to his belief that it was written by him. (*p*)

But the publisher of a work, however he has gained the materials, has sufficient property in it to maintain an action against any other person for pirating it. (*q*)

The proprietary right over engravings or prints (*r*) continues for twenty-eight years without any resulting term for the life of the artist ; and that over patterns for linen expires at the

3. Property in the fine arts.
In engravings.
In patterns.
Carpets.

(*n*) 4 Burr. 2367.

(*o*) 8 Ves. 226.

(*p*) *Lord Byron v Johnson*, 2 Meriv. 29.

(*q*) 4 Esp. N. P. C. 169. Hence a question arises whether a person who first publishes a work written by a foreigner and transmitted to him, for a contemporaneous publication of it, can maintain an action against any other person who prints it.

(*r*) Ante, p. 397.

end of three months: (s) and that on other patterns and models in twelve months. (t)

In models.

But in sculptures or models a property is vested for fourteen years, with a further term of fourteen years, if the artist be living at the end of the first period. (u)

4. How affected by the subject matter.

The property in a work of art, whether it be a book, (v) an engraving, (w) or a piece of sculpture, is necessarily destroyed by its subject being blasphemous, seditious, or libellous; or by its being obscene or immoral: and an author may desist from supplying a publisher with the manuscript of a work, if he be justly apprehensive that the contents of it will subject him to punishment. (x)

5. Assignment.

The assignment of a copyright, (y) and of engravings (z) of patterns and models, (a) must be in writing, to enable the assignee to protect his interest either at law (b) or in equity. (c)

(s) Ante, p. 411.

(t) Ante, p. 418.

(u) Ante, p. 420.

(v) Ante, Chap. I.

(w) Ante, p. 402.

(x) 2 Stark. N. P. C. 107.

(y) 8 Ann. c. 19, s. 1. 54 Geo. 3, c. 156, s. 4; and see *Powell v. Walker*, 3 Maule & Selw. 7, and 4 Campb. N. P. C. 8, S. C.

(z) 7 Geo. 3, c. 38, s. 1.

(a) 54 Geo. 3, c. 56, s. 1.

(b) *Latour v. Bland*, 2 Stark. N. P. C. 382. In assumpsit for the price of a copyright bargained and sold, a defence on the ground that the copyright was not assigned in writing, must be specially pleaded. *Barnett v. Glossop*, 1 Bing. N. C. 633.

(c) Post, Chap. VIII.

And it has been shewn that, by the general assignment of *all his right* in a work, the assignee has the benefit of the resulting term for the life of the author, when he survives the twenty-eight years from the day of publication. (*d*)

It was held by the Court that a publication for six years, by a person (not the composer) of some music, was not sufficient in itself to prove that the interest in the copyright had been transferred: and the production of the receipt given by the proprietor for the price of the copyright was held not to be a bar to the action. (*e*) But a plaintiff was immediately nonsuited, when one of his witnesses stated that he had heard him declare, that he had parted with all his interest in the copyright, although he did not mention in what manner the transfer had been made. (*f*)

However, on the contrary, an instance has occurred in which the assignee of a copyright, to whom the assignment was made *by parol*, obtained an injunction. The distinguishing feature of that case was this, that some of the defendants had actually received the purchase money, and had permitted the plaintiffs to print and publish the work. (*g*)

The title necessary to support an injunction.

But an affidavit, in which it was stated that the plaintiff had purchased or legally acquired

(*d*) 2 Bro. C. C. 80.

(*e*) *Latour v. Bland*, 2 Stark. N. P. C. 382.

(*f*) *Moore v. Walker*, 4 Camp. N. P. C. 8, n.

(*g*) *Longman v. Oxberry*, November 1820. MSS.

the copy, was considered to be bad, for not stating that he had purchased it from the author. (*h*)

But it was considered to be sufficient for an *assignee of an assignee* to shew that the assignment to himself was in writing without deducing a title from the author. (*i*)

And, moreover, a book will pass to the assignees under a commission of bankrupt, although a manuscript will not. (*j*)

6. Devise of a copyright.

We have seen that under some circumstances a copyright becomes vested in the personal representatives of the author, when at his decease that right would otherwise have expired. (*k*)

The copyright in a work is a personal chattel, and may be devised ; (*l*) and a manuscript will pass to the author's executors. (*m*)

7. Taken under execution.

It is doubtful whether an unpublished manuscript can be taken in execution by creditors ; (*n*) but the better opinion seems to incline against such a rule of law ; because, until the act of publication is accomplished, an author has an undoubted right to have full control over it. (*o*)

8. Abandonment.

It is said that an author may by his conduct

(*h*) *Gulliver v. Snaggs*, 4 Vin. Abr. 278.

(*i*) *Morris v. Kelly*, Eden on Injunctions, 288.

(*j*) See ante, p. 377, as to the bankruptcy of the proprietor of a newspaper.

(*k*) 54 Geo. 3, c. 156, s. 8, Chap. I.

(*l*) See ante, p. 377, as to the devise of a newspaper.

(*m*) See ante, p. 326.

(*n*) 4 Burr. 2311.

(*o*) See ante, p. 325.

abandon his work, and give to the public a power to publish his book before the usual time of copyright has transpired. (*p*)

There is no authority on the point; and it is very difficult to say, what circumstances would induce a court, either of law or equity, to consider a work as given up to the public by its author. But still it may be capable of proof; where an author, upon delivering a manuscript to a bookseller, says, "I will make a present of this work to you to publish: I wish to give it to the public," &c. (*q*) The Court of Equity refused to grant an injunction at the end of the first fourteen years, to restrain him from continuing the publication.

A very singular case occurred between an author and his assignee. The author of a law book sold the copyright to a bookseller, who published a third edition of the work (edited by another person,) without any name: but purchasers were likely to suppose that it was edited by the author. Such edition, having errors and mistakes in it, being calculated to injure the reputation of the author, the Court held, *at nisi prius*, that an action would lie by the author against his assignee. (*r*)

(*p*) 4 Burr. 2346, 2367, 2466; and see 2 Stark. N. P. C. 382. 4 Camp. N. P. C. 8, n.

(*q*) *Murray v. Rundall*, 5 Nov. and 7 Nov. 1822. In Chancery, MSS. See 1 Jacob's Rep. 311.

(*r*) *Archbold v. Sweet*, 5 C. & P. 219. S. C. 1 M. & M. 162, and 1 M. & R. 162. The question, whether an edition purports to have been edited by A., is a question for the jury;

II. THE QUEEN AND HER PRINTERS.

Hitherto the questions on copyright in books have been discussed in relation to the several acts of parliament vesting that property, on the ground of the original right of first publication, arising from the mental labour bestowed on the works by their authors.

But there is a power exercised over some books which is said to be founded on different principles. It is said that the Sovereign, by a prerogative right *vested in the crown*, has the exclusive privilege of printing: (s) 1st. Acts of Parliament, Proclamations, Orders of Council, &c. 2nd. The Liturgies and Books of Divine Service, &c. and 3rd. The Bible.

These works are called *prerogative copies*; and in consequence patents have been granted, by successive kings from the time of Henry the Eighth, to different persons, giving them full power to print and re-print them in exclusion of all other persons. The Queen's printer in England (*t*) enjoys the benefit to be derived from printing the acts of parliaments, &c. The universities of Ox-

but the question whether the alleged errors and mistakes be so or not, and whether they are such as are calculated to injure the reputation of A. as an author, are questions for the Court.

(s) 2 Bla. Com. 410. Chit. Jun. Prerog. of Crown, 239. But see the observations of Sir W. D. Evans, vol. II. Collection of Statutes, Pt. III. Class I.

(t) There are also Queen's printers for Scotland and Ireland to whom similar patents have been granted.

The Queen and her Printers.

ford and Cambridge, in common with the King's printer, (*u*) claim a right to print all Bibles to be circulated in England. The Company of Stationers formerly exercised an exclusive power of printing almanacks : but their patent was afterwards declared to be void. (*v*)

Whether such a prerogative really exists in the crown, *to the extent claimed* by the patentees, has, of late years, been much questioned ; (*w*) which doubt receives strength from the circumstance, that the only patent amongst them, which has ever been fully investigated in a court of common law, was adjudged to be invalid. It becomes a duty, therefore, to give the subject a full investigation.

The question is surrounded with many difficulties : and it would be presumptuous to state in what manner it would probably be decided in a court of common law. The better way of disposing of it seems to be, to contrast all the authorities and reasoning that are to be found in our law books ; and to add to them the arguments that have an appearance of reason in them, which have been advanced on either side of the question.

First. It is said that, for the sake of public peace, and to keep all the laws of the land pure

1. A prerogative generally.

(*u*) 6 Ves. 689.

(*v*) *Stationers' Company v. Carnan*. See Vol. I. of Lord Erskine's Speeches.

(*w*) See 5 Bac. Abr. tit. Prerogative, p. 594. Carter Rep. 89.

and correct, the Queen has a prerogative right *generally* to print all ordinances of the state, as acts of parliament, proclamations, orders of the privy council, &c. and all papers which relate to the good government of the land. (x)

Which position is answered by saying that all prerogatives must have existed from time immemorial—that the art of printing was introduced into England in the reign of Henry VI. within the time of legal memory.

The length of
time enjoyed.

An argument in favour of the prerogative is then derived from the length of time that it has been exercised, which commenced with the *first introduction* of the art of printing into England.

On the other hand it is contended, that length of time warrants no wrong ; and that the prerogative, as at first assumed, has been continually diminished. Thus, the Sovereign at first exercised a power over the *art of printing* itself ; and when that was in some degree lessened, he still controlled the publication of books with respect to their *contents* : a right which is not now attempted to be claimed. And farther that, when these patents

(x) 2 Ves. & Beam. 21. See the observations of Mr. Justice Yates, in 4 Burr. 2384. But Lord Mansfield said, crown copies are, as in the case of an author, *civil property* : which is deduced, as in the case of an author, from the King's right of original publication. The *kind* of property in the crown, or patentee from the crown, is just the same : incorporeal ; incapable of violation but by a civil injury ; and only to be vindicated by the same remedy, an action on the case, or a bill in equity.

were first granted, the prerogatives of the crown were maintained on principles, which the most servile courtiers would at this day blush to name : that they were all granted before the expiration of the licensing acts ; (y) and that one of them—for almanacks—as *ancient in its date* as the others, has been declared to be invalid and cancelled.

On the other hand, on the some principle—length of time—an inference *against* prerogative copyrights is drawn from the old method of promulgating the laws, before the art of printing was discovered, by which the sheriff read them in the public market place in every town : at which time every person who pleased might have taken a copy of them. And it is added that no trace of an authority, for supposing that any one was ever prevented from making transcripts for sale, can be found.

Secondly, It is said, that if there is not such a general common law prerogative, yet, for political and *public convenience*, the Sovereign, as *supreme executive Magistrate*, ought to promulgate to the people all acts of the state and government ; and, consequently, that he has the exclusive privilege of printing, at his own press or that of his grantees, all acts of parliaments, proclamations, and orders of council. (z)

2. As executive magistrate.

On the other hand it is contended, that the Sovereign has not any power to grant to patentees

(y) First enacted in 1662, 13 & 14 Car. II. ; and finally done away with in 1694.

(z) 2 Bla. Com. 410. 2 Ves. & Beam. 21.

the privilege of printing the acts of the state, *in exclusion of all other persons*, even on the ground of “*political and public convenience* ;” but that the principle, in its farthest extent, only warrants a prerogative right to print a sufficient number for *the use of the officers of state*, as for the judges, magistrates, &c. ; and that every person is afterwards at liberty to multiply copies for his own convenience or profit. For, it is added, when the reason ceases the law ceases, and although an act of parliament not printed by the Sovereign’s patentee could not be used as authentic in the courts of justice, yet it would certainly answer the private purposes of the subject.

3. As head of the church.

Thirdly, It is said that the Sovereign, as *supreme head of the church*, has a right to the publication of all liturgies and books of Divine service, &c. ; and in consequence her patentee has the exclusive privilege of printing the forms of prayers for a particular occasion. (a)

This argument, it is contended, destroys the proposition which it is adduced to support ; for if the Sovereign, *as head of the church*, has the exclusive right of printing *all books* of Divine service, why not, as head of the church, have a right to print the principal book used in the divine service—*the Bible*,—and all kinds of Bibles, in whatever language they might be written ? And yet the principle of *property* is resorted to, for the right

(a) *Eyre and Strahan v. Carnan*, cited 6 Ves. 697, and reported at length in 5 Bac. Abr. tit. Prerogative, p. 597.

of printing the present edition of the Bible : and Lord Mansfield has declared, that there is no prerogative right to the Bible in the original languages. (*b*)

It is therefore insisted, that the prerogative claimed as head of the church must be taken with a limitation, similar to that claimed as executive magistrate : That the Sovereign's patentee may provide all the clergy and members of the church with copies of the liturgies, books of divine service, &c. ; but that every one who thinks proper is then entitled to make a copy for himself, and to print others for those persons who may please to buy them.

And, farther, it is contended that, when the *reason* for the law ceases, the *law* itself ceases ; and therefore, when all the persons concerned

(*b*) 4 Burr. 2405. Lord Mansfield.—The copy of the Hebrew Bible, the Greek Testament, or the Septuagint, does not belong to the king : it is common. But the English translation he bought : therefore, it has been concluded to be his property. If any man should turn the Psalms, or the writings of Solomon, or Job, into verse, the king could not stop the printing or sale of such a work : it is the author's work. The king has no power or control over the subject matter : his power vests in property. His whole right rests upon the foundation of property in the copy by the common law. What other ground can there be for the king's having a property in the Latin grammar, (which is one of his ancientest copies,) than that it was originally composed at his expense ? Whatever the common law says of property in the king's case, from analogy to the case of authors, must hold conclusively, in my apprehension, with regard to authors.

in the administration of justice have been provided with authentic copies of the laws, and all the ministers of the gospel have been furnished with the books of divine service, it is not for the good of the public that only one set of men should print other editions of the statutes and Bible, for general circulation in the kingdom, or for exportation into foreign parts, for their own private profit. And it is added that, so far from the Sovereign's printer's situation being a place of emolument, it appears that in ancient times it was merely *an office*, and that it was formerly granted by that name, with a fee annexed to it; and, when appointed the printer, he was *sworn into the office*. (c)

4. The Sovereign's right from purchase.

Fourthly. It was formerly maintained that the Sovereign had a right *by purchase* to such works as were compiled at the expense of the crown. (d) By which rule was meant, not a book written and composed by the Sovereign, in which the common law might have given a common copyright,

(c) 4 Burr. 2384. 3 Mod. 77. And see *Eyre v. Carnan*, 5 Bac. Ab. 597. As to the King's printer's right being merely an authority, see 6 Ves. 713.

(d) See *Nicol v. Stockdale and Others*, 3 Swanst. 687. A voyage of discovery having been executed, and a narrative of it prepared under the orders of the crown, the narrative is the property of the crown; but on a bill by a publisher, authorized by the secretary to the board of Admiralty to publish such a narrative, the profits remaining at their disposition, an injunction restraining publication by a stranger was dissolved.

that was not taken away by the stat. 8 Ann. c. 19 : but a work compiled by the order of government, and made, in other words, at the expense of the people. And also inasmuch as the Sovereign appointed the judges, who made the decisions in the courts of law, that therefore the Sovereign had a prerogative to print all law books. (e)

And, upon the principle of *purchase* the Sovereign had a prerogative copy in the old Latin grammar, which had been written and composed at the expense of the crown.(f)

The position that the Sovereign has a prerogative copy in law publications, or in the Latin grammar, is now considered to be perfectly ridiculous. (g) And yet upon the very *same principle of purchase*, combined with the principle of the Sovereign being the *head of the church*, the prerogative over Bibles is said to be founded. (h)

The answers, given to the reasons urged in support of the prerogatives in the crown copies, arising from the Sovereign being the chief executive magistrate and head of the church, having been stated, it will be proper to collect the arguments that may be advanced against the position, The Bible.

(e) Ante, *Roper v. Streater*, cited in Skin. 234. 1 Mod. 257. And see 4 Burr. 2316. 2 Show. 260. 10 Mod. 106. Vern. 120.

(f) 4 Burr. 2329, 2401.

(g) 4 Burr. 2315. *Gibbs v. Cole*, 3 P. Wms. 255, which was on a patent for the sole printing a book of architectural designs.

(h) 2 Bla. Com. 410.

that the Sovereign has, *by purchase*, (i) a prerogative copy in the present edition of the Bible.

It might be taken for granted (inasmuch as in the great case of *Donaldson v. Becket* in the House of Lords, seven judges were of opinion that there was a common law copyright, and only four judges were of a different one,) that it may fairly be inferred that an author at common law had a right to print and publish his work in perpetuity. And, therefore, supposing the Sovereign were to write a book herself, with her own hand, she (not being mentioned in the stat. of 8 Ann. c. 19,) might have a perpetual copyright in it.

But the Sovereign *did not* write the present translation of the Bible; it was done by many learned men from each of the Universities, who were employed and paid by the government.

And it has never yet been contended that the mere act of purchasing a work, conferred on him by whom the manuscript was bought; a copyright dependent on the purchaser; (j) for such a

(i) See 4 Burr. 2384. Yates, J.—It is mentioned as one ground of the King's right to print them, "that some of these prerogative books were composed at his expense." But in fact it is no private disbursement of the King, but done at the public charge, and part of the expenses of government. It can hardly be contended that the produce of expenses of a public sort are the private property of the King, when purchased with public money. He cannot dispose or sell one of those compositions. How, then, can they be his private property, like the private property claimed by an author in his own compositions?

(j) 4 Burr. 2346, 2404. Amb. 164. Sed vide, 3 Ves. & Beam. 77.

proposition would establish a rule that, under the present acts of parliament, the copyright in a book ought to continue for *the life of the purchaser* of the manuscript, and not for the life time of the author: a proposition evidently absurd.

It is true that a person, by a *mere gift*, may have such a power over a publication as to maintain an action, or obtain an injunction, against any one who pirates it. And so he might, even if he *came wrongfully* by the manuscript from which it was printed; but those decisions proceed upon the principle, that title arising from possession is sufficient evidence of property, against the pretensions of a third person: and not on the ground of copyright.

To which reasoning it is, on the other part of the crown, *replied*, that the translators of the Bible had, *at the time* the Sovereign *purchased* the copy, a common law copyright in the production. That the Sovereign took such interest; and, therefore, inasmuch as he is not bound by the statute of Anne, taking away the common law copyright of authors in general, that his power to print and reprint the Bible is a perpetual right, or a prerogative in the crown.

It is further contended, that the acts of parliament, &c., books of Divine service, &c., and Bibles, are works in which *no one* can claim property by *authorship*; and, therefore, inasmuch as the Sovereign has not a right to books and publi-

Statutes and
Bibles pub-
lished with
notes.

cations abandoned to the public, he can have no property in the books called crown copies. (*k*)

And it is added that, both with respect to acts of parliament and the Bible, any one is at liberty to print them *with notes*. (*l*) And yet if the principles upon which the prerogative right is maintained, be correct—that is, on purpose to keep the acts of parliament from mutilation, and the Bible from being incorrectly printed,—that the power over them is vested in the crown; why does it not extend to the editions with notes? for both evils may arise in the editions with notes, as well as in the copies without them.

No attempt has ever been made to prevent any person from publishing a translation of one book, or *of a part* of the Bible, from the original text, and enjoying a copyright in his production.

And it was admitted by Lord Mansfield, that any person making *an abstract* of the records of the courts of law might publish it. (*m*)

5. This prerogative is supported by decisions in equity and law.

Fifthly. It is said, that the validity of the crown copies is supported by the injunctions that have continually been granted in the Court of Chancery, on the supposition of the legality of the patents, and by a decision in the Court of Queen's Bench.

To which it is answered, that many reasons

(*k*) Mod. 256. 3 Mod. 75. 4 Burr. 2347, 2402.

(*l*) Ante, p. 244. 2 Evans' Collect. Stat. Part III. Class I.

(*m*) 4 Burr. 2404. Lucas, 105. 2 Ch. Ca. 76.

may be assigned for granting of an injunction besides the legality of the patent ; and that injunctions were often obtained for infringements of the patent granted to the Stationers' Company, conferring on them the sole right of printing almanacks ; and yet, the first time the legality of that patent was discussed in a court of common law, the validity of it was questioned, and it ultimately was declared to be void.

It is therefore contended, by those persons who think that the patents of the University and Sovereign's printer are not founded in law, that injunctions are not authority in a common law question, particularly in the present subject, because very few of them ever came on to be heard ; and that the circumstances of an injunction being granted and continued until the hearing does not furnish an argument in favour of the validity of the patent, because injunctions are now granted until the hearing, although the right may be doubtful, if there has been a long possession under it. (n)

But formerly an injunction was refused to a complainant, unless he had a plain right : (o)

(n) 8 Ves. 215 ; and see 12 Ves. 270. 17 Ves. 424.

(o) 1 Vern. 129. 1 Atk. 284. *Hills v. The University of Oxford*, 1 Vern. 275. In the year 1684, the King's printer filed a bill to restrain the University of Oxford from printing Bibles, &c. ; and although the lord keeper was of opinion that it was never meant by the patent to the University that they should print more than for their own use, or at least some small number more to compensate their charge, yet he thought

and in one instance an injunction was actually denied on the motion of the Sovereign's patentees to stop the sale of English Bibles printed beyond sea, until the validity of the patent had been tried at law. (*p*) The difference arises from the alteration of the practice in the Courts of Chancery.

Respecting the authority of the opinion of a judge sitting in a Court of Equity upon a question of common law, Mr. Justice Yates observed, (*q*) that "great attention and respect were undoubtedly due to the decisions of the Lord Chancellor: but they were not conclusive

the validity of the patent was a matter proper to be determined at law, and would grant an injunction until the trial had settled the right.

(*p*) Anon. 1 Vern. 120. Hil. Term, 1682. In which case it is said that the patent for law books had been adjudged good in the House of Lords. And see *Baskett v. Cunningham*, 1 Bla. Rep. 370. 2 Eden, 137, S. C. Cunningham and other booksellers were publishing a *Digest of the Statutes*, with notes. They had engaged the proprietors of the patent for printing law books to print the work; and it was being printed at their press. Baskett, the king's printer, moved against the proprietors and the law printers for an injunction. It was contended, that the book was not within the meaning of the letters patent, being a work of labour and industry, and in a method entirely new; and that it was printed at a privileged press. The Lord Chancellor was of opinion that the work was entirely within the patent of the king's printer, and that the notes were *merely collusive*; and he accordingly granted an injunction. But he would not interfere between the two contending patents in the summary method of injunction, but left them to adjust their respective rights in due course of law.

(*q*) 4 Burr. 2353.

upon a court of common law. Had these injunctions (which were only temporary) been perpetual they could have no effect on a court of common law, in a common law question."

On the other hand Lord Chancellor Eldon has said, (r) "the Court takes upon itself that which may involve it in a mistake—to determine the legal question—and the observations of Mr. Justice Yates are very material on this point; particularly if he was accurate in saying he did not consider these cases upon injunction as determining the legal question; which, if he meant as in no case determining it, is not accurate: as it is, if he meant only that it is a decision by a Judge sitting in Equity upon a legal question, and therefore not having all the authority of a decision by a court of law; but giving an opinion and pledging to maintain it, unless there should be occasion to alter it. The principle of granting injunction in those cases is, that damages do not give adequate relief."

It is further contended, that even the decision which took place in the court of common law (s)

(r) 8 Ves. 224.

(s) *Baskett v. The University of Cambridge*, 2 Burr. 661. And see 1 Bla. Rep. 105. The plaintiffs were the King's printers, and brought a bill in the Court of Chancery to restrain the defendants from printing or selling a book intituled "*An exact Abridgment of all the Acts of Parliament relating to the Excise on Beer, &c.*" It was sent unto the King's Bench for the opinion of the Court upon the acts of Parliaments and patents.

Several letters patent were insisted on by the plaintiffs;

cannot be considered as an authority in the point; for that was a question between two rival patentees, (the Sovereign's Printer and the University of Cambridge) in the discussion of which

the last bore date in the 12th year of Queen Anne, by which the *sole* power of printing all and all sorts of abridgments of all and singular statutes and acts of Parliament was given to the grantees, with a *prohibition* against all others.

The defendants contended, that by a patent granted in the 26th year of Hen. 8, they might lawfully print within the University all manner of books approved by the Chancellor and Vice-Chancellor, and three doctors: and might put them to sale wherever they pleased; and that by a patent dated 3 Car. 1, the King confirmed that right to the University, *notwithstanding* any grant or prohibition contained in the subsequent letters patent, or any of them.

The case was argued four times during the space of six years; and the following certificate was made by Lord Mansfield and the other judges.

"Having heard counsel on both sides, and considered of this case, we are of opinion that during the term granted by the letters patent dated the 13th of *October*, in the twelfth year of the reign of Queen *Anne*, the plaintiffs are entitled to the right of printing acts of Parliament, exclusive of all other persons not authorized to print the same by prior grants from the crown."

"But we think that by virtue of the letters patent bearing date the 20th day of *July*, in the 26th year of the reign of King *Henry* the Eighth, and the letters patent bearing date the 6th of February, in the third year of the reign of King *Charles* the First, the chancellor, masters and scholars of the University of *Cambridge*, are intrusted with a *concurrent authority* to print acts of Parliament and abridgments of acts of Parliament within the said *University*, upon the terms in the said letters patent." *Baskett v. University of Cambridge*, 1 Bla. Rep. 105. 2 Burr. 660.

the legality of the patents could not be mentioned. It was taken for granted that each of the patents was good ; and then the certificate of the Judges shewed how far the respective patentees had a right to print the same books—Acts of Parliament. So much so that, upon the question being carried into the House of Lords, when one of the counsel was about to impugn the patent of the Sovereign's Printer, he was reminded that by that means he would destroy the grant to his clients. (t)

A similar reason may be given for the strong expressions made use of by Lord Erskine, when counsel at the bar of the House of Commons for Carnan, the opposer of the patent for almanacks, *in favour* of the prerogative copies in the Statutes, the Bible, &c. He was an advocate much too shrewd to contend before such an assembly as the House of Commons, on a bill brought in by the minister, that they ought not to revest a monopoly in the Stationers' Company, (the patent formerly granted having been declared to be invalid) *because none* of the patents of prerogative copies were founded in law or justice.

On the authority of *Baskett v. The University of Cambridge*, although a case between two rival patentees, Lord Mansfield, and the Court over which he presided, considered the patents of the Crown Printers and the Universities to be valid ; and thence *inferred* that there was a common law

(t) 2 Evans' Collec. Stat. Pt. III. Cl. I. (9); and see *Bruce v. Bruce*, 13 Ves. 505. *Baskett v. Parsons*, id.

copyright in authors over their publications. (u) It is contended as, by the decision in *Donaldson v. Beckett*, it is *doubtful* whether there ever was such a common law copyright, that the *premises* of his lordship—the legality of the patents—being the converse of the proposition then to be proved, has at least been rendered *doubtful*.

The Queen's
printer.

It follows as a matter of course, that if the Queen has the prerogative of the exclusive right to printing the books called Crown Copies, that her grantees may enjoy the same privileges. (v)

III. THE COMPANY OF STATIONERS.

To trace the rise and progress of the Company of Stationers, and to give a full account of their grants and charters, would be as tedious and irksome as it would be useless and unnecessary. It is sufficient to observe, that they were first incorporated by very important charters granted to them in the years 1556 and 1558, and that, whilst the Star Chamber was in existence, in the hands of an oppressive and tyrannical court, they were the monopolists of books and the destroyers of literature. By a charter granted to them by James the First they, for a long time, in concurrence with the universities of Oxford and Cambridge, claimed an exclusive right to print alma-

(u) 4 Burr. 2332, 2346.

(v) The first appointment of a King's printer extant, was that of Grafton, by Edw. 6.

nacks, (*w*) and frequently obtained injunctions in the Court of Chancery in support of that grant: (*x*) which, upon its being referred to a Court of Common Law, was declared to be invalid. (*y*)

At present the Company of Stationers have little more to do with literary productions than to make an entry of each work in their books, in order to secure to the authors the penalties for any infringements; and to take in and deliver to the learned bodies those copies of works to which by act of parliament, they are entitled.

That every person may know in what works a copyright is claimed, it is provided by the stat. 8 Anne, (*z*) that no person shall be subjected to the penalties for printing or reprinting any book, unless the title to the copy of such book be entered in the register book of the Company of Stationers; nor be answerable to the assignee, unless the consent of the proprietor, by which he parted with the copyright, is in a like manner entered.

1. The entry
of Stationers'
Hall.

(*w*) See title "*Almanacks*," ante, p. 340; and 2 Bla. Rep. 1004.

(*x*) *Stationers' Company v. Lee*, 2 Ch. Ca. 66, 93. 2 Show. 258, S. C. *Same v. Wright*, id. 73.

(*y*) *Stationers' Company v. Partridge*, 10 Mod. 105, and cited in 2 Bro. P. C. Toml. Ed. 137. See *Same v. Marlow*, 2 Show. 261. Lelly Entr. 63. 1 Mod. 256. 2 Bla. Rep. 1009. 4 Burr. 2329, 2370, 2372, 2382. *Company of Stationers v. Parker*, Skin. 233. *Same v. Seymour*, Mod. 256. 3 Keb. 279, S. C.

(*z*) 8 Ann. c. 19, s. 2.

But now, without any express repeal of the first parts of 8 Ann. c. 19, and 41 Geo. III. c. 107, which relate to the entry of the title of the book at Stationers' Hall, in order to ascertain what books may from time to time be published, it is directed (*a*) that the title to every book which is published shall be entered within one calendar month from the day of publication, if published in London; and within three calendar months for those books which are published in any other part of the British dominions, under a penalty of five pounds, and the price of eleven copies; to be recovered in an action at law by the managers of the public libraries.

It was held, though with some hesitation, that an injunction might be obtained in Chancery, (*b*) or an action maintained at law, (*c*) although the book had not been entered at Stationers' Hall; but, to remove all doubt, it was enacted that a failure in making the entry should not affect the copyright, but only subject the publisher to the penalty for not causing it to be made. (*d*)

For every entry two shillings is to be paid. (*e*) The register book may always be consulted upon payment of one shilling, and for the like sum a certificate of an entry must be granted. If the clerk refuse or neglect to make the entry, or to give a certificate of it, an advertisement in the

(*a*) 54 Geo. 3, c. 156, s. 2.

(*b*) *Beller v. Walker*, cited in 2 Atk. 94.

(*c*) *Beckford v. Hood*, 7 T. R. 620; and see ante.

(*d*) 54 Geo. 3, c. 156, s. 5.

(*e*) *Id.*

Gazette will have the same benefits attached to it, and the clerk will forfeit twenty pounds to the proprietor of the work.

In making entries at Stationers' Hall, of magazines, reviews, or other periodical publications, it is sufficient to make the entry within one month next after the publication of the first number or volume. (*f*)

2. The copies for the public libraries.

It was also provided by the stat. of 8 Ann. (*g*) that nine copies of each book, upon the best paper, should be delivered by the printer to the warehouse-keeper of the Company of Stationers at their Hall before publication made, for the use of certain public libraries in England; to which were added two more copies for libraries in Ireland. This arrangement was afterwards altered when it was enacted (*h*) that *eleven copies* of every book of the largest impression, with all its maps and prints, should, on demand being made thereof, in writing, within twelve months of the publication, on the publisher, under the hand of the warehouse-keeper, or a person properly authorized by the manager of the library at the British Museum, (*i*) Sion Col-

(*f*) 54 Geo. 3, c. 156, s. 5.

(*g*) 8 Ann. c. 19, s. 5.

(*h*) 41 Geo. 3, c. 107, s. 6.

(*i*) See *The Trustees of the British Museum v. Payne and Another*, 4 Bing. Rep. 540. A part of a work, to which there were twenty-six subscribers, and of which only thirty copies were printed, and published at intervals of several years, at an expense exceeding the sum to be obtained by the price of the copies, (the expense being defrayed by a testamentary

lege, (*j*) the Bodlean at Oxford, the public one at Cambridge, of that belonging to the faculty of Advocates at Edinburgh, of the four Universities in Scotland, (*j*) Trinity College, Dublin, and King's Inn (*j*) Library, Dublin; to be delivered by the publisher to the warehouse-keeper for the use of each of the libraries that should request it within one month after the demand.

The warehouse-keeper (*k*) is directed to deliver the said books within one month afterwards to the keeper of the respective libraries, or any person by them properly authorized. For neglect of duty the publishers and warehouseman are liable to a penalty of five pounds, besides the value of it, for every copy not so delivered, received, and handed over.

In the event of a *second edition* being published, (*l*) it is not to be delivered to the libraries unless it contains additions and alterations; nor even then, if the additions are delivered over by themselves.

And the warehouse-keeper of the Company of Stationers is directed every three months to transmit correct lists of the books entered, to the librarian of the eleven public libraries, and also to call on the publishers for as many copies as are demanded. (*m*) But the publisher of a book is

donation), was held by the Court not to be a book demandable by the British Museum, under 54 Geo. 3, c. 156.

(*j*) The right of these places is taken away with a compensation, 6 & 7 Will. 4, c. 110.

(*k*) 54 Geo. 3, c. 156, s. 2.

(*l*) Id. s. 3.

(*m*) Id. s. 6.

at liberty to deliver it himself to the librarians, who are authorized to give a receipt for the same ; and such delivery is equivalent to one to the warehouseman. (n)

It was at one time imagined that, unless the title of the book was entered at Stationers' Hall, a publisher was not bound to deliver up copies for the use of the public libraries : but it was held (o) that the copies of each book, upon the best paper, must be delivered to the warehouse-keeper of the Company of Stationers for the use of the library of the University of Cambridge, notwithstanding the title to the copy of the book, and the consent of the proprietor to the publication, were not entered in the register-book of the Company.

By the international copyright act (p) the Company of Stationers are to receive a copy of each book to be protected under that act, and to keep a register of the titles of them.

IV. THE UNIVERSITIES.

The Universities of Great Britain are deeply interested in the laws respecting the publication of books. But the regulations that more particularly relate to those learned bodies are few in number. They will be explained in the following order :

(n) 54 Geo. 3, c. 156, s. 7.

(o) *The University of Cambridge v. Bryer*, 16 East, 317.

(p) 1 & 2 Vict. c. 59, and see *id.* sec. 5, as to British Museum.

1. The right to print Bibles.
2. The right to print the Statutes.
3. The patent respecting Almanacks.
4. The general copyright of the Universities.

Upon the introduction of the art of printing into England by Hen. VI. a press was set up at Oxford : and a great power over the publication of books was for many years very naturally assumed by that learned body. It was increased by charters and grants, made to the Universities of Oxford and Cambridge by several kings, in which were given to them powers to print and reprint Bibles, Statutes, Almanacks, &c. How far the Crown really possesses a prerogative in copyright in those works has been a subject of discussion in a former section. Supposing that those patents are valid which have not been declared to be void, it will be proper to set forth the interest in them, that is claimed by the Universities.

1. The right to print the Bible.

The right of the Universities to print Bibles is claimed under charters from several of our Sovereigns. (*q*)

The grants to the Universities are made in general words ;—all manner of books and works of whatever description, not prohibited by public authority, which shall be approved of by the

authorities in the Universities. It is under letters patent granted in the 13th year of Elizabeth that they claim to print Bibles. (r)

The same power is vested in the Queen's printers for England, and for Ireland. (s)

By similar grants full power is delegated to them to print the statutes. A question arose as to the right of the University of Cambridge to print an abridgment of the statutes; and it was decided (t) that by virtue of letters patent, bearing date the 28th day of July, in the twenty-sixth year of the reign of King Henry the Eighth, and the letters patent bearing date the 6th of February, in the third year of the reign of King Charles the first, the Chancellor, Masters, and Scholars, of the University of Cambridge, *are intrusted* with an authority concurrent with the Queen's printer to publish acts of parliament, and abridgments of them within the University upon the terms in the letters patent mentioned.

2. The right to print the statutes.

We have seen that the Crown has not the privilege of a prerogative copy in almanacks; and that the grants of it by the Sovereign to the Crown

3. The right to print Almanacks.

(r) 2 Bla. Rep. 1004.

(s) See *The Universities of Oxford and Cambridge v. Richardson*, 6 Ves. 689, and 9 Ves. 341. Irish T. R. 304. The patent for Scotland has expired, and the Bible is now printed under a commission.

(t) Bla. Rep. 304. 2 Burr. 661. Burn. Ecc. Law, 347. 4 Burr. 2401. 6 Ves. 697. See Skin. 234.

printer, and the Universities, were declared to be void. (u)

4. The copy-right of the Universities generally.

Alarmed lest the seats of learning should suffer by the judgment of the House of Lords, by which the supposed common right of authors to their works was declared to be restrained by the statute of 8 Ann. the Legislature passed an act (v) that the Universities in England and Scotland, and the Colleges of Eton, Westminster and Winchester, should at their *respective presses* have for ever the sole liberty of printing such books as had been given or bequeathed to them, or which should thereafter, not being then published, be given to them, or in trust, for the purpose of appropriating out of the profits arising from them a fund for the advancement of useful learning, and other beneficial purposes of education; unless

(u) Ante, p. 340, 2 Bla. Rep. 1004. Upon a petition presented to Parliament by the Universities, stating that they had demised their supposed privilege to the Company of Stationers for 1000*l.* *per annum*, an act of Parliament was passed by which 500*l.* *per annum* of the duties arising from the stamps on sheet almanacks were given to each University, which benefit was taken away by the 4 & 5 Wm. 4, c. 57, which repealed all the stamp acts respecting almanacks.

(v) 15 Geo. 3, c. 53. The Syndics of the press in the University of Cambridge are the vice-chancellor, the heads of colleges, and doctors of each faculty, the orator and all public professors, with the proctors, taxors and scrutators. To these, or the major part, not less than five, of whom the vice-chancellor must be always one, full powers must be committed for the better regulating and management of the same.

the books are given or bequeathed only for a limited time.

The penalties to be inflicted on persons offending against those provisions are the same as if the books were the property of an individual. (*w*)

This exception in the favour of the Universities is to extend only to their own books, so long as they are printed at the College press, and for their sole benefit; and any delegation of the right works a forfeiture, and the privilege becomes of no effect.

A power is given to the Universities of selling or disposing of the copyrights bequeathed to them. (*x*) And the books must be registered at Stationers' Hall within two months after any such gift shall come to the knowledge of the officers of the Universities. (*y*)

The duties imposed on the Company of Stationers to take care that the two Universities are provided with copies of all new books have been mentioned. (*z*)

(*w*) 41 Geo. 3, c. 107.

(*x*) 15 Geo. 3, c. 53, s. 3.

(*y*) Id. s. 4.

(*z*) Ante, p. 451. Provision is made for the preservation of *Parish Libraries*, by 7 Ann. c. 14, s. 10, which empowers a justice of the peace to grant his warrant to search for a book that is lost. The acts of Parliament respecting the *British Museum* are, 26 Geo. 2, c. 22. 27 Geo. 2, c. 16.

V. THE COURTS OF JUSTICE.

The Courts of Justice have a controul over the publication of their own proceedings. It is claimed and exercised, not on the grounds of copyright and property, but on the principle that it is necessary for the due and *impartial administration of the laws*.

Some doubt has been thrown upon the subject. (a) If the right be possessed by any of the courts, it is a privilege belonging to all of them. The present inquiry will, therefore, be confined to those courts in which the right has been exercised and afterwards questioned, as where reports have been given from,

1. The House of Lords.
2. The Privy Council.
3. The Courts of Law.
4. The Mayor's Court.
5. A Coroner's Inquest.

Both Houses of Parliament treat a publication of their proceedings as a *breach of privilege*; and it is only by an indulgence in not punishing for the contempt, that the reports of the debates are allowed to appear in the newspapers. (b)

(a) In a "legal and constitutional argument against the alleged judicial right of restraining the publication of reports of judicial proceedings," by J. P. Thomas, Esq. 1822.

(b) See ante, p. 363; and 8 T. R. 293. 1 Bos. & Pul. 525.

Different reasons have been assigned in the several courts, for the exercise of this power over the publication of judicial proceedings, but all of them have for their ground work, the impartial administration of justice.

The House of Lords, the highest judicial court in the kingdom, has, ever since the trial of Dr. Sacheverell, considered that it was the exclusive *privilege* of the House to publish its own judicial proceedings. This is usually done by ordering the Lord Chancellor to cause the trial to be published; at the same time prohibiting all other persons from doing the like.

An order had been made by the House of Lords for the printing the trial of the Duchess of Kingston; and an injunction was granted to restrain one Kearsley who had without such permission dared to print it. (c)

Lord Erskine also granted an injunction until the hearing to restrain the publication of the trial of Lord Melville, which had been directed to be printed by an order of the House of Lords, and the privilege of doing it conferred on Mr. Gurney. (d)

His Lordship observed that he desired it to be understood, that he had not delivered any judgment in the case, farther than by granting the

(c) *Bathurst v. Kearsley*, Easter Term, 1776, cited 13 Ves. 504.

(d) *Gurney v. Longman*, 13 Ves. 493. But yet reports of legal arguments in the House of Lords are regularly given, unnoticed by their lordships.

injunction until the hearing upon the precedent of *Bathurst v. Kearsley*, and that he should therefore consider *the question open* in any future stage.

Neither of these cases came to a hearing : but it may be safely inferred that the House of Lords possesses the power, as a privilege of the House, to make an order restraining all persons, excepting the one appointed by the Lord Chancellor, from publishing their judicial proceedings.

2. The privy council.

On the ground of *public policy*, an injunction was once granted to restrain the publication of matters before the Privy Council. (e)

3. The courts of law.

A similar privilege is claimed and exercised by the Courts of Law at Westminster. Formerly no reports of their proceedings were allowed to be published, until they had received the imprimatur of the Judges. (f) Although decent and correct accounts of what passes in courts of justice may, it has been shewn, (g) be given to the public ; yet it must be by the consent of the Judges implied by their not interfering to stop it. If an intimation is given from the Bench that the matter of any particular case must not be reported, it is a *contempt* of Court to publish it. The proprietor (h) of the Observer newspaper was fined 500*l*.

(e) Mentioned in argument in *Percival v. Phipps*, 2 Ves. & Beam. 23.

(f) See the Preface to Douglas's Reports.

(g) Ante, p. 363.

(h) *The King v. Clement*, 4 Barn. & Ald. 218. As to advertising for evidence in a cause, see *Poolc v. Sacheverell*,

for reporting part of the trial of Thistlewood for high treason, after the court had stated that it was their wish that the whole of the proceedings might be published together, and that no part of them should be printed, until the trials of several other prisoners were over. The reasons for this power thus exercised, by courts of justice, are too obvious to need any mention being made of them.

This privilege is not claimed by the court as a right *wholly to prevent* the publication of a trial ; but merely for the sake of justice, to restrain all ex-parte statements which must necessarily conduce to the detriment of one party ; and, in criminal cases, more particularly to the injury of persons under trial. The publication is not an infringement of any copyright : but a *contempt* of the court.

Not only have the higher courts of justice this power over the publication of their own proceedings : but it is also possessed by the *Mayor of London*.

4. The Lord Mayor's Court.

A bill was filed by some printers, who had bought from the Lord Mayor the copies of the *Sessions Paper* ; and Lord Hardwicke, upon the ground that it had always been usual for the Lord Mayor to give an order to a printer, and to take a consideration for it, granted an in-

1 P. Wms. 675 ; and see 4 Burr. 2329. Bac. Ab. Courts and their Jurisdiction, 3 Inst. 182.

junction until the hearing. At the hearing the injunction was made perpetual by Lord Northington. (i)

5. Coroner's inquest.

A criminal information will lie for publishing an *ex parte* statement of the proceedings upon a coroner's inquest. Mr. Justice Bayley (j) observed "this is a matter of great criminality ; for the inquest before the coroner leads to a second inquiry, in which the conduct of the accused is to be considered by persons who ought to have formed no previous judgment of their case. It is a statement of evidence taken wholly *ex parte* ; and where there is no opportunity for cross-examination. A jury, who are afterwards to sit upon the trial ought not to have *ex parte* accounts previously laid before them : they ought to decide solely upon the evidence which they hear upon the trial."

VI. PRINTERS.

Among the persons peculiarly interested in literary property, and the publication of books, *Printers* may be classed. The enactments and rules of law respecting them, will therefore very properly find a place in a Treatise on Copyright ; and may be investigated in the following order, by stating,

(i) *Manby v. Owen*, cited in *Millar v. Taylor*, 4 Burr. 2330, 2404, 5.

(j) *The King v. Fleet*, 1 Barn. & Ald. 384.

1. The statutes respecting printing in general.
2. How far printers are affected by the matter of the books.
3. The rules respecting printing newspapers.
4. Their legal liabilities.
5. The proceedings to punish offenders.

Every person, having a printing press or types for printing, must give a notice thereof, signed in the presence of and attested by one witness, to the clerk of the peace, of the place in which it is intended to be used, who will grant a certificate; and, after filing such notice, he will transmit an attested copy of to the Secretary of State. An omission in giving such notice, or a using the press in any other place, subjects the printer to a forfeiture of 20*l.* (*k*)

1. Printing in general.

Upon the front of every paper, which is printed on one side only, and upon the first and last leaves of every paper or book which consists of more than one leaf, the printer, whether it be done gratis or for money, must in legible characters print his name, and that of the city, town, parish, or place, with the name of the square,

The name of the printer.

(*k*) 39 Geo. 3, c. 79, s. 23. Not to extend to his Majesty's printers or the Universities in England, *id.* s. 24; ante, p. 316 and p. 338, 9. But *letter-founders* must give a similar notice, *id.* s. 25, and keep an account of types and printing presses sold by them, which must be produced, when required by a justice, under a penalty of 20*l.* *id.* s. 26. See 6 & 7 Will. 4, c. 76, s. 24.

street, lane, court, or place in which his usual place of abode is situated, under a penalty of 20*l.* for every copy. (*l*) But the offender is not liable to more than twenty-five penalties for the omission, with respect to any number of copies of *one* paper or book. (*m*)

The name of
the employer.

Upon a copy of every paper that is printed the printer must *write* the name and place of abode of his employer, and keep it for six calendar months; and must produce it to any justice who, within that term, may require to see it, under a penalty of twenty pounds for each omission. (*n*)

These regulations, however, do not extend to impressions of engravings; (*o*) or to printing by letter-press, names, address, business or profession of any person, and the articles in which he deals, or to any papers for sale of estate or goods by auction or otherwise; (*p*) nor to alter the regulations respecting newspapers. (*q*)

And no regulation made by 39 Geo. III. c. 79, nor by the 51 Geo. III. c. 65, (*r*) is to extend so

(*l*) 39 Geo. 3, c. 79, s. 27. Not to extend to papers printed by the authority of Parliament, *id.* s. 28. Sometimes an indemnity is granted for omission of the names, &c. See 49 Geo. 3, c. 69.

(*m*) 51 Geo. 3, c. 65, s. 1.

(*n*) 39 Geo. 3, c. 79, s. 29.

(*o*) See ante, p. 397.

(*p*) 39 Geo. 3, c. 79, s. 31.

(*q*) See ante, p. 356.

(*r*) 51 Geo. 3, c. 65, s. 3. Before which time, indemnity acts were passed on that account. 39 and 40 Geo. 3, c. 95, and 41 Geo. 3, (U. K.) c. 80.

far as to require the printer's name or residence to be printed on any note or post bill of the Bank of England, bill of exchange, or promissory note, or any bond or other security for payment of money, or on any bill of lading, policy of insurance, letter of attorney, deed, or agreement, or on any transfer or assignment of any public funds or securities, or of the stocks of any public corporation or company authorised by statute, or on any dividend-warrant of or for the same, or on any receipt for money or goods, or on any proceeding in law or equity, or in any inferior court, warrant, order, or other papers printed by authority of any public board, or officer, in execution of their respective offices, notwithstanding the whole or any part of such securities, &c. shall be printed.

There are many subjects offensive to morality and the government, upon which no papers whatever must be printed.

2. Printers affected by the matter of the books.

A printer is liable to a penalty of 100*l.* for printing any thing relating to insurances on marriages, births, christenings, or services; or any office under the denomination of sales of gloves, of fans, of cards, of numbers, of her Majesty's picture, for the improvement of small sums, or the like offices under that pretence: (s) and to a penalty of 50*l.* for printing any proposal for gambling in the lottery. (t)

(s) 10 Ann. c. 26, s. 109; and see 9 Ann. c. 6, s. 56.

(t) 22 Geo. 3, c. 47, s. 13; and see *The King v. Smith*, 4 T. R. 414. For an account of other penalties to which printers are liable, see ante, p. 360.

And a prosecution may be instituted against the printer as well as against the author and publisher of a libel, whether it be on an individual, or be of a blasphemous or seditious nature. (*u*)

A printer cannot recover against a publisher for printing a work which contains the life of a prostitute, and the history of her amours with various persons; and it is no excuse to say that the parties are in *pari delicto*. (*w*)

3. Printers of newspapers.

The method by which a newspaper is to be printed has been stated; (*x*) and the responsibility of every person engaged in its publication has been examined. (*y*)

4. Their legal liabilities.

It is doubtful whether a printer can recover in an action for work and labour for printing a work, on the first and last leaves of which his name and place of abode are not printed, according to the direction of the statute. (*z*)

(*u*) Holt on Libel.

(*w*) *Poplett v. Stockdale*, 2 C. & P. 198. R. & M. 337.

(*x*) Ante, p. 356.

(*y*) Ante, p. 379.

(*z*) *Bensley v. Bignold*, 5 B. & A. 335. *Marchant v. Evans*, 2 B. Moor, 14. 8 Taunt. 142, S. C. In which case it was held, that an action for work and labour cannot be maintained by a printer for printing and publishing a weekly periodical work, parts of which were printed on stamped paper, and distributed as newspapers, and parts on unstamped paper, which were half-yearly bound into volumes, unless such printer lodge an affidavit at the stamp office, or have his name or place of abode printed in some part of the publication, as required by the statute 38 Geo. 3, c. 78.

A printer is not, by the custom of his trade, entitled *to be paid* any thing until he has completed the book : but he is not by custom bound to *insure* for the bookseller, the paper of the work. (a) And he has a *lien* on the latter parts of a work published at different times for the printing of the first parts. (b)

It is enacted, that *any person*, to whom or in whose presence any paper, not printed according to the statute, is offered for sale, or exposed to public view, may take the offender before a magistrate, who may determine upon his guilt ; (c) and may, if he see cause, mitigate the penalty to any sum not less than 5*l.* above all reasonable costs. (d)

5. Proceedings to punish offenders.

A *justice of the peace*, who, from information upon oath, may have reason to suspect that some presses are being used without the requisite notice having been given, or not in the place named in it, may empower an officer to search the premises, and to secure and carry away the press, and types, and the printed papers found with them. (e)

Justices of the peace may proceed in a summary way to enforce the payment of a penalty not exceeding the sum of 20*l.* ; and, if it is not

(a) *Gillet v. Mawman*, 1 Taunt. 136 ; and *Mawman v. Gillet*, 2 Taunt. 325, n.

(b) *Blake v. Nicholson*, 3 M. & S. 167.

(c) 39 Geo. 3, c. 79, s. 30.

(d) 51 Geo. 3, c. 65, s. 2.

(e) 39 Geo. 3, c. 79, s. 33.

forthwith paid, may levy the same by distress and sale of the offender's goods; and if there is not sufficient under the distress, they may commit the offender to the House of Correction, for a term not exceeding six, nor less than three, calendar months. (*f*)

Limitation.

All prosecutions for penalties are to be commenced within three months after the penalty is incurred; (*g*) one moiety of which is forfeited to the king, whilst the other is given to the informer. (*h*)

Appeal to sessions.

Any person, aggrieved by a determination of a justice of the peace, may appeal to the Quarter Sessions next after the expiration of twenty days from the making thereof, first giving six days' notice of appeal to the person prosecuting for such penalty, and the Court may dispose of the matter with the costs, in any manner they may think reasonable. (*i*)

But any penalty mentioned in 39 Geo. III. c. 79, an act of the legislature to suppress unlawful assemblies, as well as to regulate the manner of printing, *exceeding 20l.*, may be recovered by action of debt, in any court of record at Westminster: and the plaintiff, if he recovers, will be entitled to full costs. Not one of the penalties imposed by that statute, as far as it relates to *printing*, exceeds 20*l.*; and, consequently all offences under it of that description,

(*f*) 39 Geo. 3, c. 79, s. 35.

(*g*) Id. s. 34.

(*h*) Id. s. 36.

(*i*) 51 Geo. 3, c. 65, s. 4.

must be determined by justices of the peace. An attempt was made to sue in the King's Bench for 60*l.*, or three penalties: but, after verdict for the plaintiff, the judgment was arrested. (*j*)

VII. BOOKSELLERS.

All booksellers are much interested in the laws that protect literary property; and yet the laws respecting them, merely as sellers of books, are very few in number. When they assume the characters of publishers, they are in fact assignees of the authors, of whom much has already been said. (*k*) It will be proper to examine,

1. The statutes respecting buying and selling and importing books.
2. How far booksellers are affected by the matter of a work.
3. Their legal liabilities.

(*j*) *Fleming qui tam v. Bailey*, 5 East, 313. Lord Ellenborough.—A common informer can have no right to sue for any penalty, but where power is given to him for that purpose by the statute. Now, the statute in question only says that a common informer may sue in any court of record for any pecuniary penalty imposed by the act exceeding 20*l.* The penalty given for this offence, each of which must be taken by itself, and cannot be reckoned accumulatively, does not exceed 20*l.*; and, therefore, it is not within the provisions of the 35th clause, which give an action. And the sense of that clause requires that the form of the declaration there afterwards given should be read the same as if the sum to be recovered were left in blank;—for how otherwise can the penalty of 100*l.* given by the 15th section be recovered?

(*k*) Ante, p. 423.

1. Buying and selling and importing books.

The vendor of a pirated work destroys literary property as much as a rival publisher ; and, therefore, not only are penalties inflicted on those who print and import books protected by the statutes of copyright ; but they, who knowing them to be so printed without the consent of the proprietor, will venture to sell them, are made liable to the same penalties mentioned in 8 Ann. c. 19. (*l*)

But it was further provided, that nothing in that act should extend to prohibit the importing, vending, or selling of any books in the *Greek, Latin*, or any other *foreign language*, printed beyond the seas. (*m*)

By the 12 Geo. II. c. 36, the importation of books reprinted abroad, and first composed or written and printed in Great Britain, is prohibited under a forfeiture, of the books to be destroyed, with a penalty of 5*l.*, and double the value of the books : but it does not prevent the importation of any book *inserted among other books* or tracts, to be sold therewith, in any collection where the greatest part of such collection shall have been first composed or written and printed abroad. (*n*)

(*l*) The price of books was formerly regulated, see 25 Hen. 8, c. 15, s. 5. 8 Ann. c. 19, s. 4, and 12 Geo. 2, c. 36, s. 3.

(*m*) Sect. 7. The acts of Parliament, respecting the selling and importing books, that have become obsolete, are numerous. 1 Rich. 3, c. 9, s. 12. 25 Hen. 8, c. 15. 7 Ann. c. 14, s. 10. 12 Ann. st. 2, c. 5. Duties are imposed on pictures imported, 8 Geo. 1, c. 20. 11 Geo. 1, c. 7, and on the canvass used to paint on. *The Attorney General v. Brandon*, 3 Price, 360.

(*n*) See 41 Geo. 3, c. 107, s. 7 ; and 54 Geo. 3, c. 156.

To the same purpose is the 57th section of the statute 34 Geo. III. c. 20, which increases the penalty from 5*l.* to 10*l.*, and allows the commissioners of customs and excise to reward officers for seizing such books; in it is another *exception* on the restraint of importation, that it shall not extend to any books that shall not have been printed in this kingdom, within twenty years before the same shall have been so printed abroad.

By the wording of these statutes it seems immaterial whether the author's copyright is extinct or not, if the book has not been reprinted in England within twenty years. (*o*)

Printers and booksellers may, however, with the exceptions above mentioned, export books upon condition that all the duties upon the paper and bindings have been paid, (*p*) provided that if books are written in the Latin, Greek, oriental, or northern languages, then that they have not been printed at the press of either of the Universities in Great Britain. A drawback is allowed of the duty of the paper.

On the stat. 12 Geo. II. c. 36, it has been decided that two penalties might be incurred in the same day. A sale by the defendant in the morning, and another by his wife in the afternoon of the same day, were considered by the

(*o*) 2 Bla. Com. 407, n. Ed. Christian.

(*p*) The acts of Parliament respecting the duties on paper are very numerous.

Court to be two distinct acts of sale, for which two penalties might be recovered. (*q*)

2. How far booksellers are affected by the contents of a book.

Booksellers have always been made answerable for the contents of the works which they may sell. It was formerly a grievous offence to sell, or import for sale, any work which was considered heretical. (*r*)

The laws respecting libels very materially affect booksellers; for it has been decided that the circumstance of buying a libel in the shop of a known bookseller is sufficient *primâ facie* evidence to convict him of the publication. (*s*)

There is a duty payable on the importation of books. It varies according as the works are in sheets or bound up; (*t*) and its amount has been altered by many acts of Parliament.

3. Their legal liabilities.

The liabilities to which booksellers are peculiarly subjected are not very numerous.

Not only can a bookseller in general be made a bankrupt, but it was adjudged that a person

(*q*) *Brooke v. Milliken*, 3 T. R. 509. By a late order in council, the duty on books from the colonies to the same as from a foreign country, viz. pence by pound weight.

(*r*) See 3 & 4 Edw. 6, c. 10. 1 Mar. s. 2, c. 2. 1 Jac. 1, c. 25. 3 Jac. 1, c. 5, &c.

(*s*) *Rex v. Almon*, 5 Burr. 2686.

(*t*) The trade of a *bookbinder* was known in England previous to 5 Eliz. c. 4, and was within that statute: and, consequently, before the repeal of that statute, to employ a journeyman who had not served an apprenticeship in any substantive part of that business, was a violation of it. *Pratt v. Fraser*, 3 Campb. N. P. C. 14; and see *Martins v. Galloway*, 3 Campb. N. P. C. 121.

who was daily accustomed to buy the whole impression of a newspaper from the proprietor, and to resell it at a profit bearing the loss arising from the copies unsold might become a bankrupt. (*u*)

(*u*) *Gillingham v. Lang*, 6 Taunt. 532. 2 Marsh. 236.

CHAP. VIII.

OF THE REMEDIES FOR AN INFRINGEMENT OF A
COPYRIGHT.

HAVING described the different kinds of literary and scientific works, stated the nature of the property which exists in them, and given an account of the several persons peculiarly interested in publications, it becomes necessary to proceed, lastly, to point out the several *remedies* that may be pursued for injuries done to literary property.

As the property in the productions of the FINE ARTS is not vested in the inventors by the statutes which relate to the copyright in books, I have for the sake of perspicuity, and in order to make each chapter as complete in itself as the nature of the subject would admit, already given statements of the penalties by which the property in engravings or prints is guarded; (*a*) and described the actions that may be maintained for piracies of patterns for linen, &c., (*b*) and of sculptures (*c*) or models.

(*a*) Ante, p. 404.

(*b*) Ante, p. 412.

(*c*) Ante, p. 420.

It is now therefore proper to investigate the remedies for an infringement of the copyright of a *book*, which may be

- I. *By a suit for penalties.*
- II. *By an action on the case for damages.*
- III. *By proceedings in equity.*

I. THE SUIT FOR PENALTIES.

What conduct amounts to a piracy of the different kinds of literary works in particular, as of books on general subjects, (*d*) abridgments, (*e*) musical compositions, (*f*) and dramatic pieces, (*g*) has been incidentally described, when treating on those subjects. A piracy.

But it will be convenient before investigating the remedies for an infringement of a copyright, to collect the general principles respecting the piracy of works in general.

The identity of any literary works consists entirely in the *sentiments* and *language*. The same conceptions, clothed in the same words, must necessarily be the same composition; and whatever method be taken of exhibiting that composition, to the ear or to the eye, by *recital* or by *writing*, or by *printing*, in any number of copies, or at any period of time, the property of another person has been violated; for the new book is still the identical work of the real author. (*h*)

(*d*) Ante, p. 343.

(*e*) Ante, p. 346.

(*f*) Ante, p. 387.

(*g*) Ante, p. 389.

(*h*) 2 Bla. Com. 406.

Thus, therefore, a transcript of nearly all the sentiments and language of a book is a glaring piracy. To copy part of a work, either by taking a few pages *verbatim*, where the sentiments are not new, (i) or by imitation of the principal ideas, although the treatises in other respects are different, is also considered to be illegal.

Although it was held (j) by Ellenborough, C.J., that a variance in *form* and *manner* is a variance in *substance*, and that any material alteration which is a *melioration* cannot be considered as a piracy; yet a piracy is committed, whether the author attempt an original work, or call his book an abridgment; if the *principal parts* of a book are servilely copied, or unfairly varied.

But if the main design be not copied, the circumstance that part of the composition of one

(i) *Trusler v. Murray*, 1 East, 368, n. This was an action for pirating a book of chronology. It was proved by the plaintiff that some parts of the defendant's work were different; yet in general it was the same, and particularly from page 20 to 34, it was a literal copy.

Kenyon, C. J., was of opinion, that if such were the fact, the plaintiff must recover, though other parts of the work were original. He said Lord Bathurst had been of that opinion; and he thought rightly with respect to an abridgment of *Cook's Voyages round the World*. The main question here was, whether in substance the one work is a copy and imitation of the other; for, undoubtedly, in a chronological work, the same facts must be related. The books were then referred to an arbitrator to be compared. Mich. Term, 1789; and see *Pinnock v. Rose*, cov. Sir J. Leach, V. C. 2 Bro. C. C. 85, n. Belt. Ed.

(j) In *Cary v. Kearsley*, 4 Esp. N. P. C. 169.

author is found in another, is not of itself piracy sufficient to support an action. A man may fairly adopt part of the work of another; he may so make use of another's labours for the promotion of science, and the benefit of the public: but having done so, the question will be—Was the matter so taken used fairly with that view, and without what may be termed the *animus furandi*? (k)

In judging of a quotation, whether it is fair and candid, or whether the person who quotes it has been *swayed* by the *animus furandi*; the *quantity* taken, and the *manner* in which it is adopted, of course must be considered. Quotations.

If the work complained of is *in substance* a copy, then it is not necessary to shew the *intention* to pirate; for the greater part of the matter of the book having been purloined, the intention is apparent, and other proof is superfluous. A piracy has *undoubtedly* been committed.

But if only a *small portion* of the work be quoted, then it becomes necessary to prove that it was done *animo furandi*; with the intention of depriving the author of his just reward, by giving his work to the public in a cheaper form. And then the mode of doing it becomes a subject for inquiry. For it is not sufficient to constitute a piracy, that part of one author's book is found in that of another, unless it be nearly the whole; or so much as will shew (being a question of fact

(k) *Roworth v. Wilkes*, 1 Campb. 97; and see 17 Ves. 424.

for the jury) that it was done with a bad intent, and that the matter which accompanies it has been colourably introduced.

3. Obscenity,
immorality,
libels, &c.

The courts of common law, and of equity, strive to protect the *morals* of the public. It is a principle on which this part of the law rests, that there cannot be a copyright in any work, the tendency of which is *obscene* or *immoral*. And whether the offensive matter be represented in prints (*l*) or pictures, (*m*) or expressed in a book, it makes no difference.

Bad public
tendency.

And if a work be of such a libellous or mischievous nature as to affect the *public morals*, so that the author cannot maintain an action at law (*n*) upon it, a court of equity will not interpose with an injunction, to protect that which by the policy of the law cannot be called property, not even upon a *submission* in the answer to a bill. Not only will the Court not interfere when it *plainly* sees that the work is obscene or im-

(*l*) *Fores v. Johnes*, Esq. 4 Esp. N. P. C. 97. Lawrence, J. For prints, whose objects are general satire, or ridicule of prevailing fashions or manners, I think the plaintiff may recover: but I cannot permit him to do so for such whose tendency is immoral or obscene; nor for such as are libels on individuals, and for which the plaintiff might have been rendered criminally answerable for a libel.

(*m*) 2 Camp. 511.

(*n*) *Hime v. Dale*, 2 Camp. 27, n. See 2 Meriv. 427, where it is said that evidence of Priestley's MSS., which were burnt in the Birmingham riots, being libels on government, would have been admitted by Eyre, C. J., and see 60 Geo. 3, c. 9.

moral: but even, if there be a *doubt* as to its evil tendency, the Lord Chancellor will not be prevailed on to grant an injunction. (o)

And protection has been denied to a translation of an immoral work. (p)

It seems that neither the courts of equity nor of law, will support a copyright in any work which is a *libel on an individual*, and for which the author might have been rendered civilly or criminally answerable. In an action for destroying a picture, from the exhibition of which great profits were derived, Lord Ellenborough observed, (q) that the only plea on the record being the general issue of not guilty, it was unnecessary to consider whether the destruction of the picture might or might not have been justified. The material question was, as to the value to be set upon the article destroyed. If it were a libel upon the persons introduced into it, the law could not consider it valuable as a picture. He directed the jury, in assessing damages, not to consider it as a work of art, but merely to give the value of the canvass and paint.

Libels on private individuals.

The principle of law, that no action can be maintained for pirating a work calculated to do

(o) *Walcot v. Walker*, 7 Ves. 1. *Southey v. Sherwood*, 2 Meriv. 438. *Murray v. Benbow*, MSS. *Lawrence v. Smith*, MSS. And see an article in *Quarterly Review* for April, 1822, p. 123, and *Blackwood's Mag.* for July, 1822.

(p) *Burnet v. Chetwood*, 2 Meriv. 441, n.

(q) *Du Bost v. Beresford*, 2 Campb. N. P. C. 511; and see 4 Esp. N. P. C. 97.

injury to the public, and that no injunction will be granted to protect the author, although his character as an individual may suffer by the publication, was fully recognized in *Southey v. Sherwood*. (r) In that case, Lord Eldon observed, “It is very true, that in some cases it may operate so as to multiply copies of mischievous publications, by the refusal of the Court to interfere by restraining them : but to this my answer is, sitting here as a judge upon a mere question of property, I have nothing to do with the nature of the property, nor with the conduct of the parties, except as it relates to their civil interests. If the publication be mischievous, either on the part of the author, or of the bookseller, it is not my business to interfere with it.”

And so strong is this objection, that Lord Ellenborough has held an *apprehension of a prosecution* for the immorality or illegality of a work, proved to be well founded by the production of the part printed, would justify a person for refusing to supply a bookseller with the remainder of the manuscript agreeable to a contract. (s)

But there seems to be an exception to the general rule, that equity will not interfere to protect a book of *bad* tendency, when the author *repents* of his work, and wishes to suppress it. In that case Lord Eldon has intimated that he might grant an injunction. (t)

(r) *Southey v. Sherwood*, 2 Meriv. 438 ; see ante, 213, n. (z).

(s) *Gale and Another v. Leckie*, 2 Stark. 107, post, Ch. VII.

(t) *Southey v. Sherwood*, 2 Meriv. 438.

The penalties given by the stat. of Anne against piracy are, that every offender shall forfeit the book, and every sheet, being part of it, to the proprietor of the copy of it, who shall forthwith damask, and make waste paper of them; (u) and further, that every such offender shall forfeit one penny (now three pence) (v) for every sheet which shall be found in his possession, either printed or printing, published or exposed to sale; one moiety to the Queen, the other to the informer. (w)

That no person, however, may, through ignorance, offend against that act, none of its penalties can be imposed on any one, unless the title of the book, before its publication, be entered in the register book of the Company of Stationers. The consent to publish,—that is, every assignment of the copyright,—must also be entered.

If, on the other hand, any person be prosecuted for violating the statute of 8 Anne, he may plead the general issue, and under it give any special matter in evidence. If he obtain a verdict, or the plaintiff be nonsuited, or discontinue his action, then he is to have his full costs.

Any proprietor, bookseller, or printer, or the warehouse-keeper of the Stationers' Company,

(u) To be done on motion to the Court, 41 Geo. 3, c. 107, s. 1.

(v) 40 Geo. 3, c. 107, s. 1, and repealed in 54 Geo. 3, c. 156, s. 4.

(w) 8 Ann. c. 19, s. 1.

not observing the directions of the act respecting delivering the copies to the libraries, and making default therein, is liable to forfeit *five pounds* for every copy not delivered, besides the value of the printed copies not so delivered, to be recovered with full costs.

Independent of the remedies at law necessary to recover a compensation for an injury done to the copyright in a book, there are some works, periodical publications, such as the newspapers, which may be the subjects of legal proceedings peculiar to themselves, that have been before investigated. (x)

The action for them.

These penalties are recoverable in actions to be maintained in the courts at Westminster. The time limited for bringing them has in the several statutes been continually altered. It is now twelve months. (y)

II. THE ACTION ON THE CASE FOR DAMAGES.

Literary property is not only protected by penalties for which few persons would sue, but the proprietor may maintain a special action on the case, for any injury he may have received by a piracy of his book. (z)

It was for some time doubted whether an author, whose work had not been entered at Stationers' Hall, could maintain an action on the

(x) Ante, 379.

(y) 8 Ann. c. 19, s. 10. 41 Geo. 3, c. 107, s. 8. 54 Geo. 3, c. 156, s. 10.

(z) 54 Geo. 3, c. 156, s. 4.

case for damages (independent of the statute) against the person who had pirated his work. It was first decided in equity that no objection could be taken to a bill for an injunction and an account, because the book had not been registered at Stationers' Hall. (*a*)

And afterwards at common law it was decided, that the stat. 8 Anne, by creating a right in authors, also gave to them the concomitant remedy (an action on the case for damages) for any injury done to it, although it were not entered at Stationers' Hall, or had not the author's name affixed to it. The penalties, it was observed, were given to the informer; and the author, who might be anticipated in suing for them, ought to be otherwise reasonably defended. (*b*)

(*a*) *Baller v. Walker*, see *Blackwell v. Harper*, 2 Atk. 94.

(*b*) *Beckford v. Hood*, 7 T. R. 620; see 2 Wils. 145. This was an action on the case for publishing without the consent of the plaintiff, his book called "*Thoughts upon Hunting*." Neither of its editions had been entered at Stationers' Hall.

By the Court.—The question is, "Whether the right of property being vested in authors for certain periods, the common law remedy for a violation of it does not attach within the times limited by the act of Parliament. Within those periods the act says, that the author shall have the sole right and liberty of printing, &c.; that the statute having vested this right in the author, the common law gives the remedy by action on the case, for the violation of it. Of this no doubt could have been made, had the statute stopped there: but it has been argued, that as the statute in the same clause that creates the right, has prescribed a particular remedy, that remedy and no other can be resorted to. But the meaning of the legislature in creating the penalties in the latter part of

But now by the 54 Geo. III. c. 156, the doubt as to the necessity of an entry to vest the copyright is removed; and it is provided that a

the clause was to give an accumulative remedy. Nothing could be more incomplete as a remedy than penalties alone; for without dwelling upon the incompetency of the sum, the right of action is not given to the party aggrieved, but to any common informer. Now the action for the penalties given to a common informer can only be considered as an additional protection: but not intended to oust the common law right to prosecute by action any one who injures this species of property, which would otherwise necessarily attach upon the right of property so conferred. Where an act of Parliament vests property in a party, the other consequently follows of course, unless the legislature make a special provision. The penalties to be recovered may indeed operate as a punishment upon the offenders: but they afford no redress to the injured party. The action is not given to him, but to any person who may get the start of him. It is no redress for the civil injury sustained by the author in the loss of his just profits. It is also to be observed, that the penalties to be given by the act attach only during the first fourteen years of the copyright; and during that time only is the offender liable to such penalties if he invade the author's right: but he is liable during the whole period prescribed by the act to make good in an action for damages any civil injury to the author. If this construction were not to prevail, during the last fourteen years of the term, the author would be without remedy from any invasion of his property. Although six to five of the judges who delivered their opinions in *Donaldson v. Becket* were of opinion that the common law right of action was taken away by the statute of Anne, it appears that the amount of their opinions went only to establish that the common law right of action could not be exercised beyond the time limited by the statute."

"In respect to the entry at Stationers' Hall, it has always

special action on the case may be maintained by the proprietor of a book against any person for printing, reprinting, or importing or publishing, or exposing it to sale, by which he may recover such damages as the jury may think proper to assess. (c)

In the pleadings in an action for damages for infringing a copyright, there is nothing to distinguish it from actions on the case in general. (d) The pleadings.

The plea allowed by the statutes is the general issue, Not Guilty, with liberty to give the special matter in evidence under it. (e) Plea.

The time limited for bringing an action has been altered in the several statutes. It is now twelve months next after the offence has been committed. (f)

been holden that such entry was only necessary to enable the party to bring his action for the penalty. The entry serves as a notice and warning to the public, that they may not ignorantly incur the forfeitures or penalties before enacted against such as pirate the works of others."

(c) The first publisher of a libellous or immoral work cannot maintain an action against any person for publishing a pirated edition. *Stockdale v. Onwhyn*, 5 B. & C. 173, and 2 C. & P. 163; and see ante, p. 478.

(d) For the precedents of the declaration, see 8 Went. 420, 434. 2 Chit. Pl. 351. 7 T. R. 518, 620.

(e) Upon an action by several plaintiffs for piracy of copyright, it appeared that the defendant had published the work in question pursuant to the conditions of a cognovit given by him to one of the plaintiffs, and one P., in an action for not performing an agreement to write the work in question, and the Court held it to be a sufficient defence. *Sweet and Another v. Archbold*, 10 Bing. 33.

(f) Ante, p. 482.

Evidence.

The books are usually adduced in evidence, that by comparison it may appear to the Court and jury that the one is an infringement of the copyright of the other work. The circumstance of the same errors being found in two publications on the same subject, is reasonable *prima facie* evidence of a piracy. (*g*)

Judgment,
costs, &c.

There is nothing particular in the judgment. Double costs are given to the plaintiff when successful in maintaining a special action on the case: but if he discontinue, or is nonsuited, then costs are to be allowed to the defendant.

III. THE PROCEEDINGS IN EQUITY.

The jurisdiction of the courts of equity over literary property is similar to that exercised over patents for inventions; and arises from an anxiety to give effect to the legal right, and to restrain, by means of the short process of an *injunction*, any violation which might become an injury irremediable by the slow proceedings of the common law. (*h*)

Motion for
an injunction.

Clear title.

At first the courts of chancery would not give assistance, unless the complainant had a clear *legal right*. (*i*) It was considered that injunctions to restrain an infringement of a copyright were of the same nature as those for staying waste;

(*g*) 4 Esp. N. P. C. 168.

(*h*) Ante, p. 250; and see 6 Ves. 705. 3 Bac. Ab. Injunctions.

(*i*) See Eden on Injunctions, 284. Anon, 1 Vern. 120. *Hills v. University of Oxford*, id. 275.

and never to be granted but upon a clear legal title. If moved for upon filing the bill, the right must have appeared clearly by affidavit; if moved for upon answer, it must have been clearly admitted by the answer, or at least not denied. (*j*)

Lord Northington in one case refused to interpose between two contending parties: (*k*) and in another, where the great question of the common law right of an author to his own productions after the expiration of the term allowed by the statute of Anne (upon which there was at that time no decision at law) came before him, he refused to interpose before there had been a trial at law, on the ground of the right being so extremely doubtful. (*l*)

And though we shall presently see that the law has been altered, yet still, where there is no possession, and the title depends upon the effect of an agreement, an injunction has been refused until the recovery in an action. (*m*)

It often happens that the question is referred to a court of common law. Many examples may be given.

Where the copyright of a work has been assigned by the author to the plaintiff, and the plaintiff and author swear that a person (a stranger to the suit) has only a qualified interest

(*j*) *Millar v. Taylor*, 4 Burr. 2303, 2325, 2328, 2400, 2407.

(*k*) *Basket v. Cunningham*, 2 Eden, 137. 1 Bla. Rep. 370.

(*l*) *Osborne v. Donaldson. Miller v. Donaldson*, 2 Eden, 327.

(*m*) *Walcot v. Walker*, 7 Ves. 1.

in the work, but a person in an affidavit filed by the defendant, swears, that under a bargain between him and the author, he has the entire copyright of the work, but does not state any deed of assignment; the plaintiff cannot obtain an injunction till he has established his right at law. (n)

An injunction was refused to restrain an alleged infringement of copyright before trial at law, where the conduct of the plaintiffs had been such as, in the opinion of the Court, was calculated to induce the defendant to believe that the course taken by them would not be objected to by the plaintiffs. (o)

An injunction was granted to restrain the publication and sale of a book, which appeared on the answer and affidavits to contain some portion of matter selected and copied from a prior work, and it was continued until the trial of an action at law to try the question of piracy.

Where the plaintiff states circumstances which are not denied, shewing him to be entitled to an equitable copyright in a work, the Court, in directing an action to be brought by him, to determine the question of piracy, will direct the defendant, for the purposes of the action, to admit a legal copyright in the plaintiff. (p)

Where a person made a copy of a print in-

(n) *Lowndes v. Duncombe*, 1 Law Journal Rep. 51.

(o) *Saunders and Another v. Smith and Another*, 3 Mylne & C. 711, and 16 Law Journal Rep. 227. Quere, whether it is not piracy to print at full length cases contained in the law reports, although with the addition of notes however voluminous.

(p) *Sweet v. Shaw*, 17 Law Journal Rep. 216.

vented by another person in colours, and of larger dimensions, and exhibited it as a diorama, the Court refused to restrain the exhibition, until the right had been established at law. (q)

Although the severity of the rule respecting the legal title was relaxed, yet aid was not afforded to a plaintiff unless he could shew *possession under colour of title*. Thus when the University of Cambridge in the year 1743, claimed the right of printing acts of Parliament, although they had never exercised such a privilege, Lord Hardwicke said, that whilst the question was so doubtful, he would not grant an injunction in favour of persons who never had possession. (r)

Possession
under colour
of title.

What time shall be considered as sufficient length of possession appears to be uncertain: for Lord Clare refused to grant an injunction at the instance of the king's printer in Ireland, until his right to the sole publication of Bibles had been established at law, although for forty years there had been *possession under colour of title*. (s)

The practice in the courts of equity received a third modification; and it appears that now injunctions are granted and continued until the hearing upon possession alone, although the title to the book or patent may be very doubtful. (t)

Possession
without title.

(q) *Martin v. Wright*, 6 Simons' Rep. 297.

(r) *Basket v. University of Cambridge*, 1 Bl. Rep. 105. 2 Bur. 661, and cited in 6 Ves. 710; and see 6 Ves. 607, and 2 Evans' Collec. Stat. p. 610.

(s) *Grierson v. Jackson*, Irish T. R. 304.

(t) 6 Ves. 689. Id. 707. 8 Ves. 505.

It has been shewn, if the right should be clear, and there has not been any possession, that an injunction will be refused. Nor will the Court interfere when there *has been possession*; if the colour of title, by the imprudence of the real proprietor, is with another person; as when several individuals have been permitted to publish and sell the subject of the copyright without any interposition on the part of the proprietor: although that circumstance cannot be alleged as a justification of the infringement of another man's right; yet it is a sufficient ground to induce a court of equity not to interpose an injunction until the copyright has been established at law. (u)

Cases in equity.

In an elementary work on copyright, it would be useless to go very particularly into the practice of the courts of equity respecting injunctions in general. On that head reference must be made to the books on Chancery Practice. (v) It will be sufficient to describe those parts which more immediately relate to injunctions for copyright, the following cases have been arranged in as much order as the subjects of them will admit.

The Court will not interfere to prevent trivial trespasses; and does not exercise its jurisdiction by injunction for the purpose of acting on legal

(u) *Walcot v. Walker*, 7 Ves. 1. *Platt v. Button*, 19 Ves. 447. *Cooper Rep.* 303.

(v) *Eden on Injunctions*, Chap. XVII. 2 *Maddox. Chan. Chap. VII.* *Cooper's Pleadings in Chancery.* *Mitford's Pleadings*, 111 and 119. 2 *Ves. Jun.* 486. *Smith's, Daniel's, and Grant's Treatises on the Practice of the Court of Chancery.*

rights, but interposes in order either to enforce legal rights, or to prevent mischief, until the time shall arrive when those legal rights may be ascertained. A court of equity, therefore, frequently refuses an injunction where it acknowledges a right, when the conduct of the complaining party has led to the state of things which occasions the application. If the owner of a copyright has, for some time past, acquiesced in different individuals transcribing cases from his works, the Court will not interpose in his favour by injunction against other parties who have subsequently transcribed the cases from the same work, until the owner of the copyright has established his legal right. It is not only the quantity, but the quality of the matter extracted by a defendant from the work of which the plaintiff has the copyright, that is to be considered in an application to the Court for its interposition by injunction. (*w*)

A plaintiff who complains of a piracy of his work, has no remedy in equity, unless he establish a title to an injunction, and then the account will follow. Thus the Court will not grant an injunction, but will leave the plaintiff to seek his legal remedy, where the matter, which is the subject of the alleged piracy, forms but a very inconsiderable part of the plaintiff's work, and contains merely calculations, and when the

(*w*) *Saunders v. Smith*, 16 Law Journal Rep. 227, and 3 Mylne & C. 711. See *Bramwell v. Halcomb*, id. 737.

work complained of has been published some years. (x)

The question of minuteness in value of the original matter extracted from a work for purposes of criticism, will have great weight with the Court, in influencing its decision on the application for an injunction. And the Court is averse to the practice of its time being occupied by applications for injunctions to restrain infringements of copyrights, in which it is difficult, if not impossible, to take an account of the loss complained of. (y)

Where a considerable portion of a publication has been shewn to be pirated, the Court will grant an injunction to restrain the publication of the parts which are pirated, without waiting till all the parts pirated can be ascertained. (z)

If a plaintiff, who has obtained an injunction, misrepresents to the public what has been done by the Court, and the defendant, to correct that misrepresentation, does an act which, in strictness, is a breach of the injunction, the Court will not entertain any complaint against him on the part of the plaintiff, for such a breach.

If A. sells a work to B., and covenants not to do anything which may be detrimental to the sale or circulation of that work, and if afterwards A. and a partner publish a rival work on the

(x) *Bailey v. Taylor*, 1 R. & M. 73, and 3 Law Journal Rep. 66.

(y) *Bell v. Whitehead*, 17 Law Journal Rep. 141.

(z) *Lewis v. Fullarton*, 17 Law Journal Rep. 291.

same subject, the partner will be restrained as well as A. (a)

If A. having entered into such a covenant with B. sells the materials of a rival work to C., who concludes his agreement and pays his money without any notice of the covenant, an injunction on the ground of that covenant cannot be maintained against C.

If an injunction has been granted against a work, which is proposed to be published in successive numbers, on the ground of piracy in the published numbers, the injunction will not be modified so as to permit the publication of the future numbers, while the question of piracy as to the others remains undetermined.

If A. sells to B. the copyright of a work containing letter press and plates which are to be found in prior works, and if A. subsequently furnishes the same letter press and similar plates to C. for the purpose of a rival work, C.'s publication will not, in respect of such letter press and plates, be held to be a piracy upon B.'s work.

The person who forms the plan of a work, to be composed by the labours of various persons, who employs different writers to contribute to it, and who pays them for their contributions, is the author and proprietor of such a work, within the statute of Anne. (a)

An injunction was granted until the hearing to restrain the publication of *Milton's Poems*,

(a) *Barfield v. Nicholson*, 2 Law Journal Rep. 90.

with *Dr. Newton's Notes*, notwithstanding a small addition of original commentary. (*b*)

We have seen that equity loathes all impurity, and that it will never protect such a publication as that on which an action at law could not be maintained. In such a case it will not decree an account even on submission in the answer. (*c*)

An injunction was granted to restrain the infringement of the copyright in a work as to which it appeared doubtful whether it did not tend to impugn the doctrines of the Scriptures. (*d*)

The question respecting the validity of the injunction next comes on to be argued, when an order that meets the justice and equity of the case is made. If the injunction is continued, the cause is seldom ever heard of again; for it is almost as impossible as it is useless to obtain an account of the profits.

Affidavit of
title.

Having shewn that some sort of title either clear or colourable, with possession, is necessary to obtain an injunction, the affidavit, which is considered strong enough to claim a title, must next be investigated.

We have seen that the assignment must be in writing, and under what circumstances relief will be given; and, therefore, to support the bill of an assignee of a copyright, there must be an affidavit that the assignment was made in writing. (*e*)

(*b*) *Tonson v. Walker*, 3 Swanst. 672.

(*c*) *Lawrence v. Smith*, 1 Jacob's Rep. 471.

(*d*) 7 Ves. 1. *Southey v. Sherwood*, 2 Meriv. 435; and see ante, 480.

(*e*) See ante, p. 428.

An affidavit, in which it was stated generally, that the copy had been purchased or legally acquired by a person, was held insufficient, as it did not mention that he had purchased it of the author. (*f*)

An instance has occurred in which the *agent of a writer* of great reputation who was abroad made an affidavit that a work of which he had strong reasons to believe that the poet was not the author, was advertised to be published in his name: and an injunction was granted and ordered to be continued, until, upon notice thereof, the defendant would swear (as to his belief) that the work was not the compilation of the agent's employer. (*g*)

It is also the practice, that an affidavit as to facts, filed *after* the answer, may be read at the hearing; but that an affidavit as to title cannot be received. (*h*)

It very seldom happens that an answer is put Answer.
into a bill alleging a piracy; for the question in dispute is generally settled on the motion for an injunction.

The practice with respect to the hearing of The hearing
the motion for an injunction to protect a right, of the cause.
whether in a patent or a book, has been mentioned. (*i*)

The defendant is at liberty immediately to

(*f*) *Gilliver v. Snaggs*, 4 Vin. Ab. 278.

(*g*) *Lord Byron v. Johnston*, 2 Meriv. 29.

(*h*) *Platt v. Button*, 19 Ves. 447. Cooper, 303.

(*i*) Ante, p. 256.

move that the injunction may be dissolved ; and in case of an imitation or piracy, the Lord Chancellor will read the works ; or a reference to one of the masters will be made, for him to examine if the books are the same, or whether they differ in any and what respect. (*j*) But the Lord Chancellor in general prefers, if it be convenient, to compare the works, and then immediately to dissolve or to continue the injunction ; or he will make any other order which in his judgment and discretion he thinks will meet the justice of the case.

(*j*) *Jeffery v. Bowles*, 1 Dick. 429. *Trusler v. Comyns*, cit. id. — *v. Leadbetter*, 4 Ves. 681.

APPENDIX.

No. I.

A Form of the Petition for Patent.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble petition of _____, of, &c.
Sheweth,

That your petitioner, after considerable application and expense, hath invented or found out, [*here state the title of the invention*].

That he is the first and true inventor thereof; and that the same hath never been practised or used by any other person or persons whomsoever, to his knowledge or belief.

Your petitioner, therefore, humbly prays that your Majesty will be graciously pleased to grant unto him, his executors, administrators, and assigns, your royal letters patent, under the great seal of the United Kingdom of Great Britain and Ireland, for the sole working, constructing, making, selling, using, and exercising, of his said invention, and all other benefit and advantage thereof, within that part of your Majesty's United Kingdom of Great Britain and Ireland called England, your dominion of Wales, and town of Berwick-upon-Tweed, [and also in all your Majesty's colonies and plantations abroad] for the term of fourteen years, according to the statute in that case made and provided. And your petitioner shall ever pray, &c.

No. II.

The Declaration to support the Petition.

I, A. B. of in the county of (profession)
do solemnly and sincerely declare that I have invented (a)

That I am the first and true inventor (b) thereof, and that the same have never been practised by any other person or persons whomsoever, to my knowledge or belief. *And (c) I further declare, that it is my intention to obtain patents in Scotland and Ireland.* And I make this declaration conscientiously, believing the same to be true, and by virtue of the provisions of an act made and passed in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled, “An Act to repeal an Act of the present session of Parliament, intituled, ‘An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the state, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra judicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths.’”

A. B.	{	Declared at this day of 184 Before me, A Master in Chancery. (d)
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(a) Here the title given to the invention is to be inserted.

(b) In case the invention be a communication from abroad, that circumstance is stated, and it is declared that the same has never been practised in this kingdom, to the knowledge or belief of the party making the declaration.

(c) The words in italics are to be omitted when such is not the intention, and they are also to be omitted when the declaration is meant for Ireland or Scotland.

(d) Or, a Master Extraordinary in Chancery, or justice of the peace when in Scotland.

No. 1 .

The Form of a Patent.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, greeting. Whereas A. B. of hath, by his petition, humbly represented unto us, that (e)

The petitioner, therefore, most humbly prayed we would be graciously pleased to grant (f)

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request. Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us, our heirs, and successors, do give and grant, unto the said A. B., his executors, administrators, and assigns, our especial license, full power, sole privilege, and authority, that he, the said A. B., his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he, the said A. B., his executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter, during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention, within that part of our United Kingdom of Great Britain and Ireland called England, our dominion of Wales, and town of Berwick-upon-Tweed, (g)

in such manner as to him, the said A. B., his executors, administrators, and assigns, or any of them, shall, in his or their discretions, seem meet. And that he the said A. B., his executors, administrators, and assigns, shall and lawfully may have and enjoy, the whole profit, benefit, commodity, and advantage, from time to time, coming, growing, accruing, and arising, by reason of the said invention, for and

(e) For the allegations of the petition.

(f) For the prayer of the petition.

(g) For the words—"and also within all our colonies and plantations abroad."

during the said term of years herein mentioned, To have, hold, exercise, and enjoy, the said license, powers, privileges, and advantages, hereinbefore granted, or mentioned to be granted, unto the said A. B., his executors, administrators, and assigns, for and during, and unto the full end and term of fourteen years, from the date of these presents next and immediately ensuing, and fully to be complete and ended, according to the statute in such case made and provided. And to the end that he, the said A. B., his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise of the said invention, according to our gracious intention hereinbefore declared: We do, by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within that said part of the United Kingdom of Great Britain and Ireland called England, our dominion of Wales, and town of Berwick-upon-Tweed, (*g*) aforesaid, that neither they, nor any of them, at any time, during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto, by the said A. B. as aforesaid, nor in any wise counterfeit, imitate, or resemble the same, nor shall make, or cause to be made, any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the license, consent, or agreement of the said A. B., his executors, administrators, or assigns, in writing, under his or their hands and seals, first had and obtained in that behalf, upon such pains and penalties, as can or may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said A. B., his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned. And moreover we do by these presents, for us, our heirs and successors, will and command all and singular the justices of the peace, mayors, sheriffs, bailiffs, constables,

(*g*) For the words—"and also within all our colonies and plantations abroad."

headboroughs, and all other officers and ministers whatsoever of us, our heirs and successors, for the time being, that they or any of them do not, nor shall at any time hereafter, during the said term hereby granted, in any wise molest, trouble, or hinder the said A. B., his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or any thing relating thereto.

Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made appear to us, our heirs or successors, or any six or more of our or their privy council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention, as to the public use and exercise thereof, in that said part of our United Kingdom of Great Britain and Ireland, called England, our dominion of Wales, and town of Berwick-upon-Tweed, aforesaid, or not invented or found out (*h*) by the said A. B. as aforesaid; then upon signification thereof, to be made by us, our heirs or successors, under our or their signet or privy seal, or by the lords of our or their privy council, or any six or more of them, under their hands, these our letters patent shall forthwith cease, determine, and be utterly void, to all intents and purposes.

Provided also that these our letters patent and any thing hereinbefore contained, shall not extend, or be construed to extend, to give privilege unto the said A. B., his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been invented or found out by any other of our subjects whatsoever, and publicly used and exercised in that said part of our United Kingdom of Great Britain and Ireland called England, of the dominion of Wales and town of Berwick-upon Tweed

aforesaid, unto whom our like letters patent or privileges have been already granted, for the sole use, exercise, and benefit thereof; it being our will and pleasure that the said

(*h*) In case it be for an invention communicated from abroad, then the patent is as follows—"or not first introduced therein by the said, &c."

A. B., his executors, administrators, and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions, by them invented or found out, according to the true intent and meaning of the said respective letters patent, and of these presents.

Provided likewise, nevertheless, and these our letters patent are upon this condition, that if, at any time hereafter these our letters patent, or the liberty and privileges hereby as granted, shall become vested in or in trust for more then the number of twelve persons, or their representatives, at any one time, as partners, dividing or entitled to divide, the benefit or profit obtained, by reason of these our letters patent, reckoning executors or administrators as and for the single person whom they represent, as to such interest as they are or shall be entitled to, in right of their testator or intestate.

And also, that if the said A. B. shall not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and cause the same to be enrolled in our High Court of Chancery, within calendar months next and immediately after the date of these our letters patent. And also, that if the said A. B., his executors, administrators, or assigns, shall not supply, or cause to be supplied for our service, all such articles of the said invention as he or they shall be required to supply, by the officers or commissioners administering the department of our service, for the use of which, the same shall be required in such manner, at such price, and at and upon such reasonable price and terms as shall be settled for that purpose by the said officers or commissioners so requiring the same, then these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, any thing hereinbefore contained to the contrary thereof in any wise notwithstanding. Provided that nothing herein contained shall prevent the granting of licenses, in such manner, and for such considerations, as they may, by law, be granted.

And, lastly, we do by these presents for us, our heirs and successors, grant unto the said A. B., his executors, ad-

ministrators, and assigns, that these our letters patent, or the enrolment or exemplification thereof, shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense, for the best advantage of the said A. B., his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in that part of our said United Kingdom of Great Britain and Ireland called England, our dominion of Wales, and town of Berwick-upon-Tweed (i) aforesaid, and amongst all and every the subjects of us, our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereto conducing and belonging.

In witness whereof, we have caused our letters to be made patent. Witness ourself at Westminster, this of
in the year of our reign.
By writ of Privy Seal.

No. IV.

A Form for the Specification.

To all to whom these presents shall come, I, A. B., of [&c.] send greeting. Whereas her most excellent Majesty Queen Victoria, by her letters patent, under the great seal (k) of the United Kingdom of Great Britain and Ireland, bearing date at Westminster, the day of , in the year of her reign, did for herself, her heirs and successors, give and

(i) For the words—"and also within all our colonies and plantations abroad."

(k) For Scotland, "under the seal appointed by the treaty of union to be used in place of the great seal of Scotland bearing date at Edinburgh."

grant unto me the said A. B. her especial license, that I, the said A. B., my executors, administrators, and assigns, or such others as I, the said A. B. my executors, administrators, and assigns, should at any time agree with, and no others, from time to time, and at all times during the term of years therein expressed, should and lawfully might make, use, exercise, and vend, within England, Wales, and the town of Berwick-upon-Tweed (*l*), [*and also within all her Majesty's colonies and plantations abroad,*] my invention of [*here describe the invention in the words of the patent.*] * * * In which said letters patent there is contained a proviso, obliging me, the said A. B., by an instrument in writing, under my hand and seal, particularly to describe and ascertain the nature of my said invention, and in what manner the same is to be performed; and to cause the same to be enrolled in her Majesty's High Court of Chancery, within calendar months next, and immediately after the date of the said recited letters patent, as in and by the same, reference being thereunto had, will more fully and at large appear. Now know ye that, in compliance with the said proviso, I, the said A. B. do hereby declare that the nature of my said invention, and the manner in which the same is to be performed, are described and ascertained by the drawing in the margin hereof, and the words following; that is to say, [*here are stated the particulars*]. In witness whereof, I, the said A. B., have hereunto set my hand and seal, the day of , in the year of our Lord one thousand eight hundred and forty.

A. B. (L. s.)

Taken and acknowledged by the above-named A. B.,
at the Public Office, Southampton Buildings, Chancery-lane, this day of , one thousand
eight hundred and forty, before me,

(*l*) For Scotland, "within that part of her said Majesty's United Kingdom of Great Britain and Ireland called Scotland."

Rules of Practice laid down by Mr. Attorney and Mr. Solicitor-General.

Until further directions are given the following is to be the mode of proceeding by a party, in order to obtain leave to enter a disclaimer, or alteration of any part, either of the title of his invention or of the specification, pursuant to the 5th and 6th of Wm. 4, c. 83, s. 1.

The person applying must present a petition to the Attorney-General or Solicitor-General, stating what the proposed disclaimer or alteration is, when a time will be appointed for hearing the applicant. The petition is in general to be accompanied by a copy of the original specification, and of the proposed disclaimer or alteration.

If, on the hearing, the Attorney or Solicitor-General should think fit to disallow the proposed alteration or disclaimer, no further proceeding is necessary. If he should think fit to allow it without any advertisement, then, on being applied to for the purpose, he will put his signature to the fiat, authorizing the clerk of the patent to make the required enrolment.

If it appears to the Attorney or Solicitor-General that any advertisement or advertisements ought to be inserted, then he will give such directions as he may think fit relative thereto, and will fix any time not sooner than ten days from the first publication of any such advertisement for resuming the consideration of the matter.

Caveats may be lodged at any time before the actual issuing of the fiat, and any party lodging a caveat is to have seven days' notice of the next meeting.

The fiat must be written or engrossed on the same parchment, with the disclaimer or alteration at the foot thereof.

No. V.

Mode of proceeding before the Attorney or Solicitor, under the first section of the Act 5th and 6th Wm. 4, c. 83, in order to obtain a fiat to enrol disclaimers or alterations.



Form of Petition to Her Majesty's Attorney or Solicitor-General.

The petition of A. B. of _____, in the county
of _____, profession

Sheweth,

That your petitioner obtained her Majesty's royal letters patent, bearing date at Westminster, the _____ day of _____ in the _____ year of her reign, for [*here is inserted the title of the invention.*] And whereas your petitioner duly enrolled a specification of his said invention.

[*Here set forth some of the particulars, sufficient to lead to the nature of the claims of invention, then set forth the disclaimer or alterations, and the reasons for the same.*]

Your petitioner therefore prays leave of her Majesty's Attorney or Solicitor-General, certified by his fiat and signature, as by the said act provided, to enter with the clerk of the patents of England, the said disclaimer and memorandums of alteration, a copy of which, signed by your petitioner, is left herewith, in the form in which your petitioner is desirous the same should be so entered as aforesaid (m).

(m) In the event of the petition being in behalf of an assignee of a patent, that circumstance must be stated, and the petition be in his name.

No. VI.

Form of Disclaimer of part of the Title of a Patent.

(See 5 & 6 Will. 4, c. 83, s. 1.)

[Copy the form for the specification down to * * * and proceed]—And whereas I am desirous, for good and sufficient reasons hereinafter mentioned, to enter a disclaimer of that part of the title of my said invention hereinafter next mentioned, and have obtained for that purpose the leave of her Majesty's Attorney-General, certified by his fiat and signature, according to the form of the statute in such cases made and provided: Know ye, therefore, that I do hereby disclaim the following part of the title of my said invention; that is to say,

Form of disclaimer of part of the title of a patent.

[*State the part disclaimed.*]

And I, the said A. B., do further declare that my reasons for making the above disclaimer are as follows; that is to say,

[*State them.*]

And I, the said A. B. further declare and protest, that the above disclaimer does in no wise extend, or purpose to extend the exclusive right granted to me by the said letters patent.

In witness whereof, &c.

[*It will be easy to adapt this form to the case of a disclaimer of part of the specification, or to that of a memorandum of an alteration either of the title or specification.*]

No. VII.

Form of a Notice for a Prolongation of Patent.

A. B. of

Gentleman, hereby give notice that I intend forthwith to apply to her Majesty in Council for a prolongation, for the further term of seven years, or such other term, not exceeding seven years, as her Majesty shall please, of the term of sole using and vending his, the said A. B.'s invention of granted to him, the said A. B. by certain letters patent, bearing date the day of in the year of her reign, within that part of the United Kingdom of Great Britain and Ireland, called England, the dominion of Wales, and town of Berwick-upon-Tweed; and the said A. B. hereby gives further notice, that I intend to apply on the day of next, to the Right Honourable the Lords, comprising the Judicial Committee of her Majesty's Honourable Privy Council, for a time to be fixed for hearing the matters of the said petition for such prolongation of the said term as hereinbefore mentioned. And all persons desirous of being heard in opposition to the prayer of the said petitioner, are hereby required to enter caveats at the Privy Council Office on or before the said day of next.

Signed by the Patentee.

Witnessed by the
Solicitor.



VIII.

Form of Petition for a Prolongation of the Term of a Patent.

See sec. 4 of 5 & 6 Will. 4, c. 83.

To the Queen's most excellent Majesty in Council.

The humble petition of A. B., of

Sheweth,

That your petitioner, after much labour and considerable expense, invented . That your Majesty, by letters patent, dated the day of in the

Form of a petition for a prolongation of the term of a patent.

year of your reign, granted to your said petitioner his executors, administrators, and assigns, the sole use and exercise of his said invention within that part of the United Kingdom of Great Britain and Ireland, called England, the dominion of Wales, and the town of Berwick-upon-Tweed, and also in all your Majesty's colonies and plantations abroad, for the term of fourteen years from the date of the said letters patent, which term has not yet expired. That your petitioner—

[*State the special circumstances warranting the application.*]

That your petitioner hath advertised in the *London Gazette*, three times, and three times in the *Morning Herald*, *Courier*, and *Morning Post*, being three London papers: and three times in the *Lancaster Gazette*, being a country paper, published in the city of Lancaster, where your said petitioner resides and carries on the manufacture of his said invention; that it is his intention to apply to your said Majesty in council for a prolongation of his said term of sole using and vending his said invention.

Your petitioner therefore humbly prays your Majesty to grant to him new letters patent for the sole use and exercise of his said invention, within that part of your Majesty's kingdom of Great Britain and Ireland, called England, the dominion of Wales, and town of Berwick-upon-Tweed, for a term of seven years after the expiration of the said term of fourteen years first above mentioned, according to the form of the statute in such case made and provided.

And your petitioner shall ever pray, &c.



No. IX.

Form of Petition for Confirmation of Letters Patent, under section 2 of 5 & 6 Will. 4, c. 83.

To the Queen's most excellent Majesty in Council.

The humble petition of A. B., of

Sheweth,

That your petitioner having after great labour and considerable expense invented [*state invention*], which invention is

Form of petition for confirmation of letters patent.

of general benefit and advantage, your Majesty was graciously pleased in consideration thereof to grant to your said petitioner, his executors, administrators, and assigns, your royal letters patent, under the great seal of Great Britain, for the sole use and exercise of his said invention within that part of your Majesty's United Kingdom of Great Britain and Ireland, called England, your dominion of Wales, and town of Berwick-upon Tweed, which said letters patent bear date upon the day of in the year of your Majesty's reign.

That it hath since been proved and specially found by the verdict of the jury, in a certain action brought by your petitioner against C. D., and tried before the Right Honourable Lord Denman, the Chief Justice of your Majesty's Court of Queen's Bench, at Westminster, on the day of in the year of our Lord that your petitioner was not the *first* inventor of the said by reason of one B. C. having invented the same before the date of the said letters patent.

That the said B. C. never at any time before the date of the said letters patent published or made known the said invention ; and that your said petitioner was until, and long after, the date of the said letters patent, wholly ignorant that the said B. C. had invented the said or any part thereof, but verily believed himself to be the *first* and true inventor thereof.

Your petitioner therefore humbly prays that your Majesty will be graciously pleased to confirm the said letters patent and make the same available to give your petitioner the sole right of using, making, and vending the said invention, as against all persons whatsoever, within that part of your Majesty's said United Kingdom of Great Britain and Ireland, called England, the dominion of Wales, and town of Berwick-upon-Tweed.

And your petitioner shall ever pray, &c.

No. X.

Forms of Caveats.

Caveat against any person taking out Letters Patent for
any improvement relating to without notice
being first given to A. of &c.

Under 5 & 6 Will. 4, c. 83, s. 1.

Caveat against any person entering a disclaimer or alteration
in a title or specification relating to without
notice to

Under Id. s. 4.

Caveat against A. B. having any extension of his patent
dated the day of 184 , for certain im-
provements in without notice to



No. XI.

Notice of Objections required by 5 & 6 Will. 4, c. 83, s. 5.

In the

A. B. or C. D.

Take notice that on the trial of this cause the defendant
(or plaintiff) will insist on the following objections to the
validity of the patent mentioned in the declaration:—

Notice of
objections
required by
5 & 6 Wm. 4,
c. 83, s. 5.

1st. That &c.

[State the objections in order.]

Dated the day
of 184 .

Signed C. D., attorney for the { defendant
or
plaintiff.

To Mr. R. R., the { plaintiff's attorney
or
defendant's

No. XII.

21 James 1, c. 3.

An Act concerning Monopolies and Dispensations with the Penal Laws, and the Forfeitures thereof.

All mono-
polies, &c.,
shall be void.

‘ Forasmuch as your most excellent Majesty, in your royal judgment, and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord God One thousand six hundred and ten, publish in print to the whole realm, and to all posterity, that all grants and monopolies, and of the benefit of any penal laws, or of power to dispense with the law, or to compound for the forfeiture, are contrary to your Majesty’s laws, which your Majesty’s declaration is truly consonant and agreeable to the ancient and fundamental laws of this your realm? And whereas your Majesty was further graciously pleased expressly to command, that no suitor should presume to move your Majesty for matters of that nature; yet nevertheless upon misinformations, and untrue pretences of public good, many such grants have been unduly obtained, and unlawfully put in execution, to the great grievance and inconvenience of your Majesty’s subjects, contrary to the laws of this your realm, and contrary to your Majesty’s most royal and blessed intention, so published as aforesaid:’ For avoiding whereof, and preventing of the like in time to come, may it please your excellent Majesty, at the humble suit of the lords spiritual and temporal, and the commons in this present parliament assembled, That it may be declared and enacted: and be it declared and enacted by authority of this present parliament, That all monopolies, and all commissions, grants, licenses, charters, and letters patent heretofore made or granted, or hereafter to be made or granted, to any person or persons, bodies politic or corporate whatsoever, of or for the sole buying, selling, making, working, or using of any thing within this realm, or the dominion of Wales, or of any other monopolies, or of power, liberty, or faculty, to dispense with any others, or to give license or toleration to do, use, or exercise any thing against the tenor or purport of any law or statute; or to give or make any warrant for any such dispensation, license, or toleration to be had or made; or to agree or compound with any others for

any penalty or forfeitures limited by any statute; or of any grant or promise of the benefit, profit or commodity of any forfeiture, penalty, or sum of money, that is or shall be due by any statute, before judgment thereupon had; and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever, any way tending to the instituting, erecting, strengthening, furthering, or countenancing of the same or any of them; are altogether contrary to the laws of this realm, and so are and shall be utterly void and of none effect, and in no wise to be put in ure or execution.

II. And be it further declared and enacted by the authority aforesaid, That all monopolies, and all such commissions, grants, licenses, charters, letters patents, proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things tending as aforesaid, and the force and validity of them, and of every of them, ought to be and shall be for ever hereafter examined, heard, tried, and determined, by and according to the common laws of this realm, and not otherwise.

Monopolies, &c., shall be tried by the common laws of this realm.

III. And be it further enacted by the authority aforesaid, That all person and persons, bodies politic and corporate whatsoever, which now are or hereafter shall be, shall stand and be disabled and incapable to have, use, exercise, or put in ure any monopoly, or any such commission, grant, license, charter, letters patents, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid, or any liberty, power, or faculty grounded, or pretended to be grounded upon them, or any of them.

All persons disabled to use monopolies, &c.

IV. And be it further enacted by the authority aforesaid, That if any person or persons at any time after the end of forty days next after the end of this present session of Parliament, shall be hindered, grieved, disturbed, or disquieted, or his or their goods or chattels any way seized, attached, distrained, taken, carried away or detained, by occasion or pretext of any monopoly, or of any such commission, grant, license, power, liberty, faculty, letters patents, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid, and will sue to be relieved in or for any of the premises; that then and in every such case, the same person and persons shall and may have his and their remedy for the same at the common law, by any action or actions to be grounded upon

The party grieved by pretext of a monopoly, &c. shall recover treble damages and double costs.

this statute ; the same action and actions to be heard and determined in the courts of King's Bench, Common Pleas, and Exchequer, or in any of them, against him or them by whom he or they shall be so hindered, grieved, disturbed, or disquieted, or against him or them by whom his or their goods or chattels shall be so seized, attached, distrained, taken, carried away, or detained, wherein all and every such person and persons, which shall be so hindered, grieved, disturbed, or disquieted, or whose goods or chattels shall be so seized, attached, distrained, taken, carried away, or distrained, shall recover three times so much as the damages which he or they sustained by means or occasion of being so hindered, grieved, disturbed, or disquieted, or by means of having his or their goods or chattels seized, attached, distrained, taken, carried away, or detained, and double costs; and in such suits, or for the staying or delaying thereof, no essoin, protection, wager of law, aid, prayer privilege, injunction, or order of restraint, shall be in any wise prayed, granted, admitted, or allowed, nor any more than one imparlance: And if any person or persons shall, after notice given, that the action depending is grounded upon this statute, cause or procure any action at the common law, grounded upon this statute, to be stayed or delayed before judgment, by colour or means of any order, warrant, power, or authority, save only of the court wherein such action as aforesaid shall be brought and depending, or after judgment had upon such action, shall cause or procure the execution of or upon any such judgment to be stayed or delayed by colour or means of any order, warrant, power, or authority, save only by writ of error or attain; that then the said person and persons so offending shall incur and sustain the pains, penalties, and forfeitures, ordained and provided by the statute of provision and *præmunire* made in the sixteenth year of the reign of king Richard the Second.

He that delayeth an action grounded upon this statute incurs a *præmunire*.

16 R. 2, c. 5.

Letters patents to use new manufactures, saved.

V. Provided nevertheless, and be it declared and enacted, That any declaration before mentioned shall not extend to any letters patents and grants of privilege for the term of one and twenty years or under, heretofore made, of the sole working or making of any manner of new manufactures within this realm, to the first and true inventor or inventors of such manufactures, which others at the time of the making of such letters patents and grants did not use, so they be not contrary to the law, nor mischievous to the state, by raising the prices of commodities at home, or hurt of trade, or generally inconvenient, but that

the same shall be of such force as they were or should be, if this act had not been made, and of none other; and if the same were made for more than one and twenty years, that then the same for the term of one and twenty years only, to be accounted from the date of the first letters patents and grants thereof made, shall be of such force as they were or should have been, if the same had been made but for term of one and twenty years only, and as if this act had never been had or made, and of none other.

VI. Provided also, and be it declared and enacted, That any declaration before-mentioned shall not extend to any letters patents and grants of privilege for the term of fourteen years or under, hereafter to be made, of the sole working or making of any manner of new manufactures within this realm, to the true and first inventor and inventors of such manufactures, which others at the time of making such letters patents and grants shall not use, so as also they be not contrary to the law, nor mischievous to the state, by raising prices of commodities at home, or hurt of trade, or generally inconvenient; the said fourteen years to be accounted from the date of the first letters patents, or grant of such privilege hereafter to be made, but that the same shall be of such force as they should be, if this act had never been made, and of none other.

VII. Provided also, and it is hereby further intended, declared, and enacted by authority aforesaid, that this act or any thing therein contained shall not in any wise extend, or be prejudicial to any grant or privilege, power, or authority whatsoever heretofore made, granted, allowed, or confirmed by any act of Parliament now in force, so long as the same shall so continue in force.

VIII. Provided also, That this act shall not extend to any warrant or privy seal, made or directed, or to be made or directed by his Majesty, his heirs or successors, to the justices of the courts of the King's Bench or Common Pleas, and barons of the Exchequer, justices of assize, justices of *oyer and terminer* and gaol-delivery, justices of the peace, and other justices for the time being, having power to hear and determine offences done against any penal statute, to compound for the forfeiture of any penal statute, depending in suit and question before them, or any of them respectively, after plea pleaded by the party defendant.

Warrants
granted to
justices saved.

Charters
granted to
corporations,
saved.

IX. Provided also, and it is hereby further intended, declared and enacted, That this act or any thing therein contained shall not in any wise extend or be prejudicial unto the city of *London*, or to any city, borough, or town corporate within this realm, for or concerning any grants, charters, or letters patents, to them or any of them made or granted, or for or concerning any custom or customs used by or within them or any of them ; or unto any corporations, companies or fellowships of any art. trade, occupation, or mystery, or to any companies or societies of merchants within this realm, erected for the maintenance, enlargement, or ordering of any trade of merchandize ; but that the same charters, customs, corporations, companies, fellowships, and societies, and their liberties, privileges, powers, and immunities, shall be and continue of such force and effect as they were before the making of this act, and of none other ; any thing before in this act contained to the contrary in any wise notwithstanding.

Letters patent
that concern
printing, salt-
petre, gun-
powder, great
ordnance, shot,
or offices saved.

X. Provided also, and be it enacted, That this act, or any declaration, provision, disablement, penalty, forfeiture, or other thing before-mentioned, shall not extend to any letters patents or grants of privilege heretofore made, or hereafter to be made, of, for, or concerning printing, nor to any commission, grant or letters patents, heretofore made, or hereafter to be made, of, for, or concerning the digging, making, or compounding of saltpetre or gunpowder, or the casting or making of ordnance, or shot for ordnance, nor to any grant or letters patents heretofore made, or hereafter to be made, of any office or offices heretofore erected, made, or ordained, and now in being, and put in execution, other than such offices as have been decreed by any his Majesty's proclamation or proclamations : but that all and every the same grants, commissions, and letters patents, and all other matters and things tending to the maintaining, strengthening, and furtherance of the same, or any of them, shall be and remain of the like force and effect, and no other, and as free from the declarations, provisions, penalties and forfeitures contained in this act, as if this act had never been had nor made, and not otherwise.

This act shall
not extend to
commissions
for alum
mines.

XI. Provided also, and be it enacted, That this act, or any declaration, provision, disablement, penalty, forfeiture, or other thing before mentioned, shall not extend to any commission, grant, letters patents or privilege heretofore made, or here-

after to be made, of, for or concerning the digging, compounding, or making of alum or alum mines, but that all and every the same commissions, grants, letters patents and privileges, shall be and remain of the like force and effect, and no other, and as free from the declarations, provisions, penalties, and forfeitures contained in this act, as if this act had never been made, and not otherwise.

XII. [Nor to the liberties of Newcastle-upon-Tyne, nor to licenses of keeping taverns.]

XIII. [Nor to letters patents granted to Sir Robert Mansel, Knt., or to James Maxwell, Esq.]

XIV. [Nor to those granted to Abraham Baker, or Lord Dudley.]



No. XIII.

5 & 6 Wm. 4, c. 83.

An Act to amend the Law touching Letters Patent for Inventions.

Whereas it is expedient to make certain additions to and alterations in the present law touching letters patent for inventions, as well for the better protecting of patentees in the rights intended to be secured by such letters patent, as for the more ample benefit of the public from the same: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that any person who, as grantee, assignee, or otherwise, hath obtained or who shall hereafter obtain letters patent, for the sole making, exercising, vending, or using of any invention, may, if he think fit, enter with the clerk of the patents of *England, Scotland, or Ireland*, respectively, as the case may be, having first obtained the leave of his Majesty's Attorney-General or Solicitor-General in case of an *English* patent, of the Lord-Advocate or Solicitor-General of *Scotland* in the case of a *Scotch* patent, or of his Majesty's Attorney-General or Solicitor-General for *Ireland* in the case of an *Irish* patent;

Any person having obtained letters patent for any invention may enter a disclaimer of any part of his specification, or a memorandum of any alteration therein, which, when filed, to be deemed part of such specification.

certified by his fiat and signature, a disclaimer of any part of either the title of the invention or of the specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent; and such disclaimer or memorandum of alteration, being filed by the said clerk of the patents, and enrolled with the specification, shall be deemed and taken to be part of such letters patent or such specification in all courts whatever:

Caveat may be entered as heretofore.

Disclaimer not to affect actions pending at the time.

Attorney-General may require the party to advertise his disclaimer.

Mode of proceeding where patentee is proved not to be the real inventor, though he believed himself to be so.

Provided always, that any person may enter a caveat, in like manner as caveats are now used to be entered, against such disclaimer or alteration; which caveat being so entered shall give the party entering the same a right to have notice of the application being heard by the Attorney-General or Solicitor-General or Lord-Advocate respectively: Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except in any proceeding by *scire facias*) pending at the time when such disclaimer or alteration was enrolled, but in every such action or suit the original title and specification alone shall be given in evidence, and deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted: Provided also, that it shall be lawful for the Attorney-General or Solicitor-General or Lord Advocate, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration in such manner as to such Attorney-General or Solicitor General or Lord-Advocate shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made.

II. And be it enacted, that if in any suit or action it shall be proved or specially found by the verdict of a jury that any person who shall have obtained letters patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person or persons having invented or used the same, or some part thereof, before the date of such letters patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same, or some part thereof, before the date of such letters patent, it shall and may be lawful

for such patentee or his assigns to petition his Majesty in council to confirm the said letters patent or to grant new letters patent, the matter of which petition shall be heard before the Judicial Committee of the Privy Council; and such committee, upon examining the said matter, and being satisfied that such patentee believed himself to be the first and original inventor, and being satisfied that such invention or part thereof had not been publicly and generally used before the date of such first letters patent, may report to his Majesty their opinion that the prayer of such petition ought to be complied with, whereupon his Majesty may, if he think fit, grant such prayer; and the said letters patent shall be available in law and equity to give to such petitioner the sole right of using, making, and vending such invention as against all persons whatsoever, any law, usage, or custom to the contrary thereof notwithstanding: Provided, that any person opposing such petition shall be entitled to be heard before the said judicial committee: Provided also, that any person, party to any former suit or action touching such first letters patent, shall be entitled to have notice of such petition before presenting the same.

III. And be it enacted, that if in any action at law or any suit in equity for an account shall be brought in respect of any alleged infringement of such letters patent heretofore or hereafter granted, or any scire facias to repeal such letters patent, and if a verdict shall pass for the patentee or his assigns, or if a final decree or decretal order shall be made for him or them, upon the merits of the suit, it shall be lawful for the judge before whom such action shall be tried to certify on the record, or the judge who shall make such decree or order to give a certificate under his hand, that the validity of the patent came in question before him, which record or certificate being given in evidence in any other suit or action whatever touching such patent, if a verdict shall pass, or decree or decretal order be made, in favour of such patentee or his assigns, he or they shall receive treble costs in such suit or action, to be taxed at three times the taxed costs, unless the judge making such second or other decree or order, or trying such second or other action, shall certify that he ought not to have such treble costs.

If in any action or suit a verdict or decree shall pass for the patentee, the judge may grant a certificate, which being given in evidence in any other suit shall entitle the patentee, upon a verdict in his favour, to receive treble costs.

IV. And be it further enacted, that if any person who now hath or shall hereafter obtain any letters patent as aforesaid

Mode of proceeding in case of application

for the prolongation of the term of a patent.

shall advertise in the *London Gazette* three times, and in three *London* papers, and three times in some *Country* paper published in the town where or near to which he carried on any manufacture of any thing made according to his specification, or near to or in which he resides in case he carried on no such manufacture, or published in the county where he carries on such manufacture or where he lives, in case there shall not be any paper published in such town, that he intends to apply to his Majesty in council for a prolongation of his term of sole using and vending his invention, and shall petition his Majesty in council to that effect, it shall be lawful for any person to enter a caveat at the council office; and if his Majesty shall refer the consideration of such petition to the Judicial Committee of the Privy Council, and notice shall first be by him given to any person or persons who shall have entered such caveats, the petitioner shall be heard by his counsel and witnesses to prove his case, and the persons entering caveats shall likewise be heard by their counsel and witnesses; whereupon, and upon hearing and inquiring of the whole matter, the Judicial Committee may report to his Majesty that a further extension of the term in the said letters patent should be granted, not exceeding seven years; and his Majesty is hereby authorised and empowered, if he shall think fit, to grant new letters patent for the said invention for a term not exceeding seven years after the expiration of the first term, any law, custom, or usage to the contrary in anywise notwithstanding: Provided that no such extension shall be granted if the application by petition shall not be made and prosecuted with effect before the expiration of the term originally granted in such letters patent.

In case of action, &c. notice of objections to be given.

V. And be it enacted, that in any action brought against any person for infringing any letters patent the defendant on pleading thereto shall give to the plaintiff, and in any scire facias to repeal such letters patent the plaintiff shall file with his declaration, a notice of any objections on which he means to rely at the trial of such action, and no objection shall be allowed to be made in behalf of such defendant or plaintiff respectively at such trial unless he prove the objections stated in such notice: Provided always, that it shall and may be lawful for any judge at chambers, on summons served by such defendant or plaintiff on such plaintiff or defendant respectively

to show cause why he should not be allowed to offer other objections whereof notice shall not have been given as aforesaid, to give leave to offer such objections, on such terms as to such judge shall seem fit.

VI. And be it enacted, that in any action brought for infringing the right granted by any letters patent, in taxing the costs thereof regard shall be had to the part of such case which has been proved at the trial, which shall be certified by the judge before whom the same shall be had, and the costs of each part of the case shall be given according as either party has succeeded or failed therein, regard being had to the notice of objections, as well as the counts in the declaration, and without regard to the general result of the trial.

As to costs in actions for infringing letters patent.

VII. And be it enacted, that if any person shall write, paint, or print, or mould, cast, or carve, or engrave or stamp, upon any thing made, used, or sold by him, for the sole making or selling of which he hath not or shall not have obtained letters patent, the name or any imitation of the name of any other person who hath or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person shall upon such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "by the King's patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, or shall in any other manner imitate or counterfeit the stamp or mark or other device of the patentee, he shall for every such offence be liable to a penalty of fifty pounds, to be recovered by action of debt, bill, plaint, process, or information in any of his Majesty's Courts of Record at *Westminster* or in *Ireland*, or in the Court of Session in *Scotland*, one half to his Majesty, his heirs and successors, and the other to any person who shall sue for the same: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon any thing made, for the sole making or vending of which a patent before obtained shall have expired.

Penalty for using, unauthorised, the name of a patentee, &c.

No. XIV.

2 & 3 Vict. c. 67.

An Act to amend an Act of the fifth and sixth years of the Reign of King William the Fourth, intituled an Act to amend the Law touching Letters Patent for Inventions.

5 & 6 Wm. 4,
c. 83.

Whereas by an act passed in the fifth and sixth years of the reign of his Majesty, King William the Fourth, intituled *An Act to amend the Law touching Letters Patent for Inventions*, it is amongst other things enacted, that if any person having obtained any letters patent as therein mentioned shall give notice as thereby required of his intention to apply to his Majesty in Council for a prolongation of his term of sole using and vending his invention, and shall petition his Majesty in council to that effect, it shall be lawful for any person to enter a caveat at the Council office, and if his Majesty shall refer the consideration of such petition to the judicial committee of the privy council, and notice shall be first given to any person or persons who shall have entered such caveats, the petitioner shall be heard by his counsel and witnesses to prove his case, and the persons entering caveats shall likewise be heard by their counsel and witnesses, whereupon, and upon hearing and inquiry of the whole matter, the judicial committee may report to his Majesty that a further extension of the term in the said letters patent shall be granted, not exceeding seven years, and his Majesty is thereby authorized and empowered, if he shall think fit, to grant new letters patent for the said invention for a term not exceeding seven years after the expiration of the first term, any law, custom, or usage to the contrary notwithstanding; provided that no such extension shall be granted if the application by petition shall not be made and prosecuted with effect before the expiration of the term originally granted in such letters patent, and whereas it has happened since the passing of the said act, and may again happen, that parties desirous of obtaining an extension of the term granted in letters patent, of which they are possessed, and who may have presented a petition for such purposes in manner by the said recited act directed, before the expiration of the said term, may nevertheless be prevented by causes over which they have no control from prosecuting with effect their application before the Judicial Committee of the

Privy Council; and it is expedient therefore that the said Judicial Committee should have power, when under the circumstances of the case they shall see fit, to entertain such application, and to report thereon, according to the provisions of the said recited act, notwithstanding that before the hearing of the case before them the terms of the letters patent sought to be renewed or extended may have expired: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that so much of the said recited act as provides that no extension of the term of letters patent shall be granted as therein mentioned if the application by petition for such extension be not prosecuted with effect before the expiration of the term originally granted in such letters patent, shall be and the same is hereby repealed.

Repealing provision requiring the application by petition to be prosecuted with effect before the expiration of the term of the patent.

II. And be it further enacted, That it shall be lawful for the Judicial Committee of the Privy Council, in all cases where it shall appear to them that any application for an extension of the term granted by any letters patent, the petition for which extension shall have been referred to them for their consideration, has not been prosecuted with effect before the expiration of the said term from any other causes than the neglect or default of the petitioner, to entertain such application, and to report thereon as by the said recited act provided, notwithstanding the term originally granted in such letters patent may have expired before the hearing of such application; and it shall be lawful for her Majesty, if she shall think fit, on the report of the said Judicial Committee recommending an extension of the term of such letters patent, to grant such extension, or to grant new letters patent for the invention or inventions specified in such original letters patent, for a term not exceeding seven years after the expiration of the term mentioned in the said original letters patent: Provided always, that no such extension or new letters patent shall be granted if a petition for the same shall not have been presented as by the said recited act directed before the expiration of the term sought to be extended, nor in case of petitions presented after the thirtieth day of November, one thousand eight hundred and thirty-nine, unless such petition shall be presented six calendar months at the least before the expiration of such term, nor in any case unless sufficient

Term of patent right may be extended in certain cases though the application for such extension not prosecuted with effect before the expiration thereof.

reason shall be shown to the satisfaction of the said Judicial Committee for the omission to prosecute with effect the said application by petition before the expiration of the said term.



No. XV.

8 Anne, c. 19.

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

After 10 April, 1710, the authors of books already printed, who have not transferred their rights, and the booksellers, &c. who have purchased copies, shall have the sole right of printing them for the term of 21 years.

And the authors of books not printed, to have the sole right of printing for 14 years.

Whereas printers, booksellers, and other persons have of late frequently taken the liberty of printing, reprinting and publishing, or causing to be printed, reprinted and published, books, and other writings, without the consent of the authors or proprietors of such books and writings, to their very great detriment, and too often to the ruin of them and their families:” for preventing therefore such practices for the future, and for the encouragement of learned men to compose and write useful books: may it please your Majesty, that it may be enacted, and be it enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the tenth day of April, one thousand seven hundred and ten, the author of any book or books already printed, who hath not transferred to any other the copy or copies of such book or books, share or shares thereof, or the bookseller or booksellers, printer or printers, or other person or persons, who hath or have purchased or acquired the copy or copies of any book or books, in order to print or reprint the same, shall have the sole right and liberty of printing such book and books for the term of one and twenty years, to commence from the said tenth day of April, and no longer; and that the author of any book or books already composed, and not printed and published, or that shall hereafter be composed, and his assignee or assigns, shall have the sole liberty of printing and reprinting such book and books for the term of fourteen years, to commence from the day of the first publishing

the same, and no longer; and that if any other bookseller, printer, or other person whatsoever, from and after the tenth day of April, one thousand seven hundred and ten, within the times limited and granted by this act as aforesaid, shall print, reprint, or import, or cause to be printed, reprinted, or imported, any such book or books, without the consent of the proprietor or proprietors thereof first had and obtained in writing, signed in the presence of two or more credible witnesses; or knowing the same to be so printed or reprinted, without the consent of the proprietors, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, any such book or books, without such consent first had and obtained as aforesaid; then such offender or offenders shall forfeit such book or books, and all and every sheet or sheets, being part of such book or books, to the proprietor or proprietors of the copy thereof, who shall forthwith damask and make waste paper of them; and further, that every such offender or offenders shall forfeit one penny for every sheet which shall be found in his, her, or their custody, either printed or printing, published, or exposed to sale, contrary to the true intent and meaning of this act; the one moiety thereof to the Queen's most excellent Majesty, heir heirs and successors, and the other moiety thereof to any person or persons that shall sue for the same, to be recovered in any of her Majesty's courts of record at *Westminster*, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, or more than one imparlance shall be allowed.

Punishment of bookseller, &c. printing without consent of the proprietor.

II. And whereas many persons may through ignorance offend against this act, unless some provision be made, whereby the property in every such book, as is intended by this act to be secured to the proprietor or proprietors thereof, may be ascertained, as likewise the consent of such proprietor or proprietors for the printing or reprinting of such book or books, may from time to time be known; be it therefore further enacted by the authority aforesaid, that nothing in this act contained shall be construed to extend to subject any bookseller, printer, or other person whatsoever, to the forfeitures or penalties therein mentioned, for or by reason of the printing or reprinting of any book or books without such consent as aforesaid, unless the title to the copy of such book or books hereafter published shall, before such publication, be entered

Copies of books to be entered before publication in the register book of the Company of Stationers; which may be inspected at any time without fee.

in the register book of the Company of Stationers, in such manner as hath been usual, which register book shall at all times be kept at the hall of the said company, and unless such consent of the proprietor or proprietors be in like manner entered as aforesaid, for every of which several entries sixpence shall be paid, and no more; which said register book may, at all seasonable and convenient times, be resorted to, and inspected by any bookseller, printer, or other person, for the purposes before-mentioned, without any fee or reward; and the clerk of the said Company of Stationers shall, when and as often as thereunto required, give a certificate under his hand of such entry or entries, and for every such certificate may take a fee not exceeding sixpence.

Penalty of the clerk refusing so to do.

III. Provided nevertheless, that if the clerk of the said Company of Stationers for the time being shall refuse or neglect to register, or make such entry or entries, or to give such certificate, being thereunto required by the author or proprietor of such copy or copies, in the presence of two or more credible witnesses, that then such person and persons so refusing, notice being first duly given of such refusal, by an advertisement in the *Gazette*, shall have the like benefit, as if such entry or entries, certificate or certificates had been duly made and given; and that the clerks so refusing shall, for any such offence, forfeit to the proprietor of such copy or copies the sum of twenty pounds, to be recovered in any of her Majesty's courts of record at *Westminster*, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, or more than one imparlance, shall be allowed.

After 25 March the archbishop of Canterbury, &c. to settle the prices of books, upon complaint made that they are unreasonable.

IV. Provided nevertheless, and it is hereby further enacted by the authority aforesaid, That if any bookseller or booksellers, printer or printers, shall, after the said five and twentieth day of *March* one thousand seven hundred and ten, set a price upon, or sell, or expose to sale, any book or books at such a price or rate as shall be conceived by any person or persons to be too high and unreasonable; it shall and may be lawful for any person or persons to make complaint thereof to the Lord Archbishop of *Canterbury*, for the time being, the Lord Chancellor or Lord Keeper of the Great Seal of *Great Britain* for the time being, the Lord Bishop of *London* for the time being, the Lord Chief Justice of the Court of *Queen's*

Bench, the Lord Chief Justice of the Court of *Common Pleas*, the Lord Chief Baron of the Court of *Exchequer* for the time being, the Vice-Chancellors of the two Universities for the time being, in that part of *Great Britain* called *England*; the Lord President of the Sessions for the time being, the Lord Justice General for the time being, the Lord Chief Baron of *Exchequer* for the time being, the Rector of the College of *Edinburgh* for the time being, in that part of *Great Britain* called *Scotland*; who, or any one of them, shall and have hereby full power and authority, from time to time, to send for, summon, or call before him or them such bookseller or booksellers, printer or printers, and to examine and inquire of the reason of the dearness and inhancement of the price or value of such book or books by him or them so sold or exposed to sale; and if upon such inquiry and examination it shall be found, that the price of such book or books is enhanced, or any wise too high or unreasonable, then and in such case the said Archbishop of *Canterbury*, Lord Chancellor or Lord Keeper, Bishop of *London*, two Chief Justices, Chief Baron, Vice-Chancellors of the Universities, in that part of *Great Britain* called *England*, and the said Lord President of the Sessions, Lord Justice General, Lord Chief Baron, and Rector of the College of *Edinburgh*, in that part of *Great Britain* called *Scotland*, or any one or more of them, so inquiring and examining, have hereby full power and authority to reform and redress the same, and to limit and settle the price of every such printed book and books, from time to time, according to the best of their judgments, and as to them shall seem just and reasonable; and in case of alteration of the rate or price from what was set or demanded by such bookseller or booksellers, printer or printers, to award and order such bookseller and booksellers, printer and printers, to pay all the costs and charges that the person or persons so complaining shall be put unto, by reason of such complaint, and of the causing such rate or price to be so limited and settled; all which shall be done by the said Archbishop of *Canterbury*, Lord Chancellor or Lord Keeper, Bishop of *London*, two Chief Justices, Chief Baron, Vice Chancellors of the two Universities, in that part of *Britain* called *England*, and the said Lord President of the *Great* Sessions, Lord Justice General, Lord Chief Baron, and Rector of the college of *Edinburgh*, in that part of *Great Britain* called

and if altered from the price the bookseller set, may order him to pay costs to the party complaining.

Penalty on booksellers selling at higher rates. This clause repealed by 15 Geo. 2, c. 36.

After 10 April, nine copies of each book shall be delivered to the warehouse keeper of the Company of Stationers, for the use of the university libraries, &c.

Warehouse-keeper to deliver the books ten days after demand.

Penalty of proprietor, &c. not observing the directions of this act.

Scotland, or any one of them, by writing under their hands and seals, and thereof public notice shall be forthwith given by the said bookseller or booksellers, printer or printers, by an advertisement in the *Gazette*; and if any bookseller or booksellers, printer or printers, shall, after such settlement made of the said rate and price, sell or expose to sale any book or books, at a higher or greater price than what shall have been so limited and settled as aforesaid, then and in every such case such bookseller and booksellers, printer and printers, shall forfeit the sum of five pounds for every such book so by him, her, or them sold or exposed to sale; one moiety thereof to the Queen's most excellent Majesty, her heirs and successors, and the other moiety to any person or persons that shall sue for the same, to be recovered with costs of suit, in any of her Majesty's courts of record at *Westminster*, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, or more than one imparlance, shall be allowed.

V. Provided always, and it is hereby enacted, That nine copies of each book or books, upon the best paper, that from and after the said tenth day of April, one thousand seven hundred and ten shall be printed and published as aforesaid, or reprinted and published with additions, shall, by the printer and printers thereof, be delivered to the warehouse-keeper of the said Company of Stationers for the time being, at the hall of the said company, before such publication made for the use of the Royal Library, the libraries of the Universities of *Oxford* and *Cambridge*, the libraries of the four Universities in *Scotland*, the library of *Sion College* in *London*, and the library commonly called the Library belonging to the faculty of advocates at *Edinburgh* respectively; which said warehouse-keeper is hereby required, within ten days after demand by the keepers of the respective libraries, or any person or persons by them or any of them authorized to demand the said copy to deliver the same for the use of the aforesaid libraries; and if any proprietor, bookseller, or printer, or the warehouse-keeper of the said Company of Stationers, shall not observe the direction of this act therein, that then he and they so making default in not delivering the said printed copies as aforesaid, shall forfeit, besides the value of the said printed copies, the sum of five pounds for every copy not so delivered, as also

the value of the said printed copy not so delivered ; the same to be recovered by the Queen's Majesty, her heirs and successors, and by the chancellor, masters, and scholars of any of the said Universities, and by the president and fellows of *Sion College*, and the said faculty of advocates at *Edinburgh*, with their full costs respectively.

VI. Provided always, and be it further enacted, That if any person or persons incur the penalties contained in this act, in that part of *Great Britain* called *Scotland*, they shall be recoverable by any action before the court of session there.

Penalties in Scotland how recoverable.

VII. Provided, that nothing in this act contained do extend, or shall be construed to extend, to prohibit the importation vending, or selling of any books in *Greek*, *Latin*, or any other language printed beyond the seas ; any thing in this act contained to the contrary notwithstanding.

This act not to hinder the importation, &c. of books in Greek, &c. printed beyond sea, &c.

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

General issue.

IX. Provided, that nothing in this act contained shall extend, or be construed to extend, either to prejudice or confirm any right that the said Universities, or any of them, or any person or persons have, or claim to have, to the printing or reprinting any book or copy already printed, or hereafter to be printed.

This act not to prejudice the right of the universities.

X. Provided nevertheless, that all actions, suits, bills, indictments, or informations for any offence that shall be committed against this act, shall be brought, sued, and commenced within three months next after such offence committed, or else the same shall be void and of none effect.

Actions for offences against this act, to be brought in three months.

XI. Provided always, that after the expiration of the said term of fourteen years, the sole right of printing or disposing of copies shall return to the authors thereof, if they are then living for another term of fourteen years.

After the fourteen years, the right of printing, &c. to return to the author for other fourteen years.

No. XVI.

8 Geo. II. c. 13.

An Act for the Encouragement of the Arts of Designing, Engraving and Etching, Historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers, during the Time herein mentioned.

‘Whereas divers persons have by their own genius, industry, pains, and expense, invented and engraved, or worked in *mezzotinto* or *chiaro oscuro*, sets of historical and other prints, in hopes to have reaped the sole benefit of their labours: and whereas printsellers and other persons have of late, without the consent of the inventors, designers and proprietors of such prints, frequently taken the liberty of copying, engraving and publishing, or causing to be copied engraved and published, base copies of such works, designs and prints, to the very great prejudice and detriment of the inventors, designers, and proprietors thereof;’ For remedy thereof, and for preventing such practices for the future, may it please your Majesty that it may be enacted, and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lord’s Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of *June* which shall be in the year of our Lord one thousand seven hundred and thirty-five, every person who shall invent and design, engrave, etch or work in *mezzotinto* or *chiaro oscuro*, or from his own works and inventions shall cause to be designed and engraved, etched or worked in *mezzotinto* or *chiaro oscuro* any historical or other print or prints, shall have the sole right and liberty of printing and reprinting the same for the term of fourteen years, to commence from the day of the first publishing thereof, which shall be truly engraved with the name of the proprietor on each plate, and printed on every such print or prints; and that if any printseller or other person whatsoever, from and after the said twenty-fourth day of *June* one thousand seven hundred and thirty-five, within the time limited by this act, shall engrave, etch, or work as aforesaid, or in any other manner

Property of
prints vested in
the inventor
for fourteen
years.

Proprietor’s
name to be
affixed to each
print.

Penalty on
printsellers or
others pirating
the same.

copy and sell, or cause to be engraved, etched or copied and sold, in the whole or in part, by varying, adding to or diminishing from the main design, or shall print, reprint or import for sale or cause to be printed, reprinted or imported for sale, any such print or prints, or any parts thereof, without the consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him or them respectively in the presence of two or more credible witnesses, or knowing the same to be so printed or reprinted without the consent of the proprietor or proprietors, shall publish, sell, or expose to sale, or otherwise, or in any other manner dispose of, or cause to be published, sold or exposed to sale, or otherwise, or in any other manner disposed of, any such print or prints, without such consent first had and obtained as aforesaid, then such offender or offenders shall forfeit the plate or plates on which such print or prints are or shall be copied, and all and every sheet or sheets (being part of, or whereon such print or prints are or shall be so copied and printed) to the proprietor or proprietors of such original print or prints, who shall forthwith destroy and damask the same; and further, that every such offender or offenders shall forfeit five shillings for every print which shall be found in his, her, or their custody, either printed or published, and exposed to sale, or otherwise disposed of, contrary to the true intent and meaning of this act: the one moiety thereof to the King's most excellent Majesty, his heirs and successors, and the other moiety thereof to any person or persons that shall sue for the same, to be recovered in any of his Majesty's Courts of Record at *Westminster*, by action of debt, bill, plaint or information, in which no wager of law, essoin, privilege or protection, or more than one imparlance, shall be allowed.

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

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

III. And be it further enacted by the authority aforesaid, That if any action or suit shall be commenced or brought against any person or persons whatsoever for doing or causing to be done any thing in pursuance of this act, the same shall be brought within the space of three months after so doing;

Limitation of actions.

General issue.

and the defendant and defendants in such action or suit shall or may plead the general issue, and give the special matter in evidence; and if upon such action or suit a verdict shall be given for the defendant or defendants, or if the plaintiff or plaintiffs become nonsuited or discontinue his, her, or their action or actions, then the defendant or defendants shall have and recover full costs, for the recovery whereof he shall have the same remedy as any other defendant or defendants in any other case hath or have by law.

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

Clause relating to J. Pine.

' V. And whereas *John Pine* of *London*, engraver, doth propose to engrave and publish a set of prints, copied from several pieces of tapestry in the house of Lords, and his Majesty's wardrobe, and other drawings relating to the *Spanish* invasion, in the year of our Lord one thousand five hundred and eighty-eight; Be it further enacted by the authority aforesaid, That the said *John Pine* shall be entitled to the benefit of this act, to all intents and purposes whatsoever, in the same manner as if the said *John Pine* had been the inventor and designer of the said prints.

Public act.

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

No. XVII.

12 Geo. 2, c. 36.

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

‘ Whereas the duties payable upon paper imported into this Preamble.
 ‘ kingdom to be made use of in printing, greatly exceed the
 ‘ duties payable upon the importation of printed books, whereby
 ‘ foreigners and others are encouraged to bring in great numbers
 ‘ of books originally printed and published in this kingdom and
 ‘ reprinted abroad, to the diminution of his Majesty’s revenue,
 ‘ and the discouragement of the trade and manufacture of this
 ‘ kingdom;’ For the preventing thereof for the future, may it
 please your most excellent Majesty that it may be enacted; and
 be it enacted by the King’s most excellent Majesty, by and with
 the advice and consent of the Lords spiritual and temporal,
 and commons, in this present parliament assembled, and by
 the authority of the same, that from and after the twenty-ninth
 day of *September* one thousand seven hundred and thirty-nine,
 it shall not be lawful for any person or persons whatsoever, to
 import or bring into this kingdom for sale, any book or books
 first composed or written, and printed and published in this
 kingdom, and reprinted in any other place or country what-
 soever; and if any person or persons shall import or bring
 into this kingdom for sale, any printed book or books, so first
 composed or written, and printed in this kingdom, and re-
 printed in any other place or country as aforesaid; or knowing
 the same to be so reprinted or imported, contrary to the true
 intent and meaning of this act, shall sell, publish, or expose
 to sale any such book or books; then every such person or
 persons so doing or offending, shall forfeit the said book or
 books, and all and every sheet or sheets thereof; and the same
 shall be forthwith damasked, and made waste paper; and fur-
 ther, that every such offender or offenders shall forfeit the sum
 of five pounds, and double the value of every book which he
 or they shall so import or bring into this kingdom, or shall

knowingly sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, contrary to the true intent and meaning of this act; the one moiety thereof to the King's most excellent Majesty, his heirs and successors, and the other moiety to any person or persons that shall sue for the same; to be recovered with costs of suit in any of his Majesty's Courts of Record at *Westminster* by action of debt, bill, plaint or information: in which no wager of law, essoin, or protection, or more than one imparlance shall be allowed; and if the offence be committed in *Scotland*, to be recovered before the Court of Session there, by summary action: provided that this act shall not extend to any book that has not been printed or reprinted in this kingdom within twenty years before the same shall be imported.

II. Provided always, That nothing in this act contained shall extend to prevent or hinder the importation of any book first composed or written, and printed in this kingdom, which shall or may be reprinted abroad, and inserted among other books or tracts, to be sold therewith, in any collection, where the greatest part of such collection shall have been first composed or written, and printed abroad; any thing in this act contained to the contrary notwithstanding.

III. And be it further enacted by the authority aforesaid, That so much of an act made in the eighth year of the reign of her late Majesty Queen Anne, intituled, *An Act for the Encouragement of Learning, by vesting the Copies of printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned*, whereby it was provided and enacted, That if any bookseller or booksellers, printer or printers shall, after the said five and twentieth day of *March* one thousand seven hundred and ten, set a price upon, or sell, or expose to sale any book or books, at such a price or rate as shall be conceived by any person or persons to be high and unreasonable; it shall and may be lawful for any person or persons to make complaint thereof to the Lord Archbishop of *Canterbury* for the time being, the Lord Chancellor, or Lord Keeper of the Great Seal of *Great Britain* for the time being, the Lord Bishop of *London* for the time being, the Lord Chief Justice of the Court of *Queen's Bench*, the Lord Chief Justice of the Court of *Common Pleas*, the Lord Chief Baron of the Court of *Exchequer* for the time being, the Vice-Chancellors of the two

Clause in
8 Anne, c. 19,
repealed.

Universities for the time being, in that part of *Great Britain* called *England*, the Lord President of the Sessions for the time being, the Lord Justice General for the time being, the Lord Chief Baron of the *Exchequer* for the time being, the Rector of the College of *Edinburgh* for the time being, in that part of *Great Britain* called *Scotland*, who, or any one of them, shall, and have hereby full power and authority from time to time, to send for, summon, or call before him or them, such bookseller or booksellers, printer or printers, and to examine and inquire of the reason of the dear-ness and enhancement of the price or value of such book or books by him or them so sold, or exposed to sale; and if, upon such inquiry and examination, it shall be found that the price of such book or books is enhanced, or any ways too high and unreasonable, then, and in such case, the said Archbishop of *Canterbury*, Lord Chancellor or Lord Keeper, Bishop of *London*, two Chief Justices, Chief Baron, Vice-Chancellors of the Universities in that part of *Great Britain* called *England*, and the said Lord President of the Sessions, Lord Justice General, Lord Chief Baron, and Rector of the College of *Edinburgh* in that part of *Great Britain* called *Scotland*, or any one or more of them, so inquiring and examining, have hereby full power and authority to reform and redress the same, and to limit and settle the price of every such printed book and books, from time to time, according to the best of their judgments, and as to them shall seem just and reasonable; and in case of alteration of the rate or price from what was set or demanded by such bookseller or booksellers, printer and printers, to pay all the costs and charges that the person or persons so complaining shall be put unto by reason of such complaint, and of the causing such rate or price to be so limited and settled; all which shall be done by the said Archbishop of *Canterbury*, Lord Chancellor, or Lord Keeper, Bishop of *London*, two Chief Justices, Chief Baron, Vice-Chancellors of the two Universities in that part of *Great Britain* called *England*, and the said Lord President of the Sessions, Lord Justice General, Lord Chief Baron, and Rector of the College of *Edinburgh*, in that part of *Great Britain* called *Scotland*, or any one of them by writing under their hands and seals, and thereof public notice shall be forthwith given by the said bookseller or booksellers, printer or printers, by an advertisement in the

Gazette; and if any bookseller or booksellers, printer or printers, shall, after such settlement made of the said rate and price, sell, or expose to sale, any book or books at a higher or greater price than what shall have been so limited and settled as aforesaid; then and in every such case, such bookseller or booksellers, printer or printers, shall forfeit the sum of five pounds for every such book so by him, her or them, sold or exposed to sale, one moiety thereof to the Queen's most excellent Majesty, her heirs and successors, and the other moiety to any person or persons that shall sue for the same, to be recovered with costs of suit, in any of her Majesty's Courts of Record at *Westminster*, by action of debt, bill, plaint or information, in which no wager of law, essoin, privilege or protection, or more than one imparlance, shall be allowed; and every part of the said clause shall be and the same is hereby repealed.

Farther continued by
27 Geo. 2, c. 18,
and 33 Geo. 2,
c. 16.

IV. And be it further enacted, That this act (except so much thereof as repeals the beforementioned clause in the said act of the eighth year of the reign of the late Queen *Anne*, relating to the prices of books) shall continue and be in force from the said twenty-ninth day of *September* one thousand seven hundred and thirty-nine, for and during the space of seven years, and from thence to the end of the then next session of Parliament, and no longer.

No. XVIII.

7 Geo. 3, c. 38.

An Act to amend and render more effectual an Act made in the Eighth Year of the Reign of King George the Second, for Encouragement of the Arts of Designing, Engraving, and Etching Historical and other Prints; and for vesting in, and securing to Jane Hogarth, Widow, the property in certain Prints.

7 Geo. 3, c. 38.
8 Geo. 2, c. 13.

' Whereas an act of Parliament passed in the eighth year of the reign of his late Majesty King George the Second, intitled, *An Act for the Encouragement of the Arts of Designing,*

' *Engraving, and Etching, Historical and other Prints, by vesting the Properties thereof in the Inventors, and Engravers, during the time therein mentioned*, has been found ineffectual for the purposes thereby intended ;' be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of *January*, one thousand seven hundred and sixty-seven, all and every person and persons who shall invent or design, engrave, etch, or work in *mezzotinto* or *chiaro oscuro*, or, from his own work, design, or invention, shall cause or procure to be designed, engraved, etched, or worked in *mezzotinto* or *chiaro oscuro*, any historical print or prints, or any print or prints, of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, shall have, and are hereby declared to have, the benefit and protection of the said act and this act, under the restrictions and limitations hereinafter mentioned. .

Original inventors, &c. of prints, &c.

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

entitled to the benefit of recited and present act, &c.

" The sole right of printing and reprinting the late *W. Hogarth's* prints, vested in his widow and executrix for twenty years. Penalty of copying, &c. any of them, before expiration of the term ; such copies excepted as were made and exposed to sale after the term of fourteen years, for which the said works were first licensed, &c."

V. And be it further enacted by the authority aforesaid,

that all and every the penalties and penalty inflicted by the said act, and extended and meant to be extended, to the several cases comprised in this act, shall and may be sued for and recovered in like manner, and under the like restrictions and limitations, as in and by the said act is declared and appointed; and the plaintiff or common informer, in every such action (in case such plaintiff or common informer shall recover any of the penalties incurred by this or the said former act,) shall recover the same, together with his full costs of suit.

VI. Provided also, that the party prosecuting shall commence his prosecution within the space of six calendar months after the offence committed.

The right intended, vested in the proprietors for 28 years.

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

Limitation of actions.

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

General issue.

No. XIX.

15 Geo. 3, c. 53.

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

‘Whereas authors have heretofore bequeathed or given, and
‘may hereafter bequeath or give the copies of books composed
‘by them, to or in trust for one of the two universities in that
‘part of *Great Britain* called *England*, or to or in trust for
‘some of the colleges or houses of learning within the same,
‘or to or in trust for the several colleges of *Eton*, *Westminster*,
‘and *Winchester*, and in and by their several wills or other
‘instruments of donation, have directed or may direct, that the
‘profits arising from the printing and reprinting such books
‘shall be applied or appropriated as a fund for the advancement
‘of learning, and other beneficial purposes of education, within
‘the said universities and colleges aforesaid: And whereas
‘such useful purposes will frequently be frustrated, unless the
‘sole printing and reprinting of such books, the copies of which
‘have been or shall be so bequeathed or given as aforesaid,
‘be preserved and secured to the said universities, colleges,
‘and houses of learning respectively, in perpetuity:’ May it
therefore please your Majesty that it may be enacted; and be
it enacted by the King’s most excellent Majesty, by and with
the advice and consent of the lords spiritual and temporal,
and commons, in this present parliament assembled, and by
the authority of the same, that the said universities and col-
leges respectively shall, at their respective presses, have, for
ever, the sole liberty of printing and reprinting all such books
as shall at any time hereafter have been, or (having not been
heretofore published or assigned) shall at any time hereafter

15 Geo. 3,
c. 53.Universities,
&c. to have,
for ever, the
sole right of
printing, &c.

be bequeathed, or otherwise given by the author or authors of the same respectively, or the representatives of such author or authors, to or in trust for the said universities, or to or in trust for any college or house of learning within the same, or to or in trust for the said four universities in *Scotland*, or to or in trust for the said colleges of *Eton*, *Westminster*, and *Winchester*, or any of them, for the purposes aforesaid, unless the same shall have been bequeathed or given, or shall hereafter be bequeathed or given, for any term of years, or other limited term; any law or usage to the contrary hereof in any wise notwithstanding.

Persons printing or selling such books, shall forfeit the same, and also 1*l.* for every sheet;

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

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

III. Provided nevertheless, That nothing in this act extend to grant any exclusive right, otherwise than so long as the books or copies belonging to the said universities or colleges are printed only at their own printing presses within the said universities or colleges respectively, and for their sole benefit and advantage: and that if any university or college

shall delegate, grant, lease, or sell their copyrights, or exclusive rights of printing the books hereby granted or any part thereof, or shall allow, permit, or authorize any person or persons, or bodies corporate, to print or reprint the same, that then the privileges hereby granted are to become void and of no effect, in the same manner as if this act had not been made; but the said universities and colleges, as aforesaid, shall nevertheless have a right to sell such copies so bequeathed or given as aforesaid, in like manner as any author or authors now may do under the provisions of the statute of the eighth year of her Majesty Queen Anne.

' And whereas many persons may through ignorance offend
' against this act, unless some provision be made, whereby
' the property of every such book as is intended by this act
' to be secured to the said universities, colleges, and houses
' of learning within the same, and to the said universities in
' *Scotland*, and to the respective colleges of *Eton*, *Westminster*,
' and *Winchester*, may be ascertained and known; Be it
therefore enacted by the authority aforesaid, That nothing in
this act contained shall be construed to extend to subject any
bookseller, printer, or other person whatsoever, to the forfeitures or penalties herein mentioned, for or by reason of the
printing or reprinting, importing or exposing to sale, any
book or books, unless the title to the copy of such book or
books, which has or have been already bequeathed or given to
any of the said universities or colleges aforesaid, be entered
in the register book of the Company of Stationers, kept for
that purpose, in such manner as hath been usual, on or before
the twenty-fourth day of June, one thousand seven hundred
and seventy-five; and of all and every such book or books
as may or shall hereafter be bequeathed or given as aforesaid,
be entered in such register, within the space of two months
after any such bequest or gift shall have come to the knowledge of the vice-chancellors of the said universities, or head
of houses and colleges of learning, or of the principal of any
of the said four universities respectively; for every of which
entries so to be made as aforesaid, the sum of sixpence shall
be paid and no more; which said register book shall and may,
at all seasonable and convenient times, be referred to, and inspected by any bookseller, printer, or other person, without
any fee or reward; and the clerk of the said Company of

No person
subject to
penalties, unless entered
before, &c.
Books must be
entered within
two months
after bequest.

Stationers shall, when and as often as thereunto required, give a certificate under his hand of such entry or entries, and for every such certificate may take a fee not exceeding sixpence.

If clerk neglect
to make entry,
&c. proprietor
to have like
benefit, &c.

V. And be it further enacted, That if the clerk of the said Company of Stationers for the time being shall refuse or neglect to register or make such entry or entries, or to give such certificate, being thereunto required by the agent of either of the said universities or colleges aforesaid, being the proprietor of such copyright or copyrights as aforesaid (notice being first given of such refusal by advertisement in the *Gazette*.) shall have the like benefit as if such entry or entries, certificate or certificates, had been duly made and given; and the clerk so refusing shall, for every such offence, forfeit twenty pounds to the proprietor or proprietors of every such copyright; to be recovered in any of his Majesty's Courts of Record at *Westminster*, or in the Court of Session in *Scotland*, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, protection, or more than one imparlance shall be allowed.

8 Anne, c. 19.

VI. 'And whereas in and by an act of parliament made in the
' reign of her late Majesty Queen Anne, intituled *An Act for the*
' *Encouragement of Learning, by vesting the Copies of printed Books*
' *in the Authors or Purchasers of such Copies, during the times*
' *therein mentioned*, it is enacted, That nine copies of each book
' or books, upon the best paper, that, from and after the tenth
' day of April, one thousand seven hundred and ten, should be
' printed and published, as therein mentioned, or reprinted
' and published with additions, shall by the printer or printers
' thereof be delivered to the warehouse keeper of the said Com-
' pany of Stationers for the time being, at the Hall of the
' said Company, before such publication made, for the use of
' the royal library, the libraries of the four universities in
' *Scotland*, and the library of *Sion College* in *London*, and
' the library commonly called *The Library belonging to*
' *the Faculty of Advocates* in *Edinburgh*, respectively; which
' such warehouse keeper was thereby required, within ten
' days after demand by the keepers of the respective libraries,
' or any person or persons by them, or any of them, autho-
' rised to demand the said copy, to deliver the same for the
' use of the aforesaid libraries; and if any proprietor, book-

‘ seller, or printer, or the said warehouse keeper of the said Com-
 ‘ pany of Stationers, should not observe the direction of the said
 ‘ act therein, that then he and they so making default, in not de-
 ‘ livering the said printed copies as aforesaid, should forfeit as
 ‘ therein mentioned ; and whereas the said provision has not
 ‘ proved effectual, but the same hath been eluded by the entry
 ‘ only of the title to a single volume, or of some part of such
 ‘ book or books so printed and published or reprinted and repub-
 ‘ lished as aforesaid ;’ be it enacted by the authority aforesaid,

That no person or persons whatsoever shall be subject to the penalties in the said act mentioned, for or by reason of the printing or reprinting, importing or exposing to sale, any book or books, without the consent mentioned in the said act, unless the title to the copy of the whole of such book, and every volume thereof, be entered, in manner directed by the said act, in the register book of the Company of Stationers, and unless nine such copies of the whole of such book or books, and every volume thereof printed and published, or reprinted or republished, as therein mentioned, shall be actually delivered to the warehouse keeper of the said Company, as therein directed, for the several uses of the several libraries in the said act mentioned.

No person subject to penalties in the said act, unless the title to the copy of the whole be entered, &c.

VII. And be it further enacted, by the authority aforesaid, That if any action or suit shall be commenced or brought against any person or persons whatsoever, for doing, or causing to be done, any thing in pursuance of this act, the defendants in such action may plead the general issue, and give the special matter in evidence ; and if upon such action a verdict, or if the same shall be brought in the Court of Session in *Scotland*, a judgment be given for the defendant, or the plaintiff become nonsuited, and discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath.

Limitation of actions.

General issue.

VIII. And be it further enacted by the authority aforesaid, That this act shall be adjudged, deemed, and taken to be a public act ; and shall be judicially taken notice of as such by all Judges, Justices, and other persons whatsoever, without specially pleading the same.

Public act.

No. XX.

17 Geo. 3, c. 57.

An act for more effectually securing the Property of Prints to Inventors and Engravers, by enabling them to sue for and recover Penalties in certain Cases.

17 Geo. 3,
c. 57.
8 Geo. 2.

7 Geo. 3.

‘Whereas an act of parliament passed in the eighth year
‘of the reign of his late Majesty king *George* the second.
‘intituled, *An Act for the Encouragement of the Arts of De-*
‘*signing, Engraving, and etching Historical and other Prints, by*
‘*vesting the Properties thereof in the Inventors and Engravers,*
‘*during the time therein mentioned*: And whereas by an act of
‘parliament, passed in the seventh year of the reign of his present
‘Majesty, *for amending and rendering more effectual* the afore-
‘said act, and for purposes therein mentioned, it was (among
‘other things) enacted, That, from and after the first day of
‘*January* one thousand seven hundred and sixty-seven, all
‘and every person or persons who should engrave, etch, or
‘work in *mezzotinto* or *chiaro oscuro*, or cause to be engraved,
‘etched, or worked, any print taken from any picture, drawing,
‘model, or sculpture, either ancient or modern, should have,
‘and were thereby declared to have, the benefit and protection
‘of the said former act, and that act, for the term therein after
‘mentioned, in like manner as if such print had been graved or
‘drawn from the original design of such graver, etcher, or
‘draughtsman: and whereas the said acts have not effectually
‘answered the purposes for which they were intended, and it
‘is necessary for the encouragement of artists, and for securing
‘to them the property of and in their works, and for the ad-
‘vancement and improvement of the aforesaid arts, that such
‘further provisions should be made as are hereinafter mentioned
‘and contained;’ may it therefore please your Majesty that it
may be enacted; and be it enacted by the King’s most excel-
lent Majesty, by and with the advice and consent of the Lords
Spiritual and Temporal, and Commons, in this present par-
liament assembled, and by the authority of the same, That,
from and after the twenty-fourth day of *June*, one thousand
seven hundred and seventy-seven, if any engraver, etcher,
printseller, or other person, shall, within the time limited by

the aforesaid acts, or either of them, engrave, etch, or work, or cause or procure to be engraved, etched, or worked in *Mezzotinto* or *Chiaro Oscuro*, or otherwise, or in any other manner copy in the whole, or in part, by varying, adding to, or diminishing from, the main design, or shall print, reprint, or import for sale, or cause or procure to be printed, reprinted, or imported for sale, or shall publish, sell, or otherwise dispose of, or cause or procure to be published, sold, or otherwise disposed of, any copy or copies of any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, which hath or have been, or shall be, engraved, etched, drawn, or designed, in any part of *Great Britain*, without the express consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him, her, or them respectively, with his, her, or their own hand or hands, in the presence of, and attested by, two or more credible witnesses, then every such proprietor or proprietors shall and may, by and in a special action upon the case, to be brought against the person or persons so offending, recover such damages as a jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with double costs of suit.

If any engraver, &c. shall engrave, &c. any print, without the consent of the proprietor, he shall be liable to damages and double costs.

No. XXI.

27 Geo. 3, c. 38.

An act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited time.

‘Whereas it may be expedient, for the encouragement of the arts of designing original patterns for linens, calicoes, cottons, and muslins, to vest the property thereof in the designers, printers, or proprietors, for a limited time; for which purpose may it please your Majesty, that it may be enacted;’

27 Geo. 3,
c. 38.
Preamble.

From June 1, 1787, the proprietor of any original pattern for printing linens to have the sole right of printing it for two months from first publication ;

and whoever shall within that period print the same, to be liable to an action for damages ;

and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the first day of *June*, one thousand seven hundred and eighty-seven, every person who shall invent, design, and print, or cause to be invented, designed, and printed, and become the proprietor of any new and original pattern or patterns for printing linens, cottons, calicoes, or muslins, shall have the sole right and liberty of printing and reprinting the same for the term of two months, to commence from the day of the first publishing thereof, which shall be truly printed, with the name of the printer or proprietors at each end of every such piece of linen, cotton, calico, or muslin ; and that if any calico-printer linen-draper, or other person whatsoever, from and after the first day of *June*, one thousand seven hundred and eighty-seven, within the time limited by this act, shall print, work, or copy, such original pattern or patterns, or cause to be printed, worked, or copied, such original pattern or patterns, or shall print or reprint, or cause to be printed or reprinted, any such pattern or patterns, and shall publish, sell, or expose to sale, or in any other manner dispose of, or cause to be published, sold, or exposed to sale, or in any other manner disposed of, any linen, cotton, calico, or muslin, so printed without the consent of the proprietor or proprietors thereof, first had and obtained in writing, signed by him or them respectively, in the presence of two or more credible witnesses, knowing the same to be so printed or reprinted without the consent of the proprietor or proprietors of such pattern, then every such proprietor or proprietors shall and may, if the offence be committed in *England*, by and in a special action upon the case, to be brought against the person or persons so offending, recover such damages as a jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with costs of suit, in which no wager of law, essoin, privilege, or protection, or more than one imparlance, shall be allowed ; and if the offence be committed in *Scotland*, every such proprietor or proprietors shall and may, by an action to be brought before the Court of Session, or any Judge competent to try civil causes within his bounds, recover such damages as the said Court of Session,

or the said Judge, shall give or assess, and for payment whereof decree shall be issued, with full costs of suit, on which all such execution shall pass as is competent by the laws and practice of *Scotland* in the like cases: Provided nevertheless, that it shall and may be lawful for any person or persons who shall hereafter purchase any plate or plates, block or blocks, for printing, from the proprietors thereof, to print, reprint, and expose to sale, or cause to be printed, reprinted, and exposed to sale, from the said plates or blocks, without being liable to any action on that account.

but any person purchasing plates from the proprietors may print therefrom.

II. And be it further enacted by the authority aforesaid, That if any action or suit shall be commenced or brought against any person or persons whatsoever, for any offence committed against this act, the same shall be brought within the space of six months after so doing, and the defendant or defendants, in such action or suit, if brought in *England*, shall and may plead the general issue, and give the special matter in evidence; and if, upon such action or suit, a verdict shall be given for the defendant or defendants, or if the plaintiff or plaintiffs become nonsuited, or discontinue, his, her, or their action or actions, then the defendant or defendants shall have and receive full costs; for the recovery whereof he shall have the same remedy as any other defendant or defendants in any other case hath or have by law; and if such action be brought in *Scotland*, and not insisted in, or if the defendant be assoilzied, then the defendant shall be entitled to full costs, for the recovery whereof he shall have the same remedy as herein-before is given to the pursuer.

Mode of prosecuting offences against this act.

III. And be it further enacted by the authority aforesaid, That this act shall continue in force for one year, and from thence to the end of the then next session of parliament; and shall be deemed, adjudged, and taken to be a public act, and be judicially taken notice of as such by all Judges, Justices, and other persons whatsoever, without specially pleading the same.

Act to continue in force for one year, and to the end of the then next session.
Continued by 29 Geo. 3, c. 19.

No. XXII.

34 Geo. 3, c. 23.

An act for amending and making perpetual an act made in the twenty-seventh Year of the Reign of his present Majesty, intituled, An Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors, for a limited Time.

34 Geo. 3,
c. 23.
27 Geo. 3.

29 Geo. 3.

Expedient to
extend time
limited by
27 Geo. 3.

Term further
extended.

‘Whereas an act was made in the twenty-seventh year of
‘the reign of his present Majesty (intituled, *An Act for the*
‘*Encouragement of the Arts of designing and printing Linens,*
‘*Cottons, Calicoes and Muslins, by vesting the Properties*
‘*thereof in the Designers, Printers and Proprietors, for a*
‘*limited time*); which said act was, by another act made in
‘the twenty-ninth year of the reign of his present Majesty,
‘continued from the expiration thereof until the first day of
‘*July* one thousand seven hundred and ninety-four: And
‘whereas the said first recited act hath by experience been
‘found to be useful and beneficial: And whereas it is expe-
‘dient that the time limited by the said first recited act for
‘vesting the property of new and original patterns for printing
‘linens, cottons, calicoes, or muslins, in the designers, printers,
‘and proprietors thereof, should be extended for a longer
‘time:’ May it please your Majesty that it may be enacted,
and be it enacted by the King’s most excellent Majesty, by
and with the advice and consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled,
and by the authority of the same, That, from and after the
first day of *July* one thousand seven hundred and ninety-
four, every person who shall invent, design and print, or
cause to be invented, designed and printed, and become the
proprietor of any new and original pattern or patterns for
printing linens, cottons, calicoes, or muslins, shall have the
sole right and liberty of printing and reprinting the same for
the term of three months, to commence from the day of the
first publishing thereof, which shall be truly printed with the
name of the printer or proprietors at each end of every such
piece of linen, cotton, calico, or muslin; and that if any calico-

printer, linen-draper, or other person whatsoever, from and after the said first day of *July* one thousand seven hundred and ninety-four, within the time limited by this act, shall print, work, or copy such original pattern or patterns, or cause to be printed, worked, or copied such original pattern or patterns, or shall print or reprint, or cause to be printed or reprinted, any such pattern or patterns, and shall publish, sell, or expose to sale, or any other manner dispose of, any linen, cotton, calico or muslin, so printed, (without the consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him or them respectively in the presence of two or more, credible witnesses,) knowing the same to be so printed or reprinted without the consent of the proprietor or proprietors of such pattern; then every such proprietor or proprietors shall and may, if the offence be committed in *England*, by and in a special action upon the case, to be brought against the person or persons so offending, recover such damages as a jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with costs of suit, in which no wager of law, essoin, privilege or protection, or more than one imparlance, shall be allowed: And that in all other respects the said first recited act, and all the clauses, matters and things therein contained, (except so far as the same is varied by this act,) shall be, and the same is hereby made perpetual.

Act made
perpetual.

No. XXIII.

38 Geo. 3, c. 71.

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

‘Whereas divers persons have, by their own genius, industry, pains, and expense, improved and brought the art of making new models and casts of busts, and of statues of human figures, and of animals, to great perfection, in hopes to have reaped the sole benefit of their labours; but that divers persons have

The sole right and property of making models or casts shall be vested in the original proprietor for fourteen years.

‘(without the consent of the proprietors thereof) copied and
 ‘made moulds from the said models and casts, and sold base
 ‘copies and casts of such new models and casts, to the great
 ‘prejudice and detriment of the original proprietors, and to the
 ‘discouragement of the art of making such new models and
 ‘casts as aforesaid:’ For remedy whereof, and for preventing
 such practices for the future, may it please your Majesty that
 it may be enacted; and be it enacted by the King’s most ex-
 cellent Majesty, by and with the advice and consent of the
 Lords Spiritual and Temporal, and Commons, in this present
 Parliament assembled, and by the authority of the same, that
 from and after the passing of this act, every person who shall
 make or cause to be made any new model, or copy or cast
 made from such new model, of any bust, or any part of the
 human figure, or any statue of the human figure, or the head
 of any animal, or any part of any animal, or the statue of any
 animal; or shall make or cause to be made any new model,
 copy, or cast from such new model, in alto or basso relievo,
 or any work in which the representation of any human figure
 or figures, or the representation of any animal or animals shall
 be introduced, or shall make or cause to be made any new
 cast from Nature of any part or parts of the human figure, or
 of any part or parts of any animal, shall have the sole right
 and property in every such new model, copy, or cast, and also
 in every such new model, copy, or cast in alto or basso relievo,
 or any work as aforesaid, and also in every such new cast from
 Nature as aforesaid, for and during the term of fourteen years
 from the time of first publishing the same: Provided always,
 that every person who shall make or cause to be made any
 such new model, copy, or cast, or any such new model, copy,
 or cast in alto or basso relievo, or any work as aforesaid, or any
 new cast from Nature as aforesaid, shall cause his or her name
 to be put thereon, with the date of the publication, before the
 same shall be published and exposed to sale.

Person making copies of any model or cast, without the written consent of the proprietor, may be prosecuted for damages, by a special action on the case.

II. And be it further enacted, that if any person shall, within the said term of fourteen years, make or cause to be made any copy or cast of any such new model, copy, or cast, or any such model, copy, or cast in alto or basso relievo, or any such work as aforesaid, or any such new cast from Nature as aforesaid, either by adding to or diminishing from any such new model copy, or cast, or adding to or diminishing from any such new

model, copy, or cast in alto or basso relievo, or any such work as aforesaid, or adding to or diminishing from any such new cast of Nature, or shall cause or procure the same to be done, or shall import any copy or cast of such new model, copy, or cast, or copy or cast of such new model, copy, or cast in alto or basso relievo, or any such work aforesaid, or any copy or cast of any such new cast from Nature as aforesaid, for sale, or shall sell or otherwise dispose of, or cause or procure to be sold or exposed to sale, or otherwise disposed of, any copy or cast of any such new model, copy, or cast, or any copy or cast of such new model, copy, or cast in alto or basso relievo, or any such work as aforesaid, or any copy or cast of any such new cast from Nature as aforesaid, without the express consent of the proprietor or proprietors thereof first had and obtained, in writing signed by him, her, or them respectively, with his, her, or their hand or hands, in the presence of and attested by two or more credible witnesses, then and in all or any of the cases aforesaid, every proprietor or proprietors of any such original model, copy, or cast, and every proprietor or proprietors of any such original model, or copy or cast in alto or basso relievo, or any such work as aforesaid, or the proprietor or proprietors of any such new cast from Nature as aforesaid respectively, shall and may, by and in a special action upon the case, to be brought against the person or persons so offending, recover such damages as a jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with full costs of suit.

III. Provided nevertheless, that no person who shall hereafter purchase the right, either in any such model, copy, or cast, or in any such model, copy, or cast in alto or basso relievo, or any such work as aforesaid, or any such new cast from Nature, of the original proprietor or proprietors thereof, shall be subject to any action for vending or selling any cast or copy from the same ; any thing contained in this act to the contrary hereof notwithstanding.

Except such persons who shall purchase the same of the original proprietor.

IV. Provided also, that all actions to be brought as aforesaid, against any person or persons for any offence committed against this act, shall be commenced within six calendar months next after the discovery of every such offence, and not afterwards.

Limitation of actions.

No. XXIV.

41 Geo. 3, c. 107.

An Act for the further Encouragement of Learning, in the United Kingdom of Great Britain and Ireland, by securing the Copies and Copyright of printed Books to the Authors of such Books, or their Assigns, for the time herein mentioned.

Authors of books already composed, and not printed or published, and of books to be hereafter composed, and their assigns, shall have the sole right of printing them for fourteen years.

Booksellers, &c. in any part of the United Kingdom, or British European dominions, who shall print, reprint, or import, &c. any such book without consent of the proprietor, shall be liable to an action for damages, and shall also forfeit the books to the proprietor, and 3d. per sheet, half to the king, and half to the informer.

‘Whereas it is expedient that further protection should be afforded to the authors of books, and the purchasers of the copies and copyright of the same, in the United Kingdom of *Great Britain and Ireland* ;’ may it therefore please your Majesty that it may be enacted ; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the author of any book or books already composed, and not printed or published, and the author of any book or books which shall hereafter be composed, and the assignee or assigns of such authors respectively, shall have the sole liberty of printing and reprinting of such book and books, for the term of fourteen years, to commence from the day of first publishing the same, and no longer ; and that if any other bookseller, printer, or other person whosoever, in any part of the said United Kingdom, or in any part of the *British dominions in Europe*, shall, from and after the passing of this act, print, reprint, or import, or shall cause to be printed, reprinted, or imported, any such book or books, without the consent of the proprietor or proprietors of the copyright of and in such book or books first had and obtained in writing, signed in the presence of two or more credible witnesses, or, knowing the same to be so printed, reprinted, or imported, without such consent of such proprietor or proprietors, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, or shall have in his or their possession for sale, any such book or books, without such consent first had and obtained as aforesaid, then such offender or offenders shall be liable to a special action on the case, at the suit of the proprietor or proprietors of the copyright of

such book or books so unlawfully printed, reprinted, or imported, or published or exposed to sale, or being in the possession of such offender or offenders for sale as aforesaid, contrary to the true intent and meaning of this act; and every such proprietor and proprietors shall and may, by and in such special action upon the case to be so brought against such offender or offenders in any court of record in that part of the said United Kingdom, or of the *British* dominions in *Europe*, in which the offence shall be committed, recover such damages as the jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with double costs of suit; in which action no wager of law, essoin, privilege, or protection, nor more than one imparlance, shall be allowed; and all and every such offender or offenders shall also forfeit such book or books, and all and every sheet and sheets being part of such book or books, and shall deliver the same to the proprietor or proprietors of the copyright of such book or books, upon order of any court of record in which any action or suit, in law or equity, shall be commenced or prosecuted by such proprietor or proprietors, to be made on motion or petition to the said Court; and the said proprietor or proprietors shall forthwith damask or make waste paper of the said book or books, and sheet or sheets respectively; and all and every such offender or offenders shall also forfeit the sum of threepence for every sheet which shall be found in his or their custody, either printed or printing, or published or exposed to sale contrary to the true intent and meaning of this act, the one moiety thereof to the King's most excellent Majesty, his heirs and successors, and the other moiety thereof to any person or persons who shall sue for the same in any such court of record, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, nor more than one imparlance, shall be allowed: Provided always, that after the expiration of the said term of fourteen years, the right of printing or disposing of copies shall return to the authors thereof, if they are then living, for another term of fourteen years.

Authors have a second fourteen years' term, if living.

II. Provided also, and be it further enacted, that nothing in this act contained shall extend, or be construed to extend, to any book or books heretofore composed, and printed or published in any part of the said United Kingdom, nor to

Act shall not extend to books ready published, nor indemnify against penalties under

former acts in force at the union of Great Britain and Ireland, 39 & 40 Geo. 3, c. 67.

Trinity College, Dublin, shall for ever have the sole right of printing books given or bequeathed to them, unless they are given, &c. for a limited time only.

Penalty on persons printing such books the same as under s. 1.

exempt or indemnify any person or persons whomsoever, from or against any penalties or actions, to which he, she, or they shall or may have become, or shall or may hereafter be liable for or on account of the unlawful printing, reprinting, or importing such book or books, or the selling, publishing, or exposing the same to sale, or the having the same in his or their possession for sale, contrary to the laws and statutes in force respecting the same, at the time of the passing an act in the session of Parliament of the thirty-ninth and fortieth years of the reign of his present Majesty, intituled, *An Act for the Union of Great Britain and Ireland*.

III. 'And whereas authors have heretofore bequeathed, 'given, or assigned, and may hereafter bequeath, give, or assign, 'the copies or copyrights of and in books composed by them, 'to or in trust for the college of the Holy Trinity of *Dublin*; 'and, in and by their several wills or other instruments, have 'directed or may direct, that the profits arising from the printing 'or reprinting such books, shall be applied or appropriated as 'a fund for the advancement of learning, and other beneficial 'purposes of education, within the college aforesaid: and 'whereas such useful purposes will frequently be frustrated, 'unless the sole right of printing and reprinting of such books 'the copies of which shall have been or shall be so bequeathed, 'given, or assigned as aforesaid, be preserved and secured to 'the said college in perpetuity;' be it therefore further enacted, that the said college shall, at their own printing press, within the said college, have for ever the sole liberty of printing and reprinting all such books as shall at any time hereafter have been, or (not having been heretofore published or assigned) shall at any time hereafter be bequeathed, or otherwise given or assigned by the author or authors of the same respectively, or the representatives of such author or authors, to or in trust for the said college for the purposes aforesaid, unless the same shall have been bequeathed, given or assigned, or shall hereafter be bequeathed, given, or assigned for any term of years, or any other limited term; any law or usage to the contrary thereof in anywise notwithstanding; and that if any printer, bookseller, or other person whosoever, shall, from and after the passing of this act, unlawfully print, reprint, or import, or cause to be printed, reprinted, or imported, or knowing the same to be so unlawfully printed, reprinted, or imported, shall

sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, or have in his or their possession for sale, any such last mentioned book or books, such offender or offenders shall be subject and liable to the like actions, penalties, and forfeitures as are hereinbefore mentioned and contained with respect to offenders against the copyrights of authors and their assigns: Provided nevertheless, that nothing in this act shall extend to grant any exclusive right to the said college of the Holy Trinity of *Dublin*, otherwise than so long as the books or copies belonging to the said college, are and shall be printed only at the printing press of the said college, within the said college, and for the sole benefit and advantage of the said college; and that if the said college shall delegate, grant, lease, or sell the copyrights or exclusive rights of printing the books hereby granted, or any part thereof, or shall allow, permit, or authorise any person or persons, or bodies corporate, to print or reprint the same, then the privilege hereby granted shall become void and of no effect, in the same manner as if this act had not been made; but the said college shall nevertheless have a right to sell such copies so bequeathed or given as aforesaid, in like manner as any author or authors can or may lawfully do under the provisions of this act, or any other act now in force.

To extend only to books printed at the college press.

But the college may sell their copyrights.

IV. Provided also, and be it further enacted, that no bookseller, printer, or other person whosoever, shall be liable to the said penalty of threepence per sheet, for or by reason of the printing, reprinting, importing, or selling of any such book or books, or the having the same in his or their custody for sale, without the consent of the proprietor or proprietors of the copyright thereof as aforesaid, unless before the time of the publication of such book or books by the proprietor or proprietors thereof (other than the said college) the right and title of such proprietor or proprietors shall be duly entered in the register book of the Company of Stationers, in *London*, in such manner as hath been usually heretofore done by the proprietors of copies and copyrights in *Great Britain*; nor if the consent of such proprietor or proprietors for the printing, reprinting, importing, or selling such book or books, shall be in like manner entered; nor unless the right and title of the said college to the copyright of such book or books as has or have been already bequeathed, given, or assigned to the said college,

Booksellers, &c. shall not be liable to the penalty of 3d. per sheet, unless the title to the copyright be entered by the proprietor, &c. at Stationers' Hall, *London*; nor if the consent of the proprietor be so entered.

Clerk of the Company shall give certificates of entries, and make a half-yearly list of the books so entered for the use of Trinity College.

be entered in the said register book before the twenty-ninth day of *September*, one thousand eight hundred and one, and of all and every such book or books as may or shall hereafter be bequeathed, given or assigned as aforesaid, be entered in the said register book within the space of two months after any such bequest, gift, or assignment shall have come to the knowledge of the provost of the said college; for every of which several entries sixpence shall be paid, and no more; which said register book shall at all times be kept at the hall of the said Company, and shall and may at all seasonable and convenient times be resorted to and inspected by any bookseller, printer, or other person, for the purposes before mentioned, without any fee or reward; and the clerk of the said Company of Stationers shall, when and as often as thereto required, give a certificate under his hand of such entry or entries, and for every such certificate may take a fee not exceeding sixpence; and the said clerk shall also, without fee or reward, within fifteen days next after the thirty-first day of *December* and the thirtieth day of *June* in each and every year, make or cause to be made, for the use of the said college, a list of the titles of all such books, the copyright to which shall have been so entered in the course of the half-year immediately preceding the said thirty-first day of *December* and the thirtieth day of *June* respectively, and shall upon demand deliver the said lists or cause the same to be delivered to any person or persons duly authorised to receive the same for and on behalf of the said college.

If the clerk refuses to make entries, &c. parties may give notice in the *London Gazette*, and the clerk shall forfeit 20*l*.

V. Provided also, and be it further enacted, that if the clerk of the said Company of Stationers for the time being shall refuse or neglect to register or make such entry or entries, or to give such certificate or certificates, being thereunto respectively required by the author or authors, proprietor or proprietors of such copies or copyrights, or by the person or persons to whom such consent shall be given, or by some person on his or their behalf, in the presence of two or more credible witnesses, then such party or parties so refused, notice being first duly given by advertisement in the *London Gazette*, shall have the like benefit as if such entry or entries, certificate or certificates, had been duly made and given; and the clerk so refusing shall, for any such offence, forfeit to the author or proprietor of such copy or copies, or to the person or per-

sons to whom such consent shall be given, the sum of twenty pounds; or if the said clerk shall refuse or neglect to make the list aforesaid, or to deliver the same to any person duly authorised to demand the same on behalf of the said college, the said clerk shall also forfeit to the said college the like sum of twenty pounds; which said respective penalties shall and may be recovered in any of his Majesty's courts of record in the said United Kingdom, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, nor more than one imparlace, shall be allowed.

VI. Provided also, and be it further enacted, That from and after the passing of this act, in additon to the nine copies now required by law to be delivered to the warehouse-keeper of the said Company of Stationers, of each and every book and books which shall be entered in the register book of the said Company, one other copy shall be in like manner delivered for the use of the library of the said college of the Holy Trinity of *Dublin*, and also one other copy for the use of the library of the Society of the King's Inns, *Dublin*, by the printer or printers of all and every such book and books as shall hereafter be printed and published, and the title to the copyright whereof shall be entered in the said register book of the said Company; and that the said college and the said society shall have the like remedies for enforcing the delivery of the said copies, and that all proprietors, booksellers, and printers, and the warehouse-keeper of the said Company, shall be liable to the like penalties for making default in delivering the said copies for the use of the said college and the said society, as are now in force with respect to the delivering or making default in delivering the nine copies now required by law to be delivered in manner aforesaid.

VII. And be it further enacted, That, from and after the passing of this act, it shall not be lawful for any person or persons whomsoever to import or bring into any part of the said United Kingdom of *Great Britain and Ireland*, for sale, any printed book or books, first composed, written, or printed, and published in any part of the said United Kingdom, and reprinted in any other country or place whatsoever; and if any person or persons shall import or bring, or cause to be imported or brought for sale, any such printed book or books into any part of the said United Kingdom, contrary to the

Two additional copies of books entered at Stationers' Hall, shall be delivered there for the use of the libraries of Trinity College, and the King's Inns, Dublin.

No person shall import into any part of the United Kingdom, for sale, any book first composed, &c. within the United Kingdom, and reprinted elsewhere.

Penalty on importing, selling, or keeping for sale, any such books, forfeiture thereof, and also 10*l.* and double the value.

Books may be seized by officers of customs or excise, who shall be rewarded.

Exceptions as to books not having been printed in the United Kingdom for 20 years, &c.

General issue.

true intent and meaning of this act, or shall knowingly sell, publish, or expose to sale, or have in his or their possession for sale, any such book or books, then every such book or books shall be forfeited, and shall and may be seized by any officer or officers of customs or excise, and the same shall be forthwith made waste paper; and all and every person and persons so offending, being duly convicted thereof, shall also, for every such offence, forfeit the sum of ten pounds, and double the value of each and every copy of such book or books which he, she, or they shall so import or bring, or cause to be imported or brought into any part of the said United Kingdom, or shall knowingly sell, publish, or expose to sale, or shall cause to be sold, published, or exposed to sale, or shall have in his or their possession, for sale, contrary to the true intent and meaning of this act; and the commissioners of customs in *England, Scotland, and Ireland* respectively (in case the same shall be seized by any officer or officers of customs) and the commissioners of excise in *England, Scotland, and Ireland* respectively (in case the same shall be seized by any officer or officers of excise) shall also reward the officer or officers who shall seize any books which shall be so made waste paper of, with such sum or sums of money as they the said respective commissioners shall think fit, not exceeding the value of such books; such reward respectively to be paid by the said respective commissioners out of any money in their hands respectively arising from the duties of customs and excise: provided that no person or persons shall be liable to any of the last mentioned penalties or forfeitures, for or by reason or means of the importation of any book or books which has not been printed or reprinted in some part of the said United Kingdom, within twenty years next before the same shall be imported, or of any book or books reprinted abroad, and inserted among other books or tracts to be sold therewith in any collection, where the greatest part of such collection shall have been first composed or written abroad.

VIII. And be it further enacted, that if any action or suit shall be commenced or brought against any person or persons whomsoever, for doing or causing to be done anything in pursuance of this act, the defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the de-

defendant, or the plaintiff become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath; and that all actions, suits, bills, indictments, or informations, for any offence that shall be committed against this act, shall be brought, sued, and commenced within six months next after such offence committed, or else the same shall be void and of none effect.

Limitations of actions under this act six months.

No. XXV.

54 Geo. 3, c. 56.

An Act to amend and render more effectual an Act of his present Majesty, for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned; and for giving further Encouragement to such Arts.

‘Whereas by an act passed in the thirty-eighth year of the reign of his present Majesty, intituled, *An Act for encouraging the Art of Making New Models and Casts of Busts, and other things therein mentioned*; the sole right and property thereof were vested in the original proprietors, for a time therein specified: and whereas the provisions of the said act having been found ineffecual for the purposes thereby intended, it is expedient to amend the same, and to make other provisions and regulations for the encouragement of artists, and to secure to them the profits of and in their works, and for the advancement of the said arts:’ May it therefore please your Majesty that it may be enacted; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this act, every person or persons who shall make or cause to be made any new and original sculpture, or model, or copy, or cast of the human figure or human figures, or of any bust or busts, or of

38 Geo. 3, c. 1, s. 1.

Sole right and property of all new and original sculpture, models, copies, and casts, vested in proprietors for fourteen years.

any part or parts of the human figure, clothed in drapery or otherwise, or of any animal or animals, or of any part or parts of any animal combined with the human figure or otherwise, or of any subject being matter of invention in sculpture, or of any alto or basso-relievo representing any of the matters or things hereinbefore mentioned, or any cast from Nature of the human figure, or of any part or parts of the human figure, or of any cast from Nature of any animal, or of any part or parts of any animal, or of any such subject containing or representing any of the matters and things hereinbefore mentioned, whether separate or combined, shall have the sole right and property of all and in every such new and original sculpture, model, copy, and cast of the human figure and human figures, and of all and in every such bust or busts, and of all and in every such part or parts of the human figure, clothed in drapery or otherwise, and of all and in every such new and original sculpture, model, copy and cast, representing any animal or animals, and of all and in every such work representing any part or parts of any animal combined with the human figure or otherwise, and of all and in every such new and original sculpture, model, copy and cast of any subject, being matter of invention in sculpture, and of all and in every new and original sculpture, model, copy and cast in alto or basso-relievo, representing any of the matters or things hereinbefore mentioned, and of every such cast from Nature, for the term of fourteen years from first putting forth or publishing the same; provided, in all and every case the proprietor or proprietors do cause his, her or their name or names, with the date, to be put on all and every such new and original sculpture, model, copy or cast, and on every such cast from Nature, before the same shall be put forth or published.

Name and
date affixed.

Works published under
act, vested in
proprietors for
fourteen years.

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

Putting forth
pirated copies
or pirated casts
prosecuted.

III. And be it further enacted, that if any person or persons shall, within such term of fourteen years, make or import, or cause to be made or imported, or exposed to sale, or otherwise

disposed of any pirated copy or pirated cast of any such new and original sculpture, or model, or copy, or cast of the human figure or human figures, or of any such bust or busts, or of any such part or parts of the human figure, clothed in drapery or otherwise, or of any such work of any animal or animals, or of any such part or parts of any animal or animals combined with the human figure or otherwise, or of any such subject being matter of invention in sculpture, or of any such alto or basso-relievo representing any of the matters or things hereinbefore mentioned, or of any such cast from Nature as aforesaid, whether such pirated copy or pirated cast be produced by moulding or copying from, or imitating in any way, any of the matters or things put forth or published under the protection of this act, or of any works which have been put forth or published under the protection of the said recited act, the right and property whereof is and are secured, extended and protected by this act, in any of the cases aforesaid, to the detriment, damage or loss of the original or respective proprietor or proprietors of any such works so pirated; then and in all such cases the said proprietor or proprietors or their assignee or assignees, shall and may, by and in a special action upon the case to be brought against the person or persons so offending, receive such damages as a jury on a trial of such action shall give or assess, together with double costs of suit.

Damages.

Double costs.

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

Purchasers of
copyright se-
cured in same.

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

Limitation of
actions.

Additional
term of fourteen
years, in case
maker of ori-
ginal sculpture,
&c. shall be
living.

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



No. XXVI.

54 Geo. 3, c. 156.

An Act to amend the several Acts for the encouragement of Learning, by securing the Copies and Copyright of printed Books, to the Authors of such Books, or their Assigns.

8 Anne, c. 19,
s. 5.

‘ Whereas by an act, made in the eighth year of the reign
‘ of her late Majesty Queen Anne, intituled *An Act for the en-
‘ couragement of Learning, by vesting the Copies of printed Books
‘ in Authors or Purchasers of such Copies, during the Times
‘ therein mentioned*, it was among other things provided and
‘ enacted, that nine copies of each book or books, upon the best
‘ paper, that from and after the tenth day of April one thousand
‘ seven hundred and ten should be printed and published as in
‘ the said act mentioned, or reprinted and published with ad-
‘ ditions, should, by the printer and printers thereof, be de-
‘ livered to the warehouse-keeper of the Company of Stationers
‘ for the time being, at the hall of the said Company, before
‘ such publication made, for the use of the Royal Library, the
‘ libraries of the Universities of Oxford and Cambridge, the

' libraries of the four Universities in *Scotland*, the library of
 ' *Sion College* in *London*, and the library of the Faculty of Ad-
 ' vocates a *Edinburgh* ; which said warehouse-keeper is by the
 ' said act required to deliver such copies for the use of the said
 ' libraries ; and that if any proprietor, bookseller or printer, or
 ' the said warehouse-keeper, should not observe the directions
 ' of the said act therein, that then he or they so making default
 ' in not delivering the said printed copies, should forfeit, be-
 ' sides the value of the said printed copies, the sum of five
 ' pounds for every copy not so delivered : and whereas by an
 ' act made in the forty-first year of the reign of his present 41 Geo. 3,
 ' Majesty, intituled *An Act for the further encouragement of* (U. K.) c. 107,
 ' *Learning in the United Kingdom of Great Britain and Ireland,* s. 6.
 ' *by securing the Copies and Copyright of printed Books to the*
 ' *Authors of such Books or their Assigns, for the Time herein*
 ' *mentioned,* it is amongst other things provided and enacted, that
 ' in addition to the nine copies required by law to be delivered
 ' to the warehouse-keeper of the said Company of Stationers, of
 ' each and every book and books which shall be entered in the
 ' register books of the said Company, two other copies shall in
 ' like manner be delivered for the use of the library of the
 ' College of the *Holy Trinity*, and the library of the Society of
 ' the *King's Inns*, in *Dublin*, by the printer and printers of all
 ' and every such book and books as should thereafter be printed
 ' and published, and the title of the copyright whereof should
 ' be entered in the said register book of the said Company :
 ' and whereas it is expedient that copies of books hereafter
 ' printed or published should be delivered to the libraries here-
 ' inafter mentioned, with the modifications that shall be provided
 ' by this act ;' May it therefore please your Majesty that it may
 be enacted ; and be it enacted by the King's most excellent
 Majesty, by and with the advice and consent of the Lords
 Spiritual and Temporal, and Commons, in this present Parlia-
 ment assembled, and by the authority of the same, that so
 much of the said several recited acts of the eighth year of
 Queen Anne, and of the forty-first year of his present Majesty,
 as requires that any copy or copies of any book or books which
 shall be printed or published, or reprinted and published with
 additions, shall be delivered by the printer or printers thereof,
 to the warehouse-keeper of the said Company of Stationers, for
 the use of any of the libraries in the said act mentioned, and

repealed.

Eleven printed copies delivered on demand, within twelve months after publication, for use of public libraries.

Publishers, &c. neglecting.

Penalty.

as requires the delivery of the said copies by the said warehouse-keeper, for the use of the said libraries, and as imposes any penalty on such printer or warehouse-keeper for not delivering the said copies, shall be, and the same is, hereby repealed.

II. And be it further enacted, That eleven printed copies of the whole of every book, and of every volume thereof, upon the paper upon which the largest number or impression of such book shall be printed for sale, together with maps and prints belonging thereto, which, from and after the passing of this act, shall be printed and published, on demand thereof being made in writing to, or left at the place of abode of the publisher or publishers thereof, at any time within twelve months next after the publication thereof, under the hand of the warehouse-keeper of the Company of Stationers, or the librarian, or other person thereto authorized by the persons or body politic and corporate, proprietors or managers of the libraries following; *videlicet*, the *British Museum*, *Sion College*, the *Bodleian Library* at *Oxford*, the *Public Library* at *Cambridge*, the *Library of the Faculty of Advocates* at *Edinburgh*, the *Libraries of the four Universities of Scotland*, *Trinity College Library*, and the *King's Inns Library* at *Dublin*, or so many of such eleven copies as shall be respectively demanded on behalf of such libraries respectively, shall be delivered by the publisher or publishers thereof respectively, within one month after demand made thereof in writing as aforesaid, to the warehouse-keeper of the said Company of Stationers for the time being; which copies the said warehouse-keeper shall and he is hereby required to receive at the hall of the said Company, for the use of the library for which such demand shall be made, within such twelve months as aforesaid; and the said warehouse-keeper is hereby required, within one month after any such book or volume shall be so delivered to him as aforesaid, to deliver the same for the use of such library: and if any publisher, or the warehouse-keeper of the said Company of Stationers, shall not observe the directions of this act therein, that then he and they so making default in not delivering or receiving the said eleven printed copies as aforesaid, shall forfeit, besides the value of the said printed copies, the sum of five pounds for each copy not so delivered or received, together with the full costs of suit; the same to be recovered by the person or persons, or body politic or corporate, pro-

prietors or managers of the library for the use whereof such copy or copies ought to have been delivered or received ; for which penalties and value such person or persons, body politic or corporate, is or are now hereby authorized to sue by action of debt or other proper action, in any Court of Record in the United Kingdom.

III. Provided always, and be it further enacted, That no such printed copy or copies shall be demanded by or delivered to or for the use of any of the libraries hereinbefore mentioned, of the second edition, or of any subsequent edition of any book or books so demanded and delivered as aforesaid, unless the same shall contain additions or alterations : and in case any addition after the first, of any book so demanded and delivered as aforesaid, shall contain any addition or alteration, no printed copy or copies thereof shall be demanded or delivered as aforesaid, if a printed copy of such additions or alterations only, printed in an uniform manner with the former edition of such book, be delivered to each of the libraries aforesaid, for whose use a copy of the former edition shall have been demanded and delivered as aforesaid : Provided also, that the copy of every book that shall be demanded by the *British Museum*, shall be delivered of the best paper on which such work shall be printed.

No copies of second, &c. edition, without addition or alteration, demanded.

Additions printed, and delivered separate.

Proviso for British Museum.

IV. And whereas by the said recited acts of the eighth year of Queen Anne, and the forty-first year of his present Majesty's reign, it is enacted, that the author of any book or books, and the assignee or assigns of such author respectively, should have the sole liberty of printing and reprinting such book or books for the term of fourteen years, to commence from the day of first publishing the same, and no longer ; and it was provided, that after the expiration of the said term of fourteen years, the right of printing or disposing of copies should return to the authors thereof, if they were then living, for another term of fourteen years : And whereas it will afford further encouragement to literature, if the duration of such copyright were extended in manner hereinafter mentioned ; Be it further enacted, That from and after the passing of this act, the author of any book or books composed and not printed and published, or which shall hereafter be composed, and be printed and published, and his assignee or assigns, shall have the sole liberty of printing and reprinting such book or books for the full term of twenty-eight years, to com-

8 Anne, c. 19, s. 1.
41 Geo. 3, (U. K.) c. 107, s. 1.

Instead of copyright for fourteen years, and contingently for fourteen more, authors, &c. shall have 28 year's copyright in works, and for residue of life.

Booksellers,
&c. in any part
of United
Kingdom, or
British do-
minions, who
shall print, &c.
any book,
without consent
of proprietor,
liable to action
for damages.

mence from the day of first publishing the same ; and also, if the author shall be living at the end of that period, for the residue of his natural life ; and that if any bookseller or printer, or other person whatsoever, in any part of the United Kingdom of *Great Britain* and *Ireland*, in the isles of *Man*, *Jersey*, or *Guernsey*, or in any other part of the *British* dominions, shall, from and after the passing of this act, within the terms and times granted and limited by this act as aforesaid, print, reprint, or import, or shall cause to be printed, reprinted, or imported, any such book or books, without the consent of the author or authors, or other proprietor or proprietors of the copyright of and in such book and books, first had and obtained in writing ; or, knowing the same to be so printed, reprinted, or imported, without such consent of such author or authors, or other proprietor or proprietors, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, or shall have in his or their possession for sale, any such book or books, without such consent first had and obtained as aforesaid, then such offender or offenders shall be liable to a special action on the case, at the suit of the author or authors, or other proprietor or proprietors of the copyright of every such book or books so unlawfully printed, reprinted, or imported, or published or exposed to sale, or being in the possession of such offender or offenders for sale as aforesaid, contrary to the true intent and meaning of this act. And every such author or authors, or other proprietor or proprietors, shall and may by and in such special action upon the case, to be so brought against such offender or offenders, in any Court of Record in that part of the said United Kingdom, or of the *British* dominions, in which the offence shall be committed, recover such damages as the jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with double costs of suit ; in which action no wager of law, essoin, privilege, or protection, nor more than one imparlance shall be allowed ; and all and every such offender and offenders shall also forfeit such book or books, and all and every sheet, being part of such book or books, and shall deliver the same to the author or authors, or other proprietor or proprietors of the copyright of such book or books, upon order of any Court of Record, in which any action or suit in law or equity shall be commenced or prosecuted by such author or authors, or other proprietor or proprietors, to

Penalty.

be made on motion or petition to the said Court; and the said author or authors, or other proprietor or proprietors shall forthwith damask or make waste paper of the said book or books and sheet or sheets: and all and every such offender and offenders shall also forfeit the sum of three pence for every sheet thereof, either printed or printing, or published or exposed to sale, contrary to the true intent and meaning of this act; the one moiety thereof to the King's most excellent Majesty, his heirs and successors, and the other moiety thereof to any person or persons who shall sue for the same in any such Court of Record, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, nor more than one imparlance, shall be allowed: Provided always, that in *Scotland* such offender or offenders shall be liable to an action of damages in the Court of Session in *Scotland*, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there; and in such action, where damages shall be awarded, double costs of suit, or expenses of process, shall be allowed.

Penalty.

Offenders in Scotland.

V. And, in order to ascertain what books shall be from time to time published, be it enacted, That the publisher or publishers of any and every book demandable under this act, which shall be published at any time after the passing of this act, shall within one calendar month after the day on which any such book or books respectively shall be first sold, published, advertised, or offered for sale, within the bills of mortality, or within three calendar months, if the said book shall be sold, published or advertised in any other part of the United Kingdom, enter the title to the copy of every such book, and the name or names, and place of abode of the publisher or publishers thereof, in the register book of the Company of Stationers in *London*, in such manner as hath been usual with respect to books, the title whereof hath heretofore been entered in such register book, and deliver one copy, on the best paper as aforesaid, for the use of the *British Museum*; which register book shall at all times be kept at the hall of the said Company; for every of which several entries the sum of two shillings shall be paid, and no more: which said register book may at all seasonable and convenient times be resorted to and inspected by any person; for which inspection the sum of one shilling shall be paid to the ware-

Within what time title of books entered at Stationers' Hall.

Copy for British Museum.

Inspection of Register Book.

Certificate. Title of book not entered.	house-keeper of the said Company of Stationers, and such warehouse-keeper shall, when and as often as thereto required give a certificate under his hand of every or any such entry, and for every such certificate the sum of one shilling shall be paid ; and in case such entry of the title of any such book or books shall not be duly made by the publisher or publishers of any such book or books within the said calendar month, or three months, as the case may be, then the publisher or publishers of such book or books shall forfeit the sum of five pounds, together with eleven times the price at which such book shall be sold or advertised, to be recovered, together with full costs of suit, by the person or persons, body politic or corporate, authorized to sue, and who shall first sue for the same, in any Court of Record in the United Kingdom, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, nor more than one imparlance, shall be allowed : Provided always, that in the case of Magazines, Reviews, or other periodical publications, it shall be sufficient to make such entry in the register book of the said Company, within one month next after the publication of the first number or volume of such Magazine, Review, or other periodical publication : Provided always, that no failure in making any such entry shall in any manner affect any copyright, but shall only subject the person making default to the penalty aforesaid, under this act.
Proviso for Magazines, &c.	
Proviso.	
Warehouse- keeper of Stationers' Hall to transmit to librarians lists of books entered ; and call on pub- lisher for copies.	VI. And be it further enacted, That the said warehouse-keeper of the Company of Stationers shall from time to time and at all times, without any greater interval than three months, transmit to the librarian or other person authorized on behalf of the libraries before-mentioned, correct lists of all books entered in the books of the said Company, and not contained in former lists ; and that, on being required so to do by the said librarians, or other authorized person, or either of them, he shall call on the publisher or publishers of such books for as many of the said copies as may have been demanded of them.
Publishers to deliver books at library.	VII. Provided always, and be it further enacted, That if any publisher shall be desirous of delivering the copy of such book or volume as aforesaid, as shall be demanded on behalf of any of the said libraries, at such library, it shall and may be lawful for him to deliver the same at such library, to the librarian or other person authorized to receive the

same, (who is hereby required to receive and to give a receipt in writing for the same); and such delivery shall, to all intents and purposes of this act, be held as equivalent to a delivery to the said warehouse-keeper. What deemed delivery.

VIII. And whereas it is reasonable that authors of books already published, and who are now living, should also have the benefit of the extension of copyright; be it further enacted, That if the author of any book or books, which shall not have been published fourteen years at the time of passing this act shall be living at the said time, and if such author shall afterwards die before the expiration of the said fourteen years, then the personal representative of the said author, and the assignees or assigns, of such personal representative, shall have the sole right of printing and publishing the said book or books, for the further term of fourteen years after the expiration of the first fourteen years: Provided that nothing in this act contained shall affect the right of the assignee or assigns of such author to sell any copies of the said book or books, which shall have been printed by such assignee or assigns, within the first fourteen years, or the terms of any contract between such author and such assignee or assigns. Authors of books published, now living, to have benefit of extension of copyright.

Proviso.

IX. And be it also further enacted, That if the author of any book or books which have been already published, shall be living at the end of twenty-eight years after the first publication of the said book or books, he or she shall for the remainder of his or her life have the sole right of printing and publishing the same: Provided that this shall not effect the right of the assignee or assigns of such author, to sell any copies of the said book or books, which shall have been printed by such assignee or assigns within the said twenty-eight years, or the terms of any contract between such author and such assignee or assigns. Authors living at end of 28 years, sole right of publication for life.

X. Provided nevertheless, and be it further enacted, That all actions, suits, bills, indictments, or informations for any offence that shall be committed against this act, shall be brought, sued, and commenced, within twelve months next after such offence committed, or else the same shall be void and of no effect. Limitation of actions.

No. XXVII.

5 & 6 Wm. 4, c. 65.

An Act for preventing the Publication of Lectures without consent.

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

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

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

his Majesty's Courts of Record in *Westminster*, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege or protection, or more than one imparlance shall be allowed.

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

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

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

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

IV. Provided always, That nothing in this act shall extend to prohibit any person from printing, copying, and publishing any lecture or lectures which have or shall have been printed and published with leave of the authors thereof or their assignees, and whereof the time hath or shall have expired within which the sole right to print and publish the same is given by an act passed in the eighth year of the reign of Queen *Anne*, intituled *An Act for the encouragement of Learning, by vesting the copies of printed Books in the Authors or Purchasers of such copies during the times therein mentioned*, and by another act passed in the fifty-fourth year of the reign of king *George the third*, intituled *An Act to amend the several Acts for the Encouragement of Learning, by securing the copies and copyright of printed books to the Authors of such books, or their assigns, or to any lectures which have been printed or published before the passing of this act.*

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

8 Ann. c. 19.

54 Geo. 3, c. 156.

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

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

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



No. XXVIII.

6 & Wm. 4, c. 59.

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

17 Geo. 3,
c. 57.

Provisions of
recited act
extended to
Ireland.

Penalty on
engraving or
publishing any
print without
consent of pro-
prietor.

Whereas an act was passed in the seventeenth year of the reign of his late Majesty King *George* the third, intituled *An Act for more effectually securing the Property of Prints to Inventors and Engravers, by enabling them to sue for and recover Penalties in certain Cases*: and whereas it is desirable to extend the provisions of the said act to *Ireland*; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this act all the provisions contained in the said recited act of the seventeenth year of the reign of his late Majesty King *George* the third, and of all the other acts therein recited, shall be and the same are hereby extended to the united kingdom of *Great Britain and Ireland*.

II. And be it further enacted, that from and after the passing of this act, if any engraver, etcher, printseller, or other person shall, within the time limited by the aforesaid recited acts, engrave, etch, or publish, or cause to be engraved, etched, or published any engraving or print of any description whatever, either in whole or in part, which may have been or which shall hereafter be published in any part of *Great Britain or Ireland*, without the express consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him, her, or them respectively, with his, her or their own hand or hands, in the presence of and attested by two or more

credible witnesses, then every such proprietor shall and may, by and in a separate action upon the case, to be brought against the person so offending in any Court of Law in *Great Britain* or *Ireland*, recover such damages as a jury on the trial of such action or on the execution of a writ of inquiry thereon shall give or assess, together with double costs of suit.

XXIX.

6 & 7 Wm. 4, c. 110.

An Act to repeal so much of an Act of the Fifty-fourth Year of King George the Third, respecting Copyrights, as requires the delivery of a Copy of every published Book to the Libraries of Sion College, the Four Universities of Scotland, and of the King's Inns in Dublin.

Whereas by an act passed in the fifty-fourth year of the reign of his late Majesty King George the third, intituled *An Act to amend the several Acts for the encouragement of Learning by securing the Copies and Copyright of printed Books to the Authors of such Books or their Assigns*, it is amongst other things enacted, that eleven copies of every published book shall be gratuitously delivered to eleven public libraries named in the said act: and whereas the provisions of the said act have in certain respects operated to the injury of authors and publishers, and have in some cases checked or prevented the publication of works of great utility and importance, and it is therefore expedient that the said act should be amended: be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that so much of the said recited act as requires that a copy of every book which shall be printed and published shall be delivered in manner therein mentioned to the warehouse-keeper of the Company of Stationers for the use of the library of *Sion College*, the libraries

54 Geo. 3,
c. 146.

So much of
recited act as
requires the
delivery of
copies of books
for the libraries
herein men-
tioned repealed.