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Playright and copyright in all countries



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PLAYRIGHT AND COPYRIGHT
IN ALL COUNTRIES



Playright and Copyright In all Countries

showing

How to Protect a Play or a Book
throughout the World

BY

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AND

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BARRISTERS-AT-LAW

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TO
SIR JOHN HENRY GIBBS BERGNE
K.C.B., K.C.M.G.
H.M. PLENIPOTENTIARY FOR SIGNATURE
OF THE
COPYRIGHT CONVENTION OF BERNE, 1886,
AND OF THE
ADDITIONAL ACT OF PARIS, 1896
THIS WORK IS RESPECTFULLY DEDICATED

PREFACE

THIS book is intended to be a practical guide for authors, publishers, and theatrical managers, its principal object being to show how to protect a play or a book in all countries of the world where copyright and playwright have a marketable value.

Hitherto the treatment of international copyright has been generally technical, and the quotations from Statutes, Orders in Council, and Conventions are apt to baffle the ordinary reader who merely seeks, perhaps, to know what formalities must be observed in order to secure his rights, not only in the country where the work is first published, but in other countries where the work may subsequently find a market.

Many an author, particularly at the beginning of his career, not knowing how to protect his rights abroad, allows his work to be produced without taking any steps to secure those rights, and so deprives himself of the profits in other countries, where it may be subsequently published with equal success. It has happened within our own experience on several occasions that the author of a play first performed in the United States has endeavoured to secure his rights in England, only to find, too late, that the necessary steps have not been taken, and that his playwright and copyright are irretrievably lost.

Such instances are not surprising owing to the urgent need which exists for a concise statement in ordinary language—avoiding technical phrases and quotations from statutes—as to what must be done before production of

a play or a book in order to secure international protection of playright and copyright.

By the present arrangement it is hoped that the procedure will be found to be comparatively simple, at least in the fifteen countries which are called the "Countries within the Copyright Union." For, if a work is first published in any one of these, it will be seen that after the local formalities of that country have been complied with, the author becomes entitled to protection, without further formality, in all the others; and he has only to consult the Table on pages 62-3 to ascertain what those formalities are.

All British Colonies and Dependencies come under the same heading, and their local requirements as to registration have been gathered from the Colonial Statutes, and are for the first time fully set out on pages 46-8. Subject to these formalities being complied with in the Colony where the work is first published, the author becomes entitled to protection, without further formality, in all parts of the British Dominions and in all the other Countries within the Union.

A considerable amount of confusion generally arises owing to the treatment of the domestic laws of England apart from the provisions of the Berne Convention.

In the present work an attempt has been made to give the practical effect of both, because the Berne Convention is incorporated into English law by an Order in Council under the authority of an Act of Parliament, and its provisions have full effect throughout the British Dominions.

Again, the Local Acts and Ordinances relating to copyright in the British Colonies are subject to the Imperial Copyright Statutes, and their provisions have been read together in conjunction with the Berne Convention.

Playright and copyright in the United States, which is one of the "Countries outside the Union," are of such importance that the law of that country is dealt with in some detail; and any person, bearing in mind that first

or simultaneous publication in the United States is essential, will readily find all that is necessary for securing American protection of his work. The scheme given on pages 75-6 further shows at a glance the network of International Protection for a play or a book first published in the United States.

The "Countries outside the Union" also include Holland (where playwright is valuable), Austria, Hungary, and the Central and South American States; and the formalities in these countries are given with other incidents of their domestic copyright law, as well as the international protection which may be obtained under conditions of reciprocity or the provisions of treaties.

On many points involved in dealing with such a complicated subject there is plenty of room for a difference of opinion; but, while extracts from Statutes and Conventions are purposely excluded from the text, the statements of law are based upon authority to which references are given; and certain Statutes, Conventions, etc., are for convenience of reference set out in the Appendix; so that any criticism which challenges our statement of the law may do full justice to the work by dealing specifically with the authority given in support of any particular proposition.

We desire to express our thanks for much assistance and information to the Librarians of the Home Office and Colonial Office; to M. Henri Morel, Le Directeur, Bureau de l'Union Internationale Littéraire et Artistique; to Mr. Thorvald Solberg, Register of Copyrights, Washington; and to Mr. G. A. Redford, Examiner of Stage Plays for Great Britain.

W. M. C.

H. H.

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INTRODUCTION

A WORLD SURVEY OF PLAYRIGHT AND COPYRIGHT

IN most of the countries throughout the world where literary and dramatic property is recognised, the author of a play is entitled to two distinct rights, viz. Playright and Copyright. The latter may be generally described as the exclusive right of printing and publishing or multiplying copies, and the former as the exclusive right of performance in public. This is sometimes called "stage right" or "performing right," and is in some countries included in the word "copyright."

Playright and
Copyright.

The playright is more valuable, as a rule, than the copyright in a play, and it may be of more practical advantage to a dramatist to know how to protect his playright in all countries. It should be understood, however, that this book also deals with the copyright in a printed play, and, except where it is otherwise clearly indicated, the law is the same with regard to copyright in a book. The following pages will therefore be found to contain the information required to enable any author or publisher to obtain protection for copyright in books or plays as well as playright.

The formalities required by the laws of the different countries for protecting the copyright in a play published in printed form are generally applicable to other books. Those cases and countries in which they are not so applicable are specifically mentioned. There is a notable exception, for instance, in the case of the United States.

Although the law of that country requires two copies of a book to be deposited with the Librarian of Congress, and insists that those two copies shall be printed from type set up in the United States, it has been held by the American Courts that a dramatic composition printed and published in book form is not a book within the "manufacturing clause," and that the two copies of the play need not be printed from type set up in the United States.

Formalities.

While a book or play is in MS. and unpublished, the author is, speaking generally, entitled to protection of both his playwright and copyright, without the necessity of complying with any formalities. As soon as it is to be published, on the other hand, certain formalities have to be observed, according to the laws of various countries, otherwise the author may be deprived in whole or in part of his playwright and copyright. It is of the first importance, therefore, that authors and publishers should know what these formalities are.

Moreover, an author naturally wishes to secure his copyright and playwright in as many countries as may be practicable; and he may find it useful to know how, by publishing his play in one country and by complying with certain conditions, he can secure his rights, not merely in the country where his work is first published, but in a considerable number of other countries besides; and, as the case may be, with or without any further formalities.

The Copyright
World.

In the following pages the formalities prescribed by law in different countries are specifically set out, and the geographical extent of protection may be readily ascertained.

It has been found convenient, in dealing with the complicated incidents of International copyright law, to divide the copyright world into

- (a) Countries within the Copyright Union, and
- (b) Countries outside the Copyright Union.

The former include the British Empire, most of the

countries of Europe, and Japan. The latter include the United States, Austria, the Netherlands, and the Central and South American Republics.

COUNTRIES WITHIN THE COPYRIGHT UNION

The Berne Convention provides a code of copyright law which is binding upon all countries within the Union. Its salient principle is that an author, by complying with the formalities prescribed by law in the country where his book or play is first published, secures protection of his playright and copyright in all these countries.

The countries within the Copyright Union are as follows :—

Great Britain (including all British Colonies and Possessions).	Tunis.
France (including Algeria and French Colonies).	Hayti.
Germany.	Luxembourg.
Italy.	Monaco.
Belgium.	Norway.
Spain.	Japan.
Switzerland.	Denmark (including the Faroë Islands).
	Sweden.

A table containing a list of the countries within the Union, together with their respective formalities, is given on pp. 62-3.

Unpublished works are protected throughout these countries, provided the author belongs to one of them.

Works first published in any of these countries will, if the author complies with the formalities prescribed by the law of that country, be automatically protected in all the other countries of the Union.

The country of "first publication" is the determining factor, and the nationality of the author is immaterial. In Norway and Sweden the author must belong to one of the countries within the Union or acquire rights through a publisher.

Code of
the Berne
Convention.

In each country the rights of the author are the same as if he were a citizen, except as to their duration. He does not acquire a longer period of protection than is provided by the law of the country of first publication. In all other respects these countries give the same rights to the author as to their own citizens.

Exceptions
to the Code.

Certain amendments to the Berne Convention were made in 1896, and unfortunately they were not unanimously accepted by all the countries within the Union. Great Britain, Norway, and Sweden thus occupy a distinct position with regard to the Code contained in the Berne Convention as amended by the Additional Act of Paris, 1896, and interpreted by the Declaration of Paris, 1896. Norway and Sweden alone have declined to accede to the Additional Act, while Great Britain is the only country which has not accepted the Declaration.

It is necessary, therefore, to point out the effect of this want of unanimity.

Norway and
Sweden.

In the first place, Norway and Sweden regard the nationality of the author as material in the case of both published and unpublished works. So, even though a work is first published in one of the countries within the Union, the author, to secure protection under the Code in Norway or Sweden, must either belong to one of the countries within the Union or acquire his rights through a publisher. On the other hand, all the other countries give the author protection irrespective of his nationality, provided he complies with the formalities of the country of first publication. The words of the Convention are the "country of origin," which is defined to be the country in which the work is first published. The "country of origin" for unpublished works is the country to which the author belongs.

Secondly, the right of translation given to authors belonging to one of the countries within the Union was by the Berne Convention limited to a period of ten years from the date of first publication of the original; and this is still the rule under the Convention as regards

Norway and Sweden. In all the other countries, however, such right of translation has been extended by the Additional Act, and it continues for the same period as the author's copyright in the original; but it must be exercised within ten years from the date of publication of the original; otherwise it is irretrievably lost.

Again, the position of Great Britain is unique as to Great Britain.
the meaning of

- (1) "Publication," and
- (2) "Adaptations."

1. By the Declaration of Paris all the countries within the Union except Great Britain have interpreted "publication" in the Code to mean "issued to the public in printed form"; and the performance of a play does not in their view amount to "publication." According to English law, however, a play may be published by printing or performance; and for this reason Great Britain has refused to accept the more restricted interpretation of a "published work."

This difference of interpretation has an important bearing on the rights of the author, the "country of origin," and the period of protection under the Berne Convention, as well as on the date from which the period of ten years begins to run in respect of the right of translation under the Additional Act.

2. The dramatisation of a novel, or the novelisation of a play is by the Declaration of Paris included in the "adaptations" which are declared to be unlawful under the Berne Convention (Art. 10). Great Britain has refused to assent to the Declaration because both of these forms of adaptation are permissible according to English law. In all the countries of the Union except Great Britain the dramatisation of novels and the novelisation of plays is regarded as an infringement of the author's rights and is unlawful under the Code.

Some of the countries within the Union have treaties Treaties.
with one another, but the stipulations contained in such

treaties are superseded by the provisions of the Code unless they confer upon authors more extensive rights.

COUNTRIES OUTSIDE THE COPYRIGHT UNION

Simultaneous
Publication.

The copyright law of these countries is dealt with separately because there is no international code binding upon them, and an author, in many cases, can only protect his rights by simultaneous publication and by complying with the local formalities.

Treaties.

There are many treaties, however, between these countries and some of the countries within the Copyright Union, and the network of protection may be extended by following out the effect of these conventions. A couple of examples will suffice. Under the treaty between Austria and Great Britain an author who first publishes a play or book in England can secure his rights not only in all the countries within the Union but also in Austria, which is one of the countries outside the Union. Again, the Republic of San Marino is outside the Union, but under the provisions of a treaty with Italy it is possible for an author to secure protection in all the countries within the Union and *without further formality* in San Marino.

A table containing a list of the countries outside the Union, together with their respective formalities, is given on pages 112-15.

Code of the
Monte Video
Convention.

The Monte Video Convention embraces the following States and countries :—

Argentine Republic.	France	} Only accepted by the Argentine Republic and Paraguay.
Paraguay.	Spain	
Peru.	Italy	
Uruguay.	Belgium	
Bolivia.		

This Convention is, to some extent, a copy of the Berne Convention. It differs from the latter in containing no provisions for the protection of unpublished works.

With regard to published works, however, the provisions

of both Conventions are in some respects very similar. Under the Monte Video Convention works first published or produced in any one of the signatory countries are protected in all the countries within the Convention, if the requirements of the country of first publication are complied with. The rule as to formalities is not expressly stated in the Monte Video Convention as it is in the Berne Convention, but it must be implied, because the rights allowed in the country of "first publication" would be *nil* unless the necessary formalities were complied with.

The rights of the author in each country are such as are allowed to him by the law of the country of "first publication"—except as to their duration. No country is bound to allow a longer period of protection than that provided by its own law.

These rights impliedly include both copyright and playwright in a play, because the Convention expressly mentions dramatic works, and as it gives protection to works "first published or produced," the production of a play, as distinct from publication, obviously means performance.

The rights protected in all the countries are, moreover, such as are allowed by the country of "first publication." Accordingly, if that country protects playwright, the other countries must under the Convention afford the author the same protection.

Based upon a similar principle to that of the Berne and Monte Video Conventions, the Pan-American Convention has certain distinguishing characteristics. Authors or their assigns belonging to one of the countries within the Pan-American Convention are entitled to protection in all the other countries within the Convention on compliance with the following formalities:—

1. The author or his representative must address a petition, claiming his rights, to the proper official department of his State.
2. He must send with his petition two copies of his work, and one copy for every State (within the

Code of the
Pan-American
Convention.

Convention) in which he seeks to protect his rights.

The countries within the Pan-American Convention are :—

Guatemala.

Salvador.

Costa Rica.

Honduras.

Nicaragua

Paraguay.

The Pan-American Convention, like the Monte Video Convention, contains no provision for the protection of unpublished works.

The rights of the author in respect of published works are, as under the Berne Convention, the rights which the laws of the respective countries allow to their own citizens—except as to their duration. None of these countries may allow a longer period of protection than is provided by the law of the country of first publication.

PART I

COUNTRIES WITHIN THE COPYRIGHT UNION

CHAPTER I

UNPUBLISHED WORKS

THE countries within the Copyright Union are :—

List of
Countries.

Great Britain (including British Colonies and Possessions).	Tunis.
France (including Algeria and French Colonies).	Hayti.
Germany.	Luxembourg.
Italy.	Monaco.
Belgium.	Norway.
Spain.	Japan.
Switzerland.	Denmark (including the Faroë Islands).
	Sweden.

In these countries the author of a book or play in MS. who belongs to one of such countries is entitled to the protection of his copyright and playwright.¹ He can obtain an injunction to restrain publication, the right of first publication being recognised by the domestic laws and the Berne Convention. Under the former it is sometimes called a "Common Law right." As soon as a book or play is published the "Common Law right" of the author is extinguished, but he will acquire a "statutory copyright" by complying with certain formalities prescribed by law in the different countries, and these formalities are specifically set out hereafter (pp. 62-3).

It is advisable for dramatists to realise the meaning of "publication," which varies according to the law of the different countries. By the law of England, for instance,

Rights before
Publication.

"Publication"
of Plays.

¹ Berne Convention, Arts. 2 and 9.

the performance of a play is equivalent to publication.¹ In all the other countries within the Union a play which has been performed, but not published in printed form, is unpublished. Moreover, in the United States² and in other countries outside the Union, *e.g.* in Austria,³ performance of a play is not regarded as publication.

The importance of this difference between the law of England, of the other countries within the Union, and of the United States can hardly be exaggerated. For the question as to whether a play is "published" or "unpublished" affects, not merely the duration of the author's rights, but determines the "country of origin" and, in some cases, whether such rights exist at all.

Speaking generally, it may be stated that an author's rights in an unpublished book or play are unlimited in duration. After publication there is a fixed period of protection which varies in different countries.

Nationality.

In the countries within the Union an author's rights are protected in an unpublished book or play if he belongs to one of those countries; the nationality of the author is therefore material. In the case of a book or play first published in one of these countries, the nationality of the author is immaterial.⁴

Registration.

There can be no registration of a play in MS., *i.e.* not published by printing or performance; and in most of the countries within the Union there are no formalities, even after performance, unless the play is published in printed form. The exceptions are Italy, Spain, Natal, Australia, and Tasmania, where certain formalities are required in respect of a play which has been publicly performed. In England and in New Zealand registration in such a case is optional.

Owing to the popular value set upon registration, and because a play cannot be registered until it has been

¹ *Boucicault v. Delafield*, 33 L.J. Ch. 38.

² *Palmer v. De Witt*, 47 N.Y. 532.

³ *Bloch v. Stubenvoll*, *Droit d'Auteur*, 1898, p. 140.

⁴ Additional Act of Paris, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

performed or published as a "book," a very general practice has arisen in England of representing a play, in a preliminary fashion, at what is known as a "copyright performance." In certain cases this may be indispensable. For instance, if a play is to be performed in the United States or in Holland, there must be a simultaneous performance or publication of the play within the British Dominions or the British rights will be lost. In the majority of cases, however, the so-called copyright performance is expensive and unnecessary.

"Copyright Performances" in England.

The procedure is generally as follows:—

A copy of the play is sent for examination to the Lord Chamberlain's reader, whose fee varies from one to two guineas, and after approval a duly licensed theatre is hired. Artists or friends are then secured for the purpose of representing the play; a notice is posted outside the theatre announcing to the public that any one may attend the performance on payment of one guinea; and an advertisement is inserted in a newspaper. The several parts are generally hurriedly gabbled through, and none of the public attend, because the price of admission is intentionally prohibitive, while the mere fact of the performance is seldom publicly known. The proceedings are a farce, but they sometimes serve a useful purpose, and they always enable the author to register his play at Stationers' Hall, which he cannot do before the play is published or performed. If authors generally knew that they can enforce their rights in a play so soon as it is completed in MS.,¹ without performance or registration, a great deal of unnecessary expense and trouble might be avoided.

On the other hand, a certified copy of the registration is *prima facie* evidence of the author's playwright, and it is not unnatural that efforts are made to secure this proof

¹ By the domestic law of England the author of a play in MS. has a statutory playwright under 3 & 4 Will. IV. c. 15, s. 1. Unpublished works are also protected under the Berne Convention, which is incorporated into English law by Order in Council, 28th Nov. 1887 (1), and has full effect throughout the British Dominions.

of the author's title, apart from the verbal testimony of witnesses. It should be remembered, however, that the entry of registration at Stationers' Hall is not conclusive, and may be rebutted by other evidence of ownership. If the performance of the play has been an infringement of the true owner's rights, the entry may be expunged.

To give an example, if A writes or purchases a play, and B makes a colourable imitation of it and has a so-called "copyright performance" and registers it at Stationers' Hall, this does not prevent A from bringing an action for the infringement of his rights. It may be said, of course, that under such circumstances A would have a difficulty in proving his case, and no doubt the result would depend entirely upon the evidence. Similar cases, however, have been before the Courts, and the complaining author has been successful. It is not impossible to trace a piracy, and the verbal evidence of witnesses may be more convincing in a law court than the entry in the register at Stationers' Hall.

The important case of *Reichardt v. Sapte* (see p. 145) is an instance of the legal principle that the first performance of a play confers no priority upon the producer, and that the playwright belongs to the author from the moment the play is completed in MS. Mr. Sapte was able to satisfy the court that he had completed his play in MS. before Mr. Reichardt's play was finished; and although the latter was the first to perform his play in public, he failed to establish his playwright as against Mr. Sapte's prior title.

That case was tried in 1893, and there have been other instances¹ since then of an author maintaining his rights in a play by the testimony of witnesses apart from registration.

Formalities.

In the countries within the Union the position of an author, belonging to one of these countries, of a book or play in MS. may be summed up as follows:—

1. While the work is unpublished, either by printing

¹ *Fraser v. Edwardes* ("Cingalee" case) in 1905.

or performance, he is entitled to protection of his play-right and copyright in all these countries.¹ No registration or other formality is required.

2. When a play has been first performed, but not published in printed form, in Italy, Spain, Australia, Tasmania, or Natal, certain formalities must be complied with.² Subject to these conditions the author is entitled to protection in all the countries within the Union.

3. If a play is first performed in the British Empire, but not published in printed form, it is regarded as "published" according to English law, and may be registered at Stationers' Hall, or in the British possession if local registration is provided for.³ Such registration is optional except in Australia, Tasmania, and Natal.

4. If a play is first performed in any other country within the Union (except as mentioned above), no registration or other formality is necessary to secure protection, and the play is regarded as "unpublished" until it is issued in printed form.⁴

¹ Berne Convention, Arts. 2 and 9.

² See pp. 46, 47, 63.

³ 5 & 6 Vict. c. 45, s. 20; and 49 & 50 Vict. c. 33, s. 8.

⁴ Declaration of Paris, 1896.

CHAPTER II

(A) FIRST PUBLICATION IN THE BRITISH EMPIRE (GENERALLY)

Publication. PUBLICATION of a play, according to English law, may be by performance or by printing; and if it be published in printed form it is, in respect of the incidents of copyright, a "book."¹

A book or play must be first published in the British Dominions, or in one of the countries within the Union, or in Austria-Hungary, to secure British rights; but it may be simultaneously published in another country.

A book (or printed play) first published in any part of the British Dominions should be registered at Stationers' Hall, unless it is first published in a British possession where the local acts and ordinances provide for registration² (see *infra*, pp. 46-8).

If a play is first performed in any part of the British Dominions, but not printed, it may be registered at Stationers' Hall, but such registration is optional. If it is produced, however, in a British possession where there are local formalities as to playwright (see *infra*, pp. 46-8) these must be complied with.³

Colonial
Domestic Law.

Under local acts and ordinances, which operate within the limits of a particular colony, some of the British possessions impose obligations which are not required in England. In Canada and Newfoundland, for instance, a copyright notice must be inserted in every book (or

¹ 5 & 6 Vict. c. 45, s. 2.

² International Copyright Act, 1886, s. 8.

³ *Ibid.* s. 8 (4).

printed play) published within the respective colonies in order to maintain an action for infringement of copyright under the local acts. In the Commonwealth of Australia and in the Transvaal every printed play must contain a notice of reservation of the playwright; and the Transvaal further requires the rights of translation to be reserved, and a sworn declaration of the printer of each book that the work was printed by him in the colony. Natal and New Zealand provide for the deposit of a copy of a play in MS., as well as of a play published in printed form. And in the Commonwealth of Australia, the Transvaal, and Natal registration of playwright is essential to an action for infringement.

The nationality of the author of a book or play first published in the British Dominions is immaterial, and on compliance with the above formalities (tabulated on pp. 46-8) the author is entitled to protection of his copyright and playwright throughout the British Dominions and in all the countries within the Union.¹

Nationality
Immaterial.

Apart from the Berne Convention, Great Britain has no copyright treaties with other countries except Austria-Hungary.

Great Britain has copyright relations, however, with the United States, and is one of the "proclaimed" countries (see p. 69).

The author of a play or book first published in any part of the British Dominions is entitled to protection of his playwright and copyright in all the other countries within the copyright Union, provided he has complied with the above-mentioned requirements of English law or colonial ordinances as to registration, etc. No further formality in any other of the countries within the Union is necessary.²

Rights in other
Countries
within the
Union.

If the play is published in printed form, the author must comply with the requirements as to simultaneous publication and registration, etc., in the United States

Rights in the
United States.

¹ Berne Convention, Art. 3, as amended by Additional Act of Paris, 1896.

² *Ibid.*

(see pp. 68-9) in order to secure his copyright and playright in America. In the case of a book, the two copies delivered to the Librarian of Congress must be printed in the United States in addition to these formalities.

The author must also be a citizen of the United States, or belong to one of the "proclaimed" countries (see p. 69).

If the play is performed, but not published in printed form, the author need not register in the United States, because performance of a play is not publication according to American law.¹ The author's rights in the United States are the same as if the play were in MS. (see p. 67).

(B) FIRST PUBLICATION IN THE UNITED KINGDOM

First publication of a book or play in the United Kingdom (Great Britain and Ireland) entitles the author, irrespective of his nationality, to copyright and playright throughout the British Dominions, and in all the countries within the copyright Union.² The book or play may be simultaneously published in another country.

If a play is published in printed form it is a "book" according to English law, and it should be registered as such at Stationers' Hall.³ Without such registration the author's rights are not lost, but an action for infringement of copyright cannot be brought until the book has been registered.⁴ After registration, however, an action will lie for damages in respect of infringements of copyright committed before registration.

One copy of every book first published in the United Kingdom must be delivered for the use of the British Museum by the publisher, within one month of publica-

Registration
of Books.

Deposit of
Copies.

¹ *Palmer v. De Witt*, 47 N.Y. 532.

² 5 & 6 Vict. c. 45, and Orders in Council under International Copyright Act, 1886, giving full effect to the Berne Convention and Additional Act of Paris throughout the British Dominions.

³ 5 & 6 Vict. c. 45, s. 2.

⁴ *Ibid.* s. 24.

tion in the Metropolis, or within three months if published in any other part of the United Kingdom.¹ *On demand in writing* he must also send a copy to each of the following libraries — the Bodleian, Oxford; Public Library, Cambridge; Faculty of Advocates, Edinburgh; and Trinity College, Dublin.²

The failure to make the deposit does not affect the author's copyright, but renders the publisher liable to a fine of £5.³

If a book is first published in any part of the British Dominions, outside the United Kingdom, this obligation of deposit is dispensed with.⁴

If a play is performed, but not published in printed form, registration at Stationers' Hall is not required at law, even before action. It is provided that after public performance of a play the author can register at Stationers' Hall if he pleases; and it is advisable that he should do so, because a certified copy of the entry on the register is *prima facie* proof of his rights.⁵

Registration
of Plays.

The forms of registration of a book (or printed play) or of a play performed are given in the Appendix (pp. 239-46).

According to English law, "copyright" means the exclusive right of multiplying copies by printing or otherwise. "Playright" means the exclusive right of performing a dramatic piece in a place of dramatic entertainment.

Meaning of
Playright and
Copyright.

A "dramatic piece" is one in which the action is not merely *related* but *represented*; and if it is publicly represented, even by one person alone, it may amount to an infringement of the playright.⁶ It includes "every tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic entertainment."⁷

"Dramatic
Piece."

¹ 5 & 6 Vict. c. 45, s. 6.

² *Ibid.* s. 8.

³ *Ibid.* s. 10.

⁴ International Copyright Act, 1886, s. 8 (b).

⁵ 5 & 6 Vict. c. 45, s. 20.

⁶ *Russell v. Smith*, 12 Q.B. 217.

⁷ 5 & 6 Vict. c. 45, s. 2.

"Place of
Dramatic En-
tertainment."

a theatre licensed for the performance of stage-plays, and other places where the public are habitually entertained by dramatic performances, but any place which *for the time being* is used for the performance of a dramatic piece to which the public generally are admitted.¹

The test to be applied in such cases is not whether the performance is for profit or free; whether money is taken at the doors or tickets paid for in advance; or whether a collection is made during the performance; but if the public generally are admitted, the performance, if unauthorised, will be an infringement of playright.²

Duration of
Playright and
Copyright.

The duration of copyright and playright is for a statutory period which begins to run from the date of publication.³ If a book or play is published during the lifetime of the author, the statutory period of copyright and playright is the author's life and seven years, or forty-two years from the date of publication, whichever period is longest.⁴

Posthumous
Works.

If a book or play is not published during the author's lifetime, the copyright and playright last for forty-two years from the date of publication; and, according to a recent decision, the copyright is the property, not of the author's legal representative, but of the person who happens to be the owner of the author's manuscript from which the work is first published.⁵ Similarly, if this decision is correct, the playright in a posthumous work would belong to the owner of the author's manuscript.⁶

Scheme of
International
Protection.

The following scheme may be useful as showing at a glance the international protection of a book or play first published in England.

(a) The copyright and playright in a book or play by a British author first published in printed form in England and registered at Stationers' Hall, are protected *without further formality* in the following countries:—

¹ Russell v. Smith, 12 Q.B. 217.

³ See p. 62.

⁶ Macmillan v. Dent (1906), 1 Ch. 101.

² Duck v. Bates, 13 Q.B. 846.

⁴ 5 & 6 Vict. c. 45, s. 3.

⁵ 5 & 6 Vict. c. 45, s. 20.

{ <ul style="list-style-type: none"> The United Kingdom. British Colonies and Possessions (see list, pp. 46-8). France. Algeria and French Colonies. Germany. Italy. Belgium. Spain. Switzerland. Tunis. Hayti. Luxembourg. Monaco. Norway. Japan. Denmark and Faroë Islands. Sweden. Austria (under treaty with Great Britain). San Marino Republic (under treaty with Italy). Turkey China Corea }	} <ul style="list-style-type: none"> Under the Berne Convention (Articles 2 and 9). (probably in Consular Courts). (in mixed or Consular Courts).
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If other formalities are complied with, protection may also be secured in the following countries:—

- Hungary (by compliance with formalities under treaty with Great Britain).
- United States } (by simultaneous publication and compliance with the formalities in the United States.
- Hawaii } See pp. 68-9).
- Porto Rico }
- Holland and Dutch Indies } (by simultaneous printing in Holland or Dutch Indies and local formalities. See p. 82).
- Guatemala } (by assignment to citizen of one of these countries and compliance with the formalities under the Pan-American Convention. See p. 96).
- Salvador }
- Honduras }
- Paraguay }

(b) The copyright and playwright in a play, by a British author, *first performed but not printed* in England,

may be registered at Stationers' Hall, and are protected without further formality in the following countries:—

{	The United Kingdom.	} Under the Berne Convention.
	British Colonies and Possessions (see list on pp. 46-8).	
{	France.	
	Algeria and French Colonies.	
	Germany.	
	Italy.	
	Belgium.	
	Spain.	
	Switzerland.	
	Tunis.	
	Hayti.	
	Luxembourg.	
	Monaco.	
	Norway.	
	Japan.	
	Denmark and Faroë Islands.	
	Sweden.	
	Austria-Hungary (under treaty with Great Britain).	
	San Marino Republic (under treaty with Italy).	
	The United States } (protection of work in MS. under the	
	Hawaii } Common Law).	
	Porto Rico }	
	Turkey } (probably in Consular Courts).	
	China }	
	Corea }	
	Egypt (in mixed or Consular Courts).	
	Nicaragua (if produced in Nicaragua within four years from first performance).	

Note.—Additional advantages may be obtained in Australia and Tasmania if the author registers at the Commonwealth Copyright Office under the Copyright Act, 1905 (see p. 33).

Similarly in New Zealand—under the Dramatic Copyright Act, 1903—if a play, first performed or published in any part of the British Dominions other than New Zealand, and protected under the Imperial Acts, is registered in New Zealand, the proprietor is entitled to additional advantages in New Zealand, which are supplemental to the civil remedies provided under the Imperial Acts (see New Zealand, p. 36).

CHAPTER III

FIRST PUBLICATION IN BRITISH POSSESSIONS

A BRITISH possession is any part of the British Dominions exclusive of the United Kingdom.¹

“British Possession,”
Defined.
Formalities.

A play or book first published in any British possession should be registered in that possession if the local law provides for registration; but if there is no such provision, the work should be registered at Stationers' Hall (London).

On compliance with the local formalities, if any, or by registration at Stationers' Hall, as the case may be, the author is entitled, without further formality, to protection of his copyright and playright in the United Kingdom and all British possessions, and in all the countries within the Copyright Union.²

A play may be published in printed form or by performance; but if it is first performed in a British possession, and not printed, there are no local formalities to be complied with, except in the Commonwealth of Australia, Natal, and the Transvaal, where playright as well as copyright must be registered. There is local registration of playright in New Zealand and Trinidad, but it is not compulsory.

In the case of all other British possessions the play may be registered (as in England) at Stationers' Hall, but such registration is optional.³

¹ International Copyright Act, 1886, s. 11. See p. 180.

² *Ibid.* s. 8. See p. 178.

³ *Ibid.* s. 8, and 5 & 6 Vict. c. 45, ss. 20 and 24.

If a play is published in printed form it is a "book," and is governed by the local law relating to books in the colony where it is first published. In the Australian Commonwealth and in the Transvaal it is necessary to insert a notice of reservation of playright on a printed play. The local laws and ordinances only operate within the limits of the particular colony.¹

The deposit of copies at the British Museum and certain English libraries is not required in the case of a book first published in a British possession.²

The Common-
wealth of
Australia.

In the Commonwealth of Australia (*i.e.* Australia and Tasmania) certain additional advantages may be acquired by the author of a book or play which has been first published or performed in any other part of the British Dominions, and is subsequently registered under the Copyright Act, 1905 (Commonwealth of Australia). Under this Act, which comes into operation on a day to be proclaimed, a central copyright office is established for the whole of Australia and Tasmania for the registration and deposit of books and plays, and the local formalities under the copyright acts of the several States are entirely superseded.³

If a book or play is first published or performed in any part of Australia or in Tasmania, it must be registered at the Copyright Office of the Commonwealth before the author can bring an action for infringement of copyright or playright.⁴

In the case of a book two copies must be deposited at the time of registration, and the playright or "performing right," as it is called in the Act, must be expressly reserved upon every copy of a play published in book form.⁵

If a book or play is first published or performed in any part of the British Dominions outside the Australian

¹ International Copyright Act, 1886, s. 8 (4). See p. 179.

² *Ibid.* s. 8 (1) (b). See p. 178.

³ Copyright Act, 1905, ss. 9-12.

⁴ *Ibid.* s. 74.

⁵ *Ibid.* ss. 32 and 75.

Commonwealth, and the local formalities are complied with, the author is entitled to copyright and playright in Australia under the Imperial Acts.¹ It is advisable, however, that he should also comply with the formalities of registration in Australia under the Copyright Act, 1905, if he attaches importance to a more complete protection in the Australian colonies of the Commonwealth.²

Some of these advantages under the Copyright Act, 1905, may be summarised as follows:—

(a) Right of translation, (b) Right to dramatise a novel or convert a play into a narrative, (c) Right to sue the proprietor, tenant, or occupier of a theatre where playright is infringed, and (d) after due notice, a right to sue the performers.

None of these rights are expressly provided by the Imperial Acts. They can be relied upon in the Commonwealth of Australia on compliance with the formalities required by the Copyright Act, 1905, but in no other part of the British Dominions.

Copyright protection in the British possessions is subject to a certain limitation, because a number of them enjoy the privilege of importing foreign reprints of British copyright books, on condition that their laws provide for the collection of duties by way of remuneration for the owner of the copyright.³

Importation of
Foreign
Reprints.

From the list set out below (pp. 46-8) it will be seen that these colonies include Newfoundland, Natal, and most of the West Indian Islands; on the other hand, in Australia,⁴ India, Canada, and Cape Colony such importation is prohibited.

Foreign reprints imported for sale or hire into any

¹ Copyright Act, 1905, s. 62.

² *Ibid.* s. 63.

³ Orders in Council under the Colonial Copyright Act, 1847.

⁴ By the Copyright Act, 1905, the owner of the copyright or his agent must give a written notice to the Australian Minister of the existence of the copyright and of its term, or to the Commissioners of Customs of the United Kingdom under the Imperial Acts (Copyright Act, 1905, s. 61).

part of the British Dominions where such importation is not expressly sanctioned are liable to confiscation, and any person who knowingly imports or sells such reprints, or even has them in his possession, is liable to a fine of £10 in addition to double the value of all his reprints.¹

In the colonies where the privilege of importation has been sanctioned, the collection of the duties has proved unsatisfactory. In Canada, for instance, where the importation was permissible until 1894, the remuneration received by Archbishop Trench for a period of ten years amounted to 11d., although reprints of his works had an extensive sale in that colony; and, during the ten years ending 1876, the whole amount received from the nineteen colonies which had at that time taken advantage of the privilege was only £1155:13:2½, of which £1084:13:3½ was contributed by Canada; seven of these colonies paid nothing at all, while six now and then paid small sums of a few shillings.²

The British possessions into which foreign reprints of British copyright books may be imported are as follows: ³—

Natal	Barbados
Newfoundland	S. Vincent
Bahamas	Grenada
Bermuda	Mauritius
Jamaica	S. Kitts
Antigua	Nevis
S. Christopher	Trinidad
S. Lucia	British Guiana

Duration of
Playright and
Copyright.

The duration of copyright and playright in all British possessions is the same as in England, except in the few colonies (*e.g.* Canada, Newfoundland, and New Zealand) where the local law expressly provides otherwise, and

¹ 5 & 6 Vict. c. 45, s. 17. See p. 169.

² Report of Copyright Commission, 1878, p. xxxi.

³ In 1850 Canada adopted the Foreign Reprints Act (1847), but abandoned the collection of duties in 1894, and so revived the prohibition of the importation of foreign reprints imposed by s. 17 of the Act 1842. In Cape Colony also the prohibition was for a time suspended.

even then the duration is only restricted within the limits of the particular colony, and in respect of a book or play first published there.

In most of the British possessions which have Acts or Ordinances relating to copyright it is provided that assignments must be registered. Registration of Assignments.

A table containing a list of British possessions, together with their local formalities, is given on pp. 46-8. List of British Possessions.

NORTH AMERICAN POSSESSIONS

Canada and Newfoundland

First Publication in Canada.—It is not essential that a book (or printed play) should be first published or registered in Canada in order to secure copyright protection in that colony. A British copyright book, (or printed play) first published in any part of the British Dominions is protected in Canada without further formality under the Imperial Acts.¹

If a book is first printed and published in Canada, however, it is necessary to comply with the following formalities.² Formalities as to Books.

- (1) Registration at the Ministry of Agriculture (Copyright Branch), Ottawa.
- (2) Deposit of three copies at the Ministry of Agriculture.
- (3) A copyright notice must be inserted in every copy published in the Dominion in the following words:—

“Entered according to the Act of the Parliament of Canada in the year
by _____ at the Department of
Agriculture.”

In default of such notice no action for infringement of

¹ International Copyright Act, 1886, s. 8, see p. 178. *Smiles v. Belford* (1877), 1 Ont. A.R. 436.

² Copyright Act, 1875, ss. 1, 7, 9.

copyright under the local Act can be maintained in Canada.¹

This copyright notice, it will be observed, is similar to that required by the law of the United States, upon which the copyright laws of Canada and Newfoundland are modelled.

The Canadian Act only operates within the limits of the colony ;² and, although the proprietor of the copyright could not sue for infringement in Canada unless the Canadian copyright notice were inserted in every copy published in the colony, the local Act cannot impose an obligation to insert the copyright notice in copies published outside the Dominion.³

Domicile.

The local Act requires, moreover, that the author shall be domiciled in the British Dominions, or be a citizen of a country which has a treaty with Great Britain ; but this appears to be inconsistent with the Berne Convention, as amended by the Additional Act of Paris, under which first publication and compliance with the formalities secures copyright protection, independently of the author's nationality.

Duration of
Copyright.

Further, the copyright of a book duly registered in Canada lasts for twenty-eight years, with a possible extension of fourteen years to the author, or his widow, or children surviving at the end of that period. This limitation of protection, however, only operates in Canada, and in all other parts of the British Dominions the period of copyright is the same as in England.⁴

Restrictions on
Importation.

If a book is printed and published or reprinted and republished in Canada, and the Canadian formalities as to registration, etc., are complied with, the author may acquire Canadian copyright under the local Act.⁵ An interim copyright protection pending republication in

¹ Copyright Act, 1875, s. 12.

² International Copyright Act, 1886, s. 8 (4). See p. 179.

³ Cf. *Merriam Co. v. United Dictionary Co.*, *Publisher's Weekly*, New York, 14th April 1906.

⁴ Cf. *Briggs' Law of International Copyright*, p. 595.

⁵ Act of 1875, s. 5.

Canada may be obtained by depositing at the department a copy of the title for registration, and giving notice of the same in the *Canada Gazette*. Such interim copyright lasts for one month from the date of first publication elsewhere, and the book must be printed or reprinted and published in Canada within that period.¹

A British copyright book which has been reprinted and republished and registered in Canada is prohibited from importation into or sale in Canada without the consent in writing of the owner of the copyright, unless it was lawfully printed in the United Kingdom.²

Another restriction upon importation of books into Canada is imposed by the local Act of 1900, known as the "Fisher Act." Under its provisions, if a book first published in any part of the British Dominions except Canada is duly copyrighted in that colony, and the proprietor of the copyright has granted a licence for its reproduction in Canada, the Minister of Agriculture may prohibit the importation into Canada of any copies of the book printed elsewhere—including copies lawfully printed in the United Kingdom.³

The penalty for importing books contrary to this prohibition includes confiscation of all copies, and any person importing or causing or permitting the importation is liable on summary conviction to a fine of a hundred dollars for each offence.⁴

The Minister of Agriculture may suspend or revoke the prohibition upon certain grounds which are specified in the Act.⁵

Further, the prohibition against the importation into Canada of foreign reprints of British copyright books was revived in 1894, and is now in force within the colony.

All assignments of copyright in Canada must be registered. Registration of Assignments.

There is no local provision for the registration of plays Registration of plays.

¹ Act of 1875, s. 13.

² 38 & 39 Vict. c. 53, Schedule, s. 15.

³ Act of 1900, s. 1.

⁴ *Ibid.* s. 5.

⁵ *Ibid.* s. 2.

first produced in the colony, and they may be registered, therefore, at Stationers' Hall (London).¹

For copyright purposes, Canada includes Nova Scotia,² New Brunswick,³ Prince Edward Island,⁴ Ontario, Quebec, British Columbia, Manitoba, and the North-West Territories.

Canada is not a party to the copyright treaty between Great Britain and Austria-Hungary.

Note.—The provisions of the Canadian Act of 1889 are not referred to in this chapter, because the Act contained a section providing that it should not come into force until it should be proclaimed by the Governor-General of the Dominion. When the Governor-General applied to the Colonial Office for permission to proclaim the Act, it was realised that if the Act were allowed to stand, Canada would not be able to carry out the international obligations under the Berne Convention, and the Crown was advised to withhold its consent. Accordingly, the Act has not been proclaimed, and it remains on the Canadian statute book a law without any force.

There is a copyright Ordinance in the Fiji Islands which is similarly ineffective.

First Publication in Newfoundland.—A British copyright book (or printed play) first published in any part of the British Dominions outside Newfoundland is protected in Newfoundland without further formality under the Imperial Acts.⁵

Formalities as
to Books.

If a book (or printed play) is first printed and published in Newfoundland, however, it is necessary to comply with the following formalities :⁶—

- (1) Deposit of two copies at the office of the Colonial Secretary, St. John's, and registration before action for infringement can be brought.
- (2) A copyright notice must be inserted in every

¹ International Copyright Act, 1886, s. 8. See p. 178.

² 30 & 31 Vict. c. 3.

³ *Ibid.*

⁴ Prince Edward Island became a part of the Dominion of Canada on 1st July 1873.

⁵ 5 & 6 Vict. c. 45, *Smiles v. Belford* (1877), 1 Ont. A.R. 436.

⁶ International Copyright Act, 1886, s. 8. See App. p. 178.

copy published in Newfoundland in the following words :¹—

“ Entered according to the Act of the Legislature of Newfoundland in the year
by _____ at the Colonial Secretary’s
Office.”

In default of such notice no action for infringement of copyright under the local Act can be maintained in Newfoundland. The local Act only operates, however, within the limits of the colony² (see Canada, p. 28).

Under the local Act, moreover, it is provided that the author must be domiciled in Newfoundland ;³ but this appears to be inconsistent with the Berne Convention, as amended by the Additional Act of Paris, which is incorporated into English law. Domicile.

Again, the copyright of a book duly registered in Newfoundland lasts for twenty-eight years, with a possible extension of fourteen years to the author or his widow or children surviving at the end of that period. This limitation of protection, however, only operates in Newfoundland, and in all other parts of the British Dominions the period of copyright is the same as in England.⁴ Duration of
Copyright.

There is a further limitation to copyright protection in Newfoundland, because the importation of foreign reprints of a British copyright book is not prohibited.

All assignments of copyright in the colony must be registered. Registration of
Assignments.

Newfoundland has no local provision for the registration of plays first produced in the colony, and they may be registered, therefore, at Stationers’ Hall (London). Registration
of Plays.

Newfoundland became entitled to the benefits of the copyright treaty between Great Britain and Austria-Hungary on 2nd February 1895.

¹ Copyright Act, 1890, s. 11.

² International Copyright Act, 1886, s. 8 (4).

³ Copyright Act, 1890, s. 4.

⁴ Cf. Briggs’ *Law of International Copyright*, p. 595.

AUSTRALASIAN POSSESSIONS

New South Wales	}	The Australian Commonwealth.
Victoria		
Queensland		
Tasmania		
South Australia		
Western Australia		
New Zealand.		
Fiji Islands.		
Western Pacific Islands.		
British New Guinea.		

*First Publication in the Australian Commonwealth.*¹—
The author of a book or play first published or performed in any part of Australia or in Tasmania is entitled to playright and copyright throughout the British Dominions and in all the countries within the Union, provided he complies with the formalities and obtains a certificate of registration under the Copyright Act, 1905 (Commonwealth of Australia).²

These formalities are as follows:—(1) Registration at the Commonwealth Copyright Office after publication or performance of a book or play, and (2) Delivery, in the case of a book or printed play, of two copies to the Registrar. (3) Every copy of a play published as a book must contain a notice of reservation of playright.

Registration is essential to a right of action, and the owner cannot sue for infringement of copyright or playright in the Commonwealth of Australia until registration.

The formalities as to registration are to be found in the (Commonwealth) Copyright Act, 1905, but rights are conferred upon the author under the Imperial Acts and the Berne Convention.³

The rights conferred under the (Commonwealth) Copyright Act, 1905, are supplemental to those above

¹ See note on p. 48.

² Additional Act of Paris, Art. 1, par. 2, 49 & 50 Vict. c. 33, s. 8, and Copyright Act, 1905, s. 62.

³ *Ibid.*

referred to, and are subject to the following conditions :—

- (1) Where the book, whether the author is a British subject or not, has been printed from type set up in Australia, or plates made therefrom, and has, after the commencement of the Act, been first published in Australia or within fourteen days of its publication elsewhere.¹
- (2) Where the play, whether the author is a British subject or not, has after the commencement of the Act, been first publicly performed in Australia, or within fourteen days of its first public performance elsewhere.²

Subject to these conditions and compliance with the formalities mentioned above, the author is entitled to the following additional advantages in the Commonwealth of Australia :—

- (1) The exclusive right of translation.³
- (2) In the case of a play, to convert it into a novel or other non-dramatic work.⁴
- (3) In the case of a novel or other non-dramatic work, to convert it into a play.⁵
- (4) The right to sue the proprietor, tenant, or occupier of a theatre where playright is infringed, and recover damages equal to the profits arising out of the performance.⁶
- (5) The right to recover penalties against any person taking part in a performance which is an infringement of playright, after due notice has been given to such person in writing.⁷

The author's right of translation in the Commonwealth must be exercised within ten years; and if at the end of that period an application to translate the work is made by any person to the Minister, and the author

¹ Copyright Act, 1905, ss. 13 (2) and 5.

³ *Ibid.* s. 13 (c).

⁶ *Ibid.* s. 13 (e).

² *Ibid.* ss. 14 (2) and 5.

⁴ *Ibid.* s. 13 (d).

⁵ *Ibid.* s. 51.

⁷ *Ibid.* s. 54.

refuses to have a translation made, the Minister may grant permission to translate the work.¹

If a play is published in book form without a notice reserving the playright, or "performing right" as it is called in this Act, and the author sues for infringement of his playright, the court has a discretion, and may give judgment in favour of the defendant, either with or without costs, as the court thinks fit.²

Note.—The Copyright Act, 1905, commences on a day to be proclaimed, when the above provisions of the law of the Commonwealth of Australia come into operation; the formalities in the respective States of Australia as set out in the following pages apply to publications and performances before that date.

First Publication in New South Wales.—A printed copy of every book (or printed play) first published in the colony has to be deposited at (a) the Free Library, and (b) the Sydney University Library, within two months of first sale or publication, by or on behalf of the publisher, who is liable to a fine of £10 in default. On delivery of the copies the book will be registered, and no action can be brought for infringement of copyright before registration.³

The local law relating to copyright in books applies to the playright in a play, and no action would lie for infringement of playright before registration;⁴ but if a play is in MS. the first performance may be registered, and no deposit of copies would be necessary unless the play is printed for sale.⁵

If after the death of an author the proprietor of the copyright refuses to republish a book (or printed play) the Governor may grant a licence for its republication.⁶

New South Wales is not a party to the treaty between Great Britain and Austria-Hungary.

First Publication in Victoria.—The law is the same as in New South Wales (see *supra*),⁷ except that one copy

¹ Copyright Act, 1905, s. 30.

³ Copyright Act, 1879.

⁶ *Ibid.* s. 4.

² *Ibid.* s. 32.

⁴ *Ibid.* s. 18.

⁶ *Ibid.*

⁷ Copyright Act, 1890.

of every book (or printed play) has to be delivered at the Public Library, Melbourne.

Victoria became entitled to the benefits of the treaty between Great Britain and Austria-Hungary on 2nd February 1895.

First Publication in Queensland.—Two copies of every book (or printed play) first published in the colony have to be delivered by the publisher,¹ one at the Museum and the other at the Parliamentary Library in Brisbane, within six months of publication. The penalty for non-delivery is loss of copyright. On delivery of copies the book is registered at the Brisbane Registry.

A play first performed in the colony, but not printed, may be registered at the Brisbane Registry.

Queensland became entitled to the benefits of the treaty between Great Britain and Austria-Hungary on 2nd February 1895.

First Publication in Tasmania.—There is no local provision for registration of books or plays. The law is the same as in England, and registration should be made at Stationers' Hall (London).

Tasmania is not a party to the copyright treaty between Great Britain and Austria-Hungary.

First Publication in South Australia.—The law² is the same as in New South Wales (see p. 34), except that it is sufficient to deposit at the South Australian Institute one printed copy of a book (or printed play) first published in the colony.

South Australia became entitled to the benefits of the copyright treaty between Great Britain and Austria-Hungary on 2nd February 1895.

First Publication in Western Australia.—Two printed copies³ of every book (or printed play) first published in the colony have to be deposited for registration, one at the office of the Registrar-General and the other at the Victoria Public Library, within two months of publication.⁴

¹ Copyright Registry Act, 1887.

³ Copyright Registry Act, 1887.

² Copyright Act, 1878.

⁴ Copyright Act, 1895.

In other respects the law is the same as in New South Wales (see p. 34), except that every copy of a printed play has to contain on the title-page a notice of the reservation of the playwright.¹

Western Australia became entitled to the benefits of the copyright treaty between Great Britain and Austria-Hungary on 2nd February 1895.

The above formalities in the different States of Australia and in Tasmania are superseded by the formalities in the Commonwealth of Australia when the Copyright Act, 1905, comes into operation on a day to be proclaimed.

First Publication in New Zealand.—A play first performed or printed and published in the colony should be registered at the Registry of Copyright, Wellington.² But such registration appears to be optional. A copy of the play must accompany the application for registration.³ If the play is printed, a copy of it should be deposited in the Library of General Assembly, New Zealand.⁴

A play first performed or published (1) in New Zealand, or (2) in any part of the British Dominions other than New Zealand which is protected under the Imperial Acts, may be registered at Wellington, New Zealand; and such registration entitles the proprietor to summary proceedings before a stipendiary magistrate for infringement of his rights.⁵ The offender is liable to a fine not exceeding £100, or, in default of payment within twenty-one days, imprisonment not exceeding three months, with or without hard labour.⁶ Such proceedings must be commenced within six months of the offence, and are dependent upon registration in New Zealand.⁷ These summary proceedings are supplemental to the civil remedies provided by the Imperial Acts.⁸

There is no provision for the local registration of

¹ Copyright Act, 1895, ss. 25 and 26.

² Fine Arts Copyright Amendment Act, 1879.

³ *Ibid.* s. 4.

⁴ *Ibid.* s. 5.

⁵ Dramatic Copyright Act, 1903, s. 2.

⁶ *Ibid.*

⁷ *Ibid.* ss. 2 and 3.

⁸ *Ibid.* preamble.

books apart from dramatic works. Such registration, therefore, should be made at Stationers' Hall (London).¹

Under a local ordinance the copyright in a book (or printed play) first published in the colony lasts for twenty-eight years, and if the author is living at the end of that time it continues during his life.² In other parts of the British Dominions, however, the copyright in the book is the same as in England.³

New Zealand became entitled to the benefits of the treaty between Great Britain and Austria-Hungary on 2nd February 1895.

First Publication in Fiji Islands, Western Pacific Islands, and British New Guinea.—The Fiji Islands passed a copyright ordinance in 1903 providing for local registration of books, but it was disallowed, and is therefore a dead letter. There is also no provision for local registration of books or plays in the Western Pacific Islands or in British New Guinea.

Accordingly, the law relating to a book or play first produced in any of these islands is the same as in England, and registration should be made at Stationers' Hall (London).

British New Guinea is declared to be territory under the authority of the Commonwealth, and is to be called Papua by the "Papua Act, 1905." But it is expressly provided that the Acts of the Parliament of the Commonwealth shall not be in force in the territory of Papua unless they are expressed to extend thereto, and as the Commonwealth Copyright Act, 1905, contains no mention of Papua, the provisions of the Act do not apply to that colony as being part of the Commonwealth of Australia.

¹ International Copyright Act, 1886, s. 8.

² Copyright Ordinance, No. 18 of 1842.

³ International Copyright Act, 1886, s. 8 (1) and (4).

WEST INDIAN POSSESSIONS

Jamaica.
Trinidad and Tobago.

The Windward, Leeward, Falk-
land, and other West Indian
Islands.

First Publication in Jamaica.—Three printed or lithographed copies of every book (or printed play) first delivered out of the press in the colony must be deposited at the office notified in the *Jamaica Gazette* within one month of publication.¹

One of the copies deposited is to be sent to the British Museum, another copy shall be disposed of as the Governor and Privy Council may direct, and the third copy, after registration, is to be deposited in a public library or as the Governor directs.²

The penalty on the printer for non-delivery is £5.³

Where the Governor notices that in his opinion the delivery of three copies will inflict injury, one copy will be sufficient.⁴ There is no provision for local registration of playright, and plays first performed in the colony may therefore be registered at Stationers' Hall (London).

First Publication in Trinidad and Tobago.—Three printed or lithographed copies of every book (or printed play) first published within the colony must be delivered to the Registrar of copying rights within one month of publication.⁵

¹ One of the copies deposited is to be sent to the Secretary of State for the Colonies, another copy as the Governor and Council direct, and the third, after registration, to the Public Library or as the Governor directs.⁶

Penalty on printer for non-delivery £5.⁷

Local registration of plays performed, but not printed, is provided for, but is not obligatory.⁸

First Publication in British Honduras, British Guiana,

¹ Law No. 2 of 1887, s. 3.

³ *Ibid.* s. 8.

⁶ Ordinance No. 75 of 1888.

⁷ *Ibid.* s. 14.

² *Ibid.* s. 5.

⁴ *Ibid.* s. 3.

⁶ Ordinance No. 72 of 1888.

⁸ *Ibid.* s. 6.

Bahamas, Barbados, the Windward, Leeward, and Falkland Islands.—See table on pp. 46-8 and note p. 48.

AFRICAN POSSESSIONS

Cape Colony.	British Bechuanaland.
Orange River Colony.	S. Helena.
Transvaal.	Sierra Leone.
Natal.	Gambia.
Zululand.	Gold Coast.
Basutoland.	Lagos.

First Publication in Cape Colony.—Four copies of a book (or printed play) first published in the colony should be deposited for registration by the printer within one month after delivery from the press.¹ This deposit is to be made to the officer appointed, whose duty it is to transmit one copy to the South African Library, another to the Grahamstown Public Library, the remaining copies being disposed of according to the Governor's directions.

There is no local provision for the registration of plays, and therefore a play first performed in the colony, but not printed, may be registered at Stationers' Hall (London).

Cape Colony is not entitled to the benefits of the treaty between Great Britain and Austria-Hungary.

The prohibition against the importation into the colony of foreign reprints of British copyright books is no longer suspended.

First Publication in Orange River Colony.—There is no provision for the local registration of books or plays, and a book or play first published or performed within the colony may be registered at Stationers' Hall (London), and the law relating to copyright and playwright is the same as in England.

The Orange River Colony is now a British possession, and is therefore subject to the Code of the Berne Convention as one of the countries within the Union.²

¹ Copyright Act, 1873, and Books Registry Act, 1888.

² Correspondence between British Government and the International Bureau, dated 6th May 1903, *Droit d'Auteur*, 1903, p. 49.

First Publication in the Transvaal.—In the case of a book (or printed play) first published in the Transvaal the local formalities of the Dutch law must be complied with, so far as they are consistent with the provisions of the Imperial Copyright Acts.¹

The formalities prescribed are as follows :—

Three copies of every book (or printed play) must be deposited by the author, printer, or publisher, or his agent, within two months of publication, at the office of the Registrar, and such copies must be signed on the title-page or cover by the depositor. The penalty in default is forfeiture of copyright.²

A sworn declaration by the printer that the book has been printed by him within the Transvaal must accompany the deposit. The depositor is entitled to a receipt, a duplicate of which is registered, and the period of copyright within the colony dates from such receipt.

A notice of the reservation of playwright—"the exclusive right of representation"—must be printed on each copy of a printed play. A similar notice as to rights of translation must be printed on books.

There is no provision for the registration of plays performed, but not printed, and these may be registered, therefore, at Stationers' Hall (London).

Within the limits of the colony, the copyright in a book (or printed play) lasts for fifty years from the date of the receipt on registration, or the life of the author, if he lives beyond that period without having alienated the copyright. The playwright in a printed play, with the notice of reservation, lasts for ten years from the date of the receipt. The playwright of a play not printed lasts for the author's life and thirty years after.

The Transvaal is now a British possession which comes within the provisions of the Berne Convention, and is therefore one of the countries within the Union.³

Accordingly, the period of copyright and playwright of

¹ International Copyright Act, 1886, s. 8.

² Law of 1887.

³ *Droit d'Auteur*, 1903, p. 49.

a book or play first published within the colony is in all other parts of the British Dominions outside the Transvaal the same as in England.¹

First Publication in Natal.—Two printed copies of every book (or printed play) first published within the colony must be deposited on behalf of the publisher, within three months of publication, with the Colonial Secretary of Natal for registration, and no action for infringement of copyright can be brought before the book is registered.²

If a play is first performed within the colony, a copy must be delivered to the Registrar for registration, but the title of the play will be sufficient if the work is in manuscript or not reduced to writing. No action for infringement of playwright can be maintained until registration.³

Natal became entitled to the benefits of the treaty between Great Britain and Austria-Hungary on 2nd February 1895.

First Publication in Zululand, Basutoland, British Bechuanaland, S. Helena, and Lagos.—See table on pp. 46-8 and note.

First Publication in Sierra Leone.—Three printed or lithographed copies of a book (or printed play) first published in Sierra Leone should be delivered at the office named in the Sierra Leone *Royal Gazette*. On delivery of the copies the book is registered.⁴

Two of the copies deposited are to be sent to the British Museum and the third to the local Public Library.

The delivery of copies is a duty upon the printer, who is liable to a fine of £5 for default.⁵

There is no local provision as to playwright, and therefore a play first performed, but not printed, in Sierra Leone may be registered at Stationers' Hall (London).⁶

¹ International Copyright Act, 1886, s. 8, App. p. 178, and cf. Briggs' *Law of International Copyright*, p. 595.

² Copyright Act, 1897.

³ Playrights Act, 1898

⁴ Ordinance of 19th January 1887.

⁵ *Ibid.* s. 7.

⁶ International Copyright Act, 1886, s. 8, App. p. 178.

First Publication in Gambia.—Three printed or lithographed copies of every book (or printed play) first published in the Settlement must be delivered to the officer notified in the *Government Gazette* within one month of publication.¹

Two of the copies deposited are to be sent to the British Museum, and the third copy, after registration, to the Public Library or as the Governor directs.²

The penalty on the printer for non-delivery is £5.³

There is no provision for local registration of plays produced in the Settlement and they may be registered, therefore, at Stationers' Hall (London).⁴

First Publication in Gold Coast.—Three printed copies of every book (or printed play) first published in the colony⁵ must be delivered at the office of the Colonial Secretary, Victoriaborg, Accra, within one month of publication.⁶

Penalty on printer for non-delivery £5.

There is no local provision for registration of plays produced in the colony, and they may be registered, therefore, at Stationers' Hall (London).

MEDITERRANEAN POSSESSIONS

Gibraltar. Malta. Cyprus.

First Publication in Gibraltar.—See table on pp. 46-8 and note.

First Publication in Malta.—In order to secure copyright in a book (or printed play) first published in Malta, three copies must be deposited, within one month of publication, at the office specified in the *Government Gazette*.⁷ On delivery of the copies the book is registered. One of the copies deposited is sent to the British Museum,

¹ Ordinance No. 1 of 1888, s. 2.

² *Ibid.* s. 4. ³ *Ibid.* s. 7.

⁴ International Copyright Act, 1886, s. 8, App. p. 178.

⁵ Ordinance No. 14 of 1897.

⁶ *Gazette*, 1897, p. 258.

⁷ Ordinance No. 2 of 1888.

one to the Public Library in Malta, and the third as the Government directs.

There is no local provision as to playwright, and, consequently, if a play is first performed, but not printed, in Malta, it may be registered at Stationers' Hall (London).

First Publication in Cyprus.—Three printed or lithographed copies of every book (or printed play) first published in the island must be delivered within one month of publication at the office notified in the official *Gazette*.¹

Two of the copies deposited are to be sent to the British Museum, and the third copy, after registration, to a public library, or as the High Commissioner shall direct.

Penalty on printer for default £2.

There is no local provision as to plays not printed, and the law is therefore the same as in England, and registration may be made at Stationers' Hall (London).

EASTERN POSSESSIONS

British India.	Burma.
Straits Settlements.	Labuan.
Hong-Kong.	British North Borneo.
Ceylon.	Mauritius and Seychelles Islands.

First Publication in British India.—Three printed or lithographed copies of every book (or printed play) first published in the colony must be delivered by the printer, within one month of publication, at the place and to the officer notified from time to time in the official *Gazette*. One of the copies is transmitted to the Secretary of State for India, another as the Governor-General in Council shall direct, and the third, after registration, is deposited in such public library as the local Government shall select.²

¹ Ordinance No. 2 of 1887.

² Press Act, 1867, No. 25, s. 9.

Every book (or printed play) printed in British India must bear the name of the printer, place of printing, and the name and address of the publisher printed upon it.¹

Precise particulars of every book delivered are registered in the Catalogue of Books printed in British India and published quarterly in the official *Gazette*.

There is no provision for the local registration of plays not printed, and first performance, therefore, may be registered at Stationers' Hall (London).²

India became entitled to the benefits of the treaty between Great Britain and Austria-Hungary on 11th May 1895.

As to an author's right of translation the reader is referred to the Indian cases cited in the chapter "Right of Translation," p. 131.

First Publication in Straits Settlements.—A book (or printed play) first published in the Straits Settlements should be registered at the Colonial Secretary's Office.³

In the case of a play performed, but not printed, registration should be made at Stationers' Hall (London), though such registration is optional, because there is no local registration of playright.⁴

First Publication in Hong-Kong.—Three printed or lithographed copies of every book (or printed play) first published in the colony must be delivered to the officer notified in the *Government Gazette* within one month of publication.⁵

One of the copies deposited is to be sent to the Secretary of State for the Colonies, another copy as the Governor and Council direct, and the third, after registration, to the Public Library or as the Governor directs.

Penalty on printer for non-delivery 25 dollars.⁶

There is no local provision for the registration of plays

¹ Press Act, 1867, No. 25, s. 3.

² International Copyright Act, 1886, s. 8. ³ Act No. 2 of 1847.

⁴ International Copyright Act, 1886, s. 8, App. p. 178.

⁵ Ordinance No. 10 of 1888, s. 2.

⁶ *Ibid.* s. 7.

produced in the colony, and they may be registered, therefore, at Stationers' Hall (London).¹

First Publication in Ceylon.—The law is the same as in Hong-Kong.²

First Publication in Burma, Labuan, and British North Borneo.—See table on pp. 46-8 and note.

First Publication in Mauritius and Seychelles Islands.—Three printed or lithographed copies of every book (or printed play) first printed or lithographed in the colony must be delivered, within one month of publication, at the office notified in the Government *Gazette*.³

One of the copies delivered is to be sent to the British Museum, another to be deposited in the Archives Office, and a third, after registration, in the Public Library or as the Governor directs.

Penalty on printer for default 50 rupees.

There is no local provision as to plays. The law is therefore the same as in England, and registration may be made at Stationers' Hall (London).

¹ International Copyright Act, 1886, s. 8, App. p. 178.

² Ordinance No. 1 of 1888.

³ Ordinance No. 11 of 1893.

TABLE CONTAINING A LIST OF BRITISH POSSESSIONS SHOWING THE LOCAL FORMALITIES AS TO BOOKS (OR PRINTED PLAYS) FIRST PUBLISHED IN THE RESPECTIVE COUNTRIES.

British Possession.	Deposit of Copies and Registration.	Place of Deposit and Registration.	Notices, etc.
<i>(North American)</i>			
Canada—			
Ontario . . .	Three copies before action can be brought.	Ministry of Agriculture (Copyright Branch), Ottawa.	Copyright notice to be inserted in every book (or printed play).
Quebec . . .			
Nova Scotia . . .			
New Brunswick . . .			
Brit. Columbia . . .			
Manitoba . . .			
North-West Territories . . .			
Prince Edward Island . . .			
Newfoundland	Two copies before action.	Office of Colonial Secretary, S. John's.	Copyright notice to be inserted in every book (or printed play).
<i>(Australasian)</i>			
The Australian Commonwealth (i.e. Australia and Tasmania).	Two copies before action can be brought. Registration of "Performing Right" is necessary before action.	Commonwealth Copyright Office.	Notice of reservation of "Performing Right."
New Zealand . . .	One copy of play in MS. Two copies of printed play.	Registry of Copyright, Wellington, and Library of General Assembly, New Zealand.	...
Fiji Islands . . .	...	...	...
Western Pacific Islands	...	...	...
British New Guinea	...	...	...
<i>(West Indian)</i>			
Jamaica— Turk's Island	Three printed or lithographed copies within one month.	Office notified in <i>Jamaica Gazette</i> .	If Governor thinks deposit of three copies will inflict injury, he may declare one copy to be sufficient.
British Honduras	...	...	...
British Guiana . . .	...	...	...
Bahamas . . .	...	...	...
Trinidad— Tobago	Three printed or lithographed copies within one month.	Office of Registrar of Copyrights.	Local registration of playright provided for, but not obligatory.
Barbados . . .	...	...	...

TABLE—*continued*

British Possession.	Deposit of Copies and Registration.	Place of Deposit and Registration.	Notices, etc.
<i>(Windward Islands)</i>			
Grenada . . .	...	...	...
S. Vincent . . .	...	...	...
S. Lucia . . .	...	...	...
<i>(Leeward Islands)</i>			
Antigua . . .	...	...	...
Montserrat . . .	...	...	...
S. Kitts . . .	...	...	...
Nevis . . .	...	...	...
S. Christopher . . .	...	...	...
Virgin Islands . . .	...	...	...
Dominica . . .	...	...	...
Bermuda . . .	...	...	...
Falkland Islands	...	...	...
<i>(African)</i>			
Cape Colony . . .	Four copies within one month.	Office of Registrar of Deeds.	...
Orange River Colony	...	...	...
Transvaal . . .	Three copies within two months.	Office of Registrar.	Sworn declaration by printer required. Every printed play must have notice of reservation of play-right. Rights of translation must be expressly reserved.
Zululand . . .	...	...	...
Natal . . .	Two copies of books within three months. One copy of plays.	Office of Colonial Secretary, Natal.	Registration of play-right is obligatory.
Basutoland . . .	...	...	...
British Bechnaland	...	...	...
S. Helena . . .	...	...	...
Sierra Leone . . .	Three printed or lithographed copies.	Office notified in Sierra Leone <i>Royal Gazette</i>.	...
Gambia . . .	Three printed or lithographed copies within one month.	Office notified in <i>Government Gazette</i>.	...
Gold Coast . . .	Three printed copies within one month.	Office of Col. Secretary, Victoriaborg, Accra.	...
Lagos . . .	...	...	...
<i>(Mediterranean)</i>			
Gibraltar . . .	...	...	...
Malta . . .	Three copies within one month.	Office notified in <i>Government Gazette</i>.	...

TABLE—*continued.*

British Possession.	Deposit of Copies and Registration.	Place of Deposit and Registration.	Notices, etc.
<i>(Mediterranean—continued)</i>			
Cyprus . . .	Three printed or lithographed copies within one month.	Office notified in official <i>Gazette.</i>	...
<i>(Eastern)</i>			
British India . . .	Three printed or lithographed copies within one month.	Office notified in <i>Gazette.</i>	Every book must bear printer's name, place of printing, and publisher's name and address.
Straits Settlements	Registration without deposit.	Office of Col. Secretary, Straits Settlement.	...
Hong-Kong	Three printed or lithographed copies within one month.	Office notified in <i>Government Gazette.</i>	...
Ceylon . . .	Three printed or lithographed copies within one month.	Office notified in <i>Government Gazette.</i>	...
Burma . . .	...	...	...
Labuan . . .	...	...	...
Brit. North Borneo	...	...	...
Mauritius— Seychelles	Three printed or lithographed copies within one month.	Office notified in <i>Government Gazette.</i>	...

Note.—Where a British possession has no provision for local registration the law is the same as in England, and registration should be made at Stationers' Hall (London) (49 & 50 Vict. c. 33, s. 8). In the case of a play first performed, but not published in printed form, in Natal, New South Wales, Victoria, Queensland, South Australia, Western Australia, the playwright must be registered. If a play is registered in New Zealand one copy of the play in MS. must be deposited. In Trinidad registration may be made locally, but registration is optional. After first performance in any other British possessions the playwright may be registered at Stationers' Hall (London), but such registration is optional (49 & 50 Vict. c. 33, s. 8; 5 & 6 Vict. c. 45, ss. 20 and 24).

Under the Copyright Act, 1905 (Commonwealth of Australia), which comes into operation on a day to be proclaimed, the formalities in all the States of Australia and Tasmania are superseded; and registration must be made, before action can be brought, at the Commonwealth Copyright Office; two copies of every book must be deposited on registration; and every copy of a play published in book form must contain a notice of reservation of playwright. The formalities in the States of Australia and in Tasmania prior to the commencement of the Act are set out in the text.

CHAPTER IV

FIRST PUBLICATION IN THE EUROPEAN COUNTRIES AND JAPAN

FIRST Publication in France.—The author of a book or play first published in France is entitled to playwright and copyright in all the countries within the Union. The nationality of the author is immaterial.¹

No formalities are required in the case of a play unless it is published in printed form, because the performance of a play, according to French law, is not publication,² and the position of the author of a play which is performed, but not printed, is the same as if the work were in MS. (see *Unpublished Works*, Part I. Chap. I.).

When a book or printed play is published, the only formality to be complied with is a deposit of two copies at the Ministry of the Interior in Paris, or at the Prefecture or Town Clerk's Office in the provincial towns.³

The deposit is obligatory upon the printer, who is liable to penalties in default.⁴ The copyright is not dependent upon the deposit, which is only essential to the right to sue; and the author, after the deposit has been made, can sue for infringements of copyright committed before the date of the deposit.⁵

¹ Additional Act of Paris, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

² Declaration of Paris, 1896, Art. 2.

³ Law of 1881, Art. 3.

⁴ *Ibid.*

⁵ Pouillet, ss. 432. Cf. English law as to Registration, p. 18.

Playright is protected without deposit, and the author of a play published in printed form can sue for infringement of his playright, although no deposit has taken place.¹

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights;² but it appears to be lawful to appropriate the plot of a novel for stage purposes, provided the characters, situations, and episodes are not the same.³

The duration of copyright and playright is for the author's life and fifty years after his death.⁴

France is one of the proclaimed countries (see p. 69), and a French author, therefore, can acquire protection in the United States by complying with the requirements set out on pp. 68-70.⁵

France has treaties with the following countries:—Austria-Hungary, Bolivia, Congo, Costa Rica, Denmark, Ecuador, Italy, Germany, Guatemala, Mexico, Monaco, Montenegro, Netherlands, Norway, Portugal, Roumania, Salvador, Spain, and Sweden. She is also a party to the Monte Video Convention, but her adhesion is only accepted by Argentina and Paraguay.

First Publication in Germany.—The author of a book or play first published in Germany is entitled to playright and copyright in all the countries within the Union. The nationality of the author is immaterial.⁶

No formalities as to registration or deposit of copies are necessary; but the author of an anonymous or pseudonymous work is not entitled to the full period of protection until he has registered his true name.⁷

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.⁸

¹ Code du Théâtre, etc., C. Le Seune, Paris, 1878.

² Declaration of Paris, 1896, Art. 3.

³ Paris, 20th February 1872, Delagrave.

⁴ Law of 1866, Art. 1.

⁵ Proclamation, 1st July 1891.

⁶ Additional Act of Paris, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

⁷ Law of 1901, Art. 31.

⁸ Declaration of Paris, 1896, Art. 3; Law of 1901, S. 12, ss. 3.

The duration of playright and copyright in Germany is for the author's life and thirty years after his death.

In the case of posthumous works the period is thirty years from the author's death or ten years from the date of publication.¹ Anonymous or pseudonymous works are only protected for thirty years from the date of publication, unless within that time the name of the author is registered.²

Germany is in the position of a proclaimed country (see p. 69) under a treaty with the United States.³

A German author can, therefore, secure American protection by complying with the requirements set out on pages 68-70.

Germany also has copyright treaties with the following countries:—Austria, Belgium, France, and Italy.

First Publication in Italy.—Subject to the formalities given below, the author of a book or play first published in Italy is entitled to copyright and playright in all the countries within the Union. The nationality of the author is immaterial.⁴

One copy of the book or play (if published in printed form) must be deposited and registered within three months of publication, together with a declaration in duplicate reserving the rights of the author or publisher.⁵

If the deposit is made after the expiration of the three months it is effectual, but the author cannot sue for infringements committed between the expiration of the three months and the date of deposit.⁶ If no deposit is made within ten years the copyright is considered to be abandoned.⁷

In the case of a play performed, but not published in print, a manuscript copy of the play must be presented

¹ Law of 1901, s. 29, also s. 11.

² *Ibid.* s. 31.

³ Treaty and Proclamation, 15th April 1892.

⁴ Additional Act of Paris, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

⁵ Law of 1882, Arts. 21-27; *Droit d'Auteur*, 1897, pp. 63, 66, 119. For form of Declaration see *Droit d'Auteur*, 1895, p. 91.

⁶ Law of 1882, Art. 27.

⁷ *Ibid.* Art. 28.

for inspection within three months of its performance, together with a declaration reserving the playwright.¹ The copy will be returned to the author after *visa*. In other respects the performance of a play is not regarded as publication.²

The duration of playwright is eighty years from the date of first performance or publication.³

The copyright in a book or printed play has two periods of protection, (1) for the author's life or forty years from the date of publication, and (2) for a further term of forty years. During the second period, however, any one is at liberty to publish the work on payment to the owner of the copyright of a royalty of 5 per cent on the published price of each copy, which must have the price plainly printed upon it.⁴

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.⁵

Italy is one of the proclaimed countries (see p. 69), and an Italian author can obtain protection in the United States by complying with the formalities set out on pp. 68-70.⁶

Italy has copyright treaties with the following countries:—Germany, France, Austria, Columbia, Spain, Mexico, Montenegro, Sweden, Norway, and San Marino. She is also a party to the Monte Video Convention, but her adhesion has been accepted only by Argentina and Paraguay.

First Publication in Belgium.—The author of a book or play first published in Belgium is entitled to copyright and playwright in all the countries within the Union. The nationality of the author is immaterial.⁷

No formalities as to registration or deposit are necessary,

¹ Law of 1882, Arts. 23 and 27.

² Declaration of Paris, 1896, Art. 2. *Raspantini v. Theodoli* (Rome), 10th October 1896.

³ Law of 1882, Art. 10.

⁴ *Ibid.* Arts. 8-9.

⁵ Declaration of Paris, 1896, Art. 3.

⁶ Proclamation, 31st October 1892.

⁷ Additional Act of Paris, 1896, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

except in the case of posthumous works or State or Departmental publications, which must be registered at the Department of Agriculture within six months of publication or performance.¹

The duration of playright and copyright is for the author's life and fifty years;² but for posthumous works the period is fifty years from the date of first publication or performance.³

The publisher of an anonymous or pseudonymous work is regarded as the author, as against third parties, but the author is entitled to exercise his rights upon disclosing his identity.⁴

The dramatisation of a novel or the novelisation of a play is prohibited.⁵

Belgium is one of the proclaimed countries (see p. 69), and Belgian authors can secure copyright protection in the United States by complying with the requirements set out on pp. 68-70.⁶

Belgium has copyright treaties with the following countries:—Germany, Holland, Mexico, Portugal, Spain, and Congo. She is also a party to the Monte Video Convention, but her adhesion is only accepted by Argentina and Paraguay.

First Publication in Spain.—Subject to the formalities mentioned below, the author of a book or play first published in Spain is entitled to copyright and playright in all the countries within the Union. The nationality of the author is immaterial.⁷

Three signed copies of the book or play (if published in printed form) must be deposited for registration within a year of publication at the Ministry of Agriculture, or in the provincial libraries or libraries of the establishments of Secondary Education in provincial capitals.⁸

¹ Law of 1886, Art. 4; Order in Council, 27th March 1886; Decree, 3rd April 1886.

² Law of 1886, Art. 2.

³ *Ibid.* Art. 4.

⁴ *Ibid.* Art. 7.

⁵ Declaration of Paris, 1896, Art. 3.

⁶ Proclamation, 1st July 1891.

⁷ Additional Act of Paris, 1896, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

⁸ Law of 1879, Arts. 33-36.

If the work is not deposited within the year, any one is at liberty to publish it for a period of ten years; and if at the end of this period the author or his representative fails to register it within a year, the copyright is lost.¹

In the case of a play performed, but not published in print, one manuscript copy must be deposited within a year of first performance.²

The publisher of an anonymous or pseudonymous work is entitled to protection, but on proof of the identity of the author the latter may exercise his rights.³

The duration of playwright and copyright is for the author's life and eighty years; but if the author leaves heirs of necessity, the rights of an assignee terminate at the end of twenty-five years from the author's death, and the property passes to the heirs for a period of twenty-five years.⁴

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.⁵

Spain is one of the proclaimed countries (see p. 69), and a Spanish author therefore can obtain protection in the United States by complying with the formalities set out on pp. 68-70.⁶

Spain has treaties with the following countries:—France, Belgium, Italy, Portugal, Salvador, Columbia, Costa Rica, Guatemala, and Mexico. She is also a party to the Monte Video Convention, but her adhesion is only accepted by Argentina and Paraguay.

First Publication in Switzerland.—Subject to the reservation of playwright mentioned below, the author of a book or play first published in Switzerland is entitled to copyright and playwright in all the countries within the Union. The nationality of the author is immaterial.⁷

No formalities as to registration or deposit are required except in the case of posthumous works or publications

¹ Law of 1879, Arts. 38-39.

² *Ibid.* Art. 36.

³ *Ibid.* Art. 26.

⁴ *Ibid.* Art. 6.

⁵ Declaration of Paris, 1896, Art. 3.

⁶ Proclamation, 10th July 1895.

⁷ Additional Act of Paris, 1896, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

by the State, a canton, a corporation, or a society, which must be registered at the Federal Department of Commerce at Berne within three months of publication or performance.¹

A special register is kept for other books and plays, but such registration is optional.²

In the case of a play published in printed form, the author can reserve the playwright on special conditions, which should be published at the head of the work; but the percentage for the right of performance must not exceed 2 per cent of the gross profits.³

If a play is performed without the intention of making a profit, although a sum is charged for admission to cover expenses or for charitable purposes, it is not regarded as an infringement of playwright.⁴

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.⁵

The duration of copyright and playwright is for the author's life and thirty years; but for posthumous and other works which require registration, the period is thirty years from the date of publication.⁶

Switzerland is one of the proclaimed countries (see p. 69), and a Swiss therefore can acquire protection in the United States by complying with the formalities set out on pp. 68-70.⁷

Switzerland has a copyright treaty with Japan.

First Publication in Tunis.—The author of a book or play first published in Tunis is entitled to copyright and playwright in all the countries within the Union. The nationality of the author is immaterial.⁸

There are no formalities as to registration or deposit.

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.⁹

¹ Law of 1883, Arts. 2-3. See Regulation of 28th December 1883.

² *Ibid.*

³ *Ibid.* Art. 7.

⁴ *Ibid.* Art. 11, s. 10.

⁵ Declaration of Paris, 1896, Art. 3.

⁶ Law of 1883, Arts. 1-2.

⁷ Proclamation, 1st July 1891.

⁸ Additional Act of Paris, 1896, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

⁹ Declaration of Paris, 1896, Art. 3.

The duration of copyright and playwright is for the author's life and fifty years.¹

Tunis is not one of the proclaimed countries (see p. 69), and a Tunisian author, therefore, cannot obtain copyright protection in the United States except by assignment.

Tunis has no copyright treaties.

First Publication in Hayti.—Subject to the deposit mentioned below, the author of a book or play first published in Hayti is entitled to copyright and playwright in all the countries within the Union. The nationality of the author is immaterial.²

Five copies of a book or play (published in printed form) must be deposited within a year from publication at the Secretary's office of the Department of the Interior.³

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.⁴

The duration of copyright and playwright is the life of the author, and after his death the property passes to the widow for life; then to the children for twenty-five years, or if there are no children, to other heirs or assigns for a period of ten years.⁵

Hayti is not one of the proclaimed countries, and a Haytian author, therefore, cannot acquire copyright protection in the United States except by assignment.

Hayti has no copyright treaties.

First Publication in Luxembourg.—Subject to the requirements mentioned below, the author of a book or play first published in Luxembourg is entitled to copyright and playwright in all the countries within the Union. The nationality of the author is immaterial.⁶

No formalities as to registration and deposit are necessary, except as regards posthumous works or works

¹ Law of 1889, Art. 2.

² Additional Act of Paris, 1896, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

³ Law of 1885, Art. 2.

⁴ Declaration of Paris, 1896, Art. 3.

⁵ Law of 1885, Arts. 5-6.

⁶ Additional Act of Paris, 1896, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

published by the State or by public administrative bodies, which must be registered at the Department of Agriculture within six months of publication or performance.¹

Notice of reservation of playwright must be given on the first page of every copy of every printed play.²

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.³

The duration of playwright and copyright in Luxembourg is life and fifty years, or for posthumous works fifty years from first publication. In the case of anonymous works the publisher is in the place of the author, but if the author's name be disclosed, the period of protection is to be calculated by the life of the author.⁴

Luxembourg is not one of the proclaimed countries. Accordingly, a citizen of Luxembourg cannot acquire copyright in the United States except by assignment.⁵

Luxembourg has no copyright treaties.⁶

First Publication in Monaco.—The author of a book or play first published in Monaco is entitled to copyright and playwright in all the countries within the Union. The nationality of the author is immaterial.⁷

No formalities are necessary.⁸

The publisher of an anonymous or pseudonymous work is regarded as the author, as against third parties, but the author, on disclosing his identity and proving his title, may exercise his rights.⁹

The dramatisation of a novel or the novelisation of a play is prohibited.¹⁰

The duration of copyright and playwright is for the

¹ Order in Council, 10th May 1898, Art. 2.

² Law of 1857, s. 2; Law of 1898, Arts. 15, 16.

³ Declaration of Paris, Art. 3.

⁴ Law of 1898, Arts. 2 and 4.

⁵ Proclamation, 1st July 1891.

⁶ *Droit d'Auteur*, 1898, pp. 65-69.

⁷ Additional Act of Paris, 1896, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

⁸ Ordinance, 3rd June 1896.

⁹ Law of 1889, Art. 10.

¹⁰ Declaration of Paris, 1896, Art. 3; Law of 1889, Art. 17.

author's life and fifty years ; or for posthumous works the period is fifty years from the date of publication.¹

Monaco is not one of the proclaimed countries, and a citizen or subject can only acquire copyright protection in the United States by assignment.

Monaco has a treaty with France, but this is practically superseded by the Berne Convention.

First Publication in Norway.—The author of a book or play first published in Norway is entitled to copyright and playwright in all the countries within the Union, provided he belongs to one of these countries or acquires rights through a publisher.²

No formalities are necessary to secure the author's rights, but a copy of every book or play (published in printed form) must be deposited within a year of publication at the University Library of Christiania by the printer, under penalty of a fine.³

The right of recitation must be expressly reserved upon a work published in printed form ;⁴ and this right only lasts for three years, at the end of which period any one may recite the work, provided it does not take the form of a dramatic performance.⁵

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.⁶

The duration of copyright and playwright is for the author's life and fifty years from the end of the year of his death ; or in the case of anonymous or pseudonymous works, for fifty years from the end of the year of publication, unless the author discloses his identity in the manner prescribed by law.⁷

Norway is one of the proclaimed countries (see p. 69), and a Norwegian author, therefore, can acquire copyright protection in the United States by complying with the formalities set out on pp. 68-70.⁸

¹ Law of 1889, Arts. 8-9.

³ Law of 1882, Arts. 3-7.

⁶ *Ibid.* Art. 24.

⁷ Law of 1893, Arts. 21-22.

² Berne Convention, Arts. 2-3.

⁴ Law of 1893, Art. 1.

⁶ Declaration of Paris, 1896, Art. 3.

⁸ Proclamation, 1st July 1905.

Norway has copyright protection treaties with Sweden, Italy, and Denmark.

First Publication in Japan.—No formalities are required to secure the playwright and copyright in a book or play first published in Japan, but registration is necessary before an action can be brought by the author or his assignee for infringement of the copyright.¹

A request for registration must be addressed to the Minister of the Interior (in the form contained in the Schedule to the Ordinance of 28th June 1899) setting out the title of the work, contents, name and surname of author, and date of publication or performance.²

Upon compliance with the formality as to registration, the author of a book or play first published in Japan is entitled, without further formality, to sue for infringement of his copyright and playwright in all the countries within the Union.³ The nationality of the author is immaterial.⁴

The duration of playwright and copyright in Japan is for the author's life and thirty years, or for posthumous works thirty years from publication or performance. Anonymous and pseudonymous writers are protected for thirty years from publication or performance, with liberty to authors to secure the full period of protection on registration of their names.⁵

Japan has recently entered into a copyright treaty⁶ with the United States which is applicable to all books and plays by Japanese or American authors published in Japan or America after 28th February 1906.

The general effect of the treaty is to give Japan the position of a "proclaimed" country, so that a Japanese author can acquire American copyright and playwright by complying with the formalities of the United States (see pp. 68-70).

¹ Law of 1899, Art. 15.

² Ordinance, 28th June 1899.

³ Declaration of Paris, Art. 1, par. 2.

⁴ Additional Act of Paris, 1896, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

⁵ Law of 1899, Art. 3.

⁶ App. p. 237.

Similarly an American author is entitled to copyright protection in Japan as if he were a Japanese citizen.

The treaty contains an exceptional provision, however, with regard to the right of translation. The Japanese author who publishes his work in Japan, and complies with the formalities of the United States to secure American copyright, does not acquire the exclusive right of translation—as the author belonging to every other “proclaimed” country would do—but any American citizen or subject may translate his work and print and publish the translation in America and Japan without the consent of the author.

In the same manner an American author whose work is published in the United States does not acquire the exclusive right of translation as against a citizen or subject of Japan. Any Japanese author may translate such work and print and publish the translation in America and Japan without the American author’s consent.

Japan has a copyright treaty also with Switzerland.

First Publication in Denmark or the Faroë Islands.—The author of a book or play first published in Denmark or the Faroë Islands is entitled to copyright and playwright in all the countries within the Union. The nationality of the author is immaterial.¹

There are no formalities as to registration or deposit, but the right of public reading or recitation, not of a dramatic character, must be expressly reserved upon a printed work.²

The dramatisation of a novel or the novelisation of a play is an infringement of the author’s rights.³

The duration of copyright and playwright is for the author’s life and fifty years; or for anonymous or pseudonymous works and publications of institutions or scientific societies, a period of fifty years from the end of

¹ Additional Act of Paris, Art. 1, par. 2. Exception as to Norway and Sweden, see p. 4.

² Law of 1902, Art. 1.

³ Declaration of Paris, 1896, Art. 3.

the year of publication; but the author of anonymous or pseudonymous works can, by disclosing his identity, obtain protection for life and fifty years.¹

Denmark is one of the proclaimed countries (see p. 69), so that a Danish author can secure copyright protection in the United States by complying with the formalities set out on pp. 68-70.²

Denmark has treaties with France, Sweden, and Norway.

First Publication in Sweden.—Subject to the reservation of playwright mentioned below, the author of a book or play first published in Sweden is entitled to copyright and playwright, provided he belongs to one of the countries within the Union or acquires rights through a publisher.³

No formalities as to registration or deposit are necessary, but in the case of a play published in printed form the author must print upon the work a reservation of his playwright.⁴

The dramatisation of a novel or the novelisation of a play is an infringement of the author's rights.⁵

The duration of copyright is for the author's life and fifty years. Anonymous and pseudonymous works are protected for fifty years, but authors can secure the full term by disclosing their identity. Posthumous works and works published by societies are protected for fifty years from publication.⁶

Playright is protected for the author's life and thirty years, or in the case of anonymous or pseudonymous plays for five years, from the date of performance or publication.⁷

Sweden is not one of the proclaimed countries (see p. 69), and a Swedish author, therefore, can only obtain copyright protection in the United States by assignment.

Sweden has treaties with France, Denmark, Norway, and Italy.

¹ Law of 1902, Arts. 21-22.

³ Berne Convention, Arts. 2-3.

⁵ Declaration of Paris, 1896, Art. 3.

⁷ Law of 1877, Art. 14, as amended by Law of 1904.

² Proclamation, 8th May 1893.

⁴ Law of 1877, Art. 11.

⁶ Law of 1877, Arts. 7-8.

COUNTRIES WITHIN THE COPYRIGHT UNION (BERNE CONVENTION)

FORMALITIES REQUIRED FOR BOOKS AND PRINTED PLAYS FIRST PUBLISHED IN THE RESPECTIVE COUNTRIES

Countries.	Duration of Copy-right.	Registration and Deposit.		Notices.	Treaties.	International Protection.
		Number of copies and time.	Place of Deposit, etc.			
Great Britain	Life + 7 yrs. or 42 yrs.	One copy obligatory on publisher. Four other copies on demand. Does not affect author's rights. Registration before action.	British Museum (obligatory). Certain Libraries (on demand). Delivery accepted at Stationers' Hall.	...	Austria-Hungary.	
France	Life + 50 yrs.	Two copies by printer before action.	Ministry of Interior (Paris), or Prefecture, or office of Town Clerk.	...	Austria - Hungary, Bolivia, Congo, Costa Rica, Spain, Ecuador, Guatemala, Italy, Mexico, Montenegro, Norway, Netherlands, Portugal, Roumania, Salvador, Sweden, Argentina, Paraguay, Germany, and Monaco.	First publication in any of these countries and compliance with its formalities entitles the author to copyright and
Belgium.	Life + 50 yrs.	Registration of post-humous works and Stateor Departmental publications.	Department of Agriculture.	...	Congo, Germany, Netherlands, Mexico, Portugal, and Spain.	
Germany	Life + 30 yrs.	Registration of anonymous and pseudonymous works.	Börsenverein für den deutschen Buchhandel, Leipsic.	...	Austria, Belgium, France, Italy, United States.	

Switzerland	Life + 30 yrs.	Registration of post-humous works and State or Departmental publications. One copy within one month.	Department of Commerce.	Conditions of Performance on printed play.	Japan.	playright in all the other countries within the Union.
Italy . . .	Life + 80 yrs.	Three signed copies within 12 months.	Prefecture of Province.	Declaration of reservation of play-right.	Germany, Austria, Colombia, Spain, Mexico, Montenegro, Sweden, Norway, San Marino, France, Belgium, France, Italy, Portugal, Salvador, Costa Rica, Guatemala, Mexico, and Columbia.	
Spain . . .	Life + 80 yrs. (40 yrs. non-exclusive).	Five copies within 12 months.	Ministry of Agriculture.	...	...
Hayti . . .	Life of author or widow + 20 yrs. or 10 yrs.	Registration of post-humous works and State or Departmental publications.	Office of Secretary to Department of Interior.	...	...
Tunis . . .	Life + 50 yrs.	...	...	Reservation of play-right.	...	
Luxembourg . . .	Life + 50 yrs.	...	...	...	...
Monaco . . .	Life + 50 yrs.	...	...	Reservation of play-right.	France, Norway, Denmark, and Italy.	
Sweden . . .	Life + 50 yrs.	...	...	Reservation of right of recitation.	Sweden, Italy, France, and Denmark.	
Norway . . .	Life + 50 yrs.	One copy by printer. Does not affect author's right.	Library of University of Christiania.	...	Switzerland and United States.	
Japan . . .	Life + 30 yrs.	Registration before action.	Ministry of Interior.	...	France, Sweden, and Norway.	
Denmark . . .	Life + 50 yrs.	...	...	Reservation of right of recitation.	...	

Note.—In the case of a play performed but not printed, Italy and Spain require the deposit of one manuscript copy. By Royal Decree 31st January 1896 this deposit is not essential in Spain in the case of a foreign play.

PART II
COUNTRIES OUTSIDE THE COPYRIGHT UNION

CHAPTER I

THE UNITED STATES

WHEN a book or play is in MS. and unpublished, the author has a Common Law right of protection against infringement of his copyright and playwright.¹ Moreover, to print or publish any manuscript whatever without the consent of the author or proprietor renders the offender liable, by statute, to an action for damages.²

Protection of MS. works.

When a play has been performed, but not published in printed form, the author is in the same position as the author of a play in MS.³ The performance of a play, according to the law of the United States, is not equivalent, as in English law, to publication.

If a play is printed merely for the use of the actors, this does not amount to publication.⁴

The formalities as to registration and deposit are only necessary in the case of a play if it is issued to the public in printed form.⁵

Formalities on or before publication.

In the case of a book it has been held that recording the title and deposit of copies (see below) is "publication," extinguishing the Common Law right in the MS.⁶

The statutory protection has this distinction from the Common Law right, that the former is for a limited

¹ *Johnson v. Roberts* (1899), 159 N.Y. 70; *Palmer v. De Witt*, 47 N.Y. 532.

² Revised Stat. s. 4967.

³ *Palmer v. De Witt*, 47 N.Y. 532.

⁴ *French v. Kreling*, 63 Fed. Rep. 621.

⁵ *Maxwell v. Goodwin*, 93 Fed. Rep. 665.

⁶ *Jewellers' Agency v. Jewellers' Co.*, 155 N.Y. 241; *Wright v. Eisle*, 83 N.Y. 887.

period—twenty-eight years, and a possible extension of fourteen years more—while the Common Law right is perpetual until publication. Further, the statutory protection can only be acquired by citizens of the United States and subjects of the “proclaimed” countries (see below).¹

In order to secure copyright and playwright in a book or play published in printed form it is necessary for the author to comply with the following conditions:²—

- (1) On or before the day of publication he must deliver to the Librarian of Congress a printed copy of the *title* of the work.

The form of application to be filled up is set out in the Appendix (p. 218) and certain fees must be paid.

The author should be careful to describe the play as a “dramatic composition” and not as a “book,” even when it is in fact being published in book form.

- (2) Not later than the day of publication he must deliver to the Librarian of Congress *two copies* of the work.

These copies of the play may be typewritten.³

In the case of a book, not being a play, these two copies must be printed from type set up in the United States.

- (3) The author must insert on the title-page or the page immediately following, the following notice:⁴

“Entered according to Act of Congress in the year 190 , by _____ in the office of the Librarian of Congress at Washington,” *or* “Copyright 190 , by _____.”

According to the recent decision of *Merriam Co. v. United Dictionary Co.* this copyright notice must be inserted in all copies of the book published in the United

¹ Chace Act, 1891, s. 13.

² Revised Statutes, ss. 4952 and 5956; *Daly v. Walrath*, 40 App. Div. 220.

³ *Littleton v. Oliver Ditson Co.*, 62 Fed. Rep. 597.

⁴ Revised Statutes, s. 4962.

States,¹ but the omission of it from any copies published in other parts of the world does not preclude the author from suing for infringement of his copyright.²

Subject to the above formalities being complied with, the author acquires a statutory copyright for twenty-eight years, which may be extended at the end of such period to another fourteen years to the author, his widow, or children; but the author cannot assign his copyright for more than twenty-eight years until that period has expired, and the further extension has been obtained.³

Duration of protection.

It appears to be undecided at present whether the playwright in a printed play is of the same duration as the statutory copyright, or whether it is unlimited. In a play which is performed, but not printed, the Common Law right is perpetual until publication in printed form.

The statutory copyright and playwright can only be acquired by an American citizen, or a citizen or subject of one of the proclaimed countries,⁴ which are as follows :—

“Proclaimed” countries.

Great Britain (1st July 1891).	Portugal (20th July 1893).
France (1st July 1891).	Mexico (27th Feb. 1896).
Belgium (1st July 1891).	Chili (25th May 1896).
Germany ⁵ (15th April 1892).	China ⁵ (13th Jan. 1904).
Italy (31st Oct. 1892).	Costa Rica (19th Oct. 1899).
Switzerland (1st July 1891).	Netherlands (20th Nov. 1899).
Denmark (8th May 1893).	Cuba (17th Nov. 1903).
Spain (10th July 1895).	Japan ⁶ (28th Feb. 1906).
Norway (1st July 1905).	

The provisions of American law relating to copyright and playwright set out above are equally applicable to the author, his legal representatives and assigns.⁷

¹ *Osgood v. U.S. Aloe Co.*, 83 Fed. Rep. 470.

² *Merriam Co. v. United Dictionary Co.*, *Publisher's Weekly* (New York), 14th April 1906.

³ Revised Statutes, ss. 4953-4.

⁴ Chace Act, 1891, s. 13.

⁵ Germany is in the position of a “proclaimed” country under her treaty with the U.S. China also has a treaty.

⁶ Convention, February 28, 1906.

⁷ Revised Statutes, s. 4952.

Translation
and drama-
tisation.

The author of a book duly copyrighted in the United States has the exclusive right of translation and dramatisation.¹

Interim pro-
tection of
foreign books.

It will be seen that the above formalities of registration and deposit must be complied with on or before the date of publication. There is an exception to this rule, however, in the case of books in a foreign language first published outside the United States. Since 3rd March 1905² the author of such books is allowed a period of twelve months after publication abroad, during which he is entitled to acquire the statutory copyright in the United States, and comply with the above formalities of registration and deposit. But in order to become entitled to this privilege he must fulfil the following conditions :—

- (1) Deposit one copy of the book with the Librarian of Congress within thirty days of the publication abroad, and
- (2) Insert on the title-page or on the back of the title-page of the copy deposited and all copies sold and distributed in the United States a notice of reservation as follows :—

“Published on the day of
1906. Privilege of copyright in the United
States reserved under the Act approved 3rd
March 1905, by A. B.”

An author who has fulfilled the above conditions and within twelve months complies with the general formalities as to registration and deposit in the United States (set out on page 68) will acquire the statutory copyright, including the sole right of translating and dramatising the book, which lasts for twenty-eight years from the date of recording the printed title, subject to a possible extension of fourteen years more.

The author must, of course, be a citizen of the United

¹ Exception as to right of translation under treaty between the United States and Japan, see p. 132.

² Revised Statutes, s. 4952, as amended by Act of 3rd March 1905.

States, or a subject of one of the "proclaimed" countries.

According to the official circular ("Copyright circular, No. 33," see Appendix) the author, having fulfilled the conditions within the thirty days, is entitled to

- (a) Protection against any infringement or appropriation of the work in any way, including unauthorised translation of it, and
- (b) Free access to the United States market for the sale of the work.

The above exception in the case of foreign books first published outside the United States is provided by the law of 3rd March 1905, and it has been doubted whether it is applicable to a foreign play first published abroad in book form.

It has been held that a dramatic composition published in book form is not a "book" within the "manufacturing clause";¹ but, on the other hand, dramatic compositions appear to be included in the term "books" in the section (4962) which imposes the requirement of a copyright notice to be inserted, because the next section (4963), which makes it an offence to falsely insert "such notice," contains the phrase "in any book, map, chart, *dramatic* or musical composition."

From this it will be seen that under the American copyright statutes a play published in printed form is in some respects a "book," and in other respects it is not a "book." There is no definition of a book in the revised statutes.

The new law of 3rd March 1905 only deals with books, and whether the author chooses to regard his play under it as a "book" or under the earlier provisions as a "dramatic composition" appears to be optional.

For example, the author of a French play first printed and published in France can protect his rights in America by adopting one of two methods.

- (1) He may treat the work as a "dramatic com-

¹ Section 4956, *Littleton v. Oliver Ditson Co.*, 72 Fed. Rep. 597.

position" and comply with the ordinary formalities as to registration, etc., on or before the day of publication. In this case the two copies need not be printed in the United States. Or

- (2) He may regard the work as a "book" and be released from any formalities before publication.

Within thirty days, however, he must deposit a copy containing a reservation of his rights under the law of 3rd March 1905, and within twelve months he must comply with the ordinary formalities. He will have to describe the work as a "book," and the two copies for deposit must be printed in the United States.

It seems advisable, therefore, that the author should adopt the first method of registering the play as a "dramatic composition." If he adopts the alternative course he will have to print his play eventually in the United States to secure his copyright. It has been suggested, moreover, that he may lose his play-right.¹

If, on the other hand, the author is out of time at the date of publication, it appears to be open to him to take advantage of the law of 3rd March 1905, and within thirty days obtain the interim protection, so that he may have twelve months in which to comply with the ordinary formalities.

If a play is first performed in the United States, but not published in printed form, it will be necessary to have a simultaneous publication in one of the countries within the Union and compliance with the formalities of that country, in order not to lose the British rights. According to English law the simultaneous publication may be by printing or by public performance, and the nationality of the author is immaterial.²

Rights in
the countries
within the
Copyright
Union.

¹ *Droit d'Auteur*, 1906, pp. 1-3.

² *Boucicault v. Delafield*, 33 L.J. Ch. 305; Berne Convention, Art. 3, as amended by Additional Act of Paris, 1896.

In all the other countries within the Union (excepting Great Britain) simultaneous publication¹ would not be necessary according to their law in such a case, because they do not treat performance of a play as publication. The author's rights, therefore, would be protected, as in the case of a play in MS. If the author belonged to one of the countries within the Union he could sue for infringement of his copyright and playwright as in the case of an unpublished work.²

Example.—A British author performs his play in America. It is not printed or registered. The play is simultaneously performed in England.

The author's rights are protected at Common Law in America, and (under the Berne Convention) in all the countries within the Union (except Great Britain) as if the work was in MS. and unpublished.

According to English law the work is published, and the simultaneous publication in England secures the statutory copyright and playwright throughout the British Dominions.

In the case of a play published in printed form in the United States, it is necessary to obtain simultaneous publication in printed form or by performance (English law) in one of the countries within the Union to secure protection in those countries, and the author must comply with the formalities of that country. The nationality of the author in such a case is immaterial.

Example.—An American or British author publishes his play in printed form in America, and it is duly registered there. He simultaneously publishes it in printed form in France and complies with the formality as to deposit.

The author acquires the statutory copyright and playwright in America, and is entitled to protection of his copyright and playwright (under the Berne Convention) in all the countries within the Union.

¹ Declaration of Paris, 1896.

² Berne Convention, Art. 2.

Norway and
Sweden.

There is an exception, however, as to *Norway* and *Sweden* in the case of the American author. Since he does not belong to a country within the Union, Norway and Sweden compel him to acquire his rights through a publisher.¹

Germany.

There is a notable exception to the rule as to simultaneous publication in the case of *Germany*. Under a treaty with the United States it is provided that American authors shall have the same protection in the German Empire as if they were German authors; and as the domestic law of Germany gives protection to German authors no matter where their works are first published, an American author gets protection in the German Empire of a work first published anywhere, without the necessity of simultaneous publication in Germany or in any of the countries within the Union.

Rights in
countries out-
side the Union.

As a general rule, the author of a play first published in the United States will lose his protection in the other countries outside the Union unless he secures his rights by simultaneous publication and by compliance with the formalities prescribed by law in the respective countries. A German author, however, would be protected in the German Empire although the first publication of his work was in the United States (see above).

Simultaneous publication may be arranged to take place in one or more countries carefully selected as having treaties with other countries, and so a network of protection may be extended elsewhere.

Scheme of
international
protection.

The following scheme may be a useful guide to American authors and publishers to secure protection of the copyright in a book or printed play by an American author first published and duly copyrighted in the United States :—

1. Simultaneous publication in England and registration at Stationers' Hall secures protection, *without further formality*, in the following countries :—

¹ Query whether this is necessary since Norway became a proclaimed country.

Under the provisions of Berne Convention.¹

{ Great Britain (including Colonies and Possessions, see pp. 46-8).
 { France.
 { Belgium.
 { Germany.
 { Italy.
 { Spain.
 { Denmark.
 { Switzerland.
 { Luxembourg.
 { Monaco.
 { Hayti.
 { Tunis.
 { Japan.

2. Assignment to a citizen of Paraguay and compliance with the conditions of the Monte Video Convention, and Pan-American Convention, *e.g.* simultaneous publication and formalities (see Paraguay) secures protection in the following countries :—

Monte Video Convention.	{	Paraguay. Argentina. Peru. Uruguay. Bolivia.	Pan-American Convention.	{	Guatemala. Salvador. Costa Rica. Honduras. Nicaragua.	France. Spain. Italy. Belgium.
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- (3) Simultaneous publication and compliance with local formalities will secure protection in other countries outside the Copyright Union (*e.g.* Holland and Dutch colonies), particulars as to which are to be found in the chapters dealing with the respective countries.

UNITED STATES POSSESSIONS

Hawaii and Porto Rico.—The law relating to the protection of books and plays in these possessions is the

¹ Norway and Sweden require assignment to a publisher in the case of the American author. See p. 74 *note*.

same as in the United States since the annexation in 1898.

Cuba.—A foreign author of a play in order to protect his copyright or playwright in Cuba must comply with the following conditions:¹—

- (1) The author must register his work at the general registry kept by the State Department within one year of publication.

There is no charge for registration.

- (2) At the time of registration the author must produce the certificate from the country where the work is first published showing his title to the copyright or playwright in such country.
- (3) Three copies must be deposited at the general registry, one for the National Library, another for the University, and the third for the public archives. If the play is performed but not printed, one MS. copy will be sufficient.²

The playwright is protected on production of the certificate of registration.³

Copyrights acquired by Spaniards before the Treaty of Peace, which came into force on the 11th April 1899, are entitled to protection.⁴

Cuba became one of the "proclaimed" countries on the 17th November 1903. Accordingly a Cuban author can protect his rights in the United States by complying with the requirements set out on pp. 68-70.

The Philippines.—There is no copyright protection, apparently, in the Philippines at the present time, owing to the country being still in a state of belligerency.

¹ Military Ordinance, 19th March 1900, Arts. 1-5.

² *Ibid.* 26th February 1902, Spanish Law, Arts. 34-36.

³ *Ibid.* 19th March 1900, Art. 4.

⁴ Treaty of Peace, 10th December 1898, Art. 13.

CHAPTER II

EUROPEAN COUNTRIES OUTSIDE THE UNION

Austria.	San Marino.
Hungary.	Montenegro.
Russia.	Roumania.
Finland.	Greece and
Holland and Dutch Indies.	Turkey.
Portugal.	

AUSTRIA

THE author of a book or play in MS. has copyright and playwright.¹

When a play is published in print or performed, the author is entitled to copyright and playwright and the right of translation; but in the case of a printed play the right of translation must be expressly reserved² on the title-page, preface, or beginning of the work, in certain specified languages or in all. The right of translation, moreover, must be exercised within three years.

Copyright and playwright last for the author's life and thirty years. The right of translation for five years from the date of publication of the original work.³

No registration is necessary, except in the case of a work published anonymously or under an assumed name, which may be registered at the Ministry of Commerce.⁴

The above-mentioned rights are only applicable, apart from treaties, to the works of Austrian authors, or works

¹ Law of 1895, Arts. 4, 24, and 30.

³ Arts. 23, 43, and 47.

² Arts. 24, 28, and 34.

⁴ Art. 44.

first (or simultaneously) published in Austria; and on condition of reciprocity, foreign works published in Germany, or unpublished works of German authors.

In all other cases the protection given to foreign authors is only such as is provided by treaties.

Under Treaties.—It may be stated in a general way that British, French, German, and Italian authors can secure protection of their works in Austria by compliance with the formalities of their own country where the work is first published; and similarly Austrian authors are protected in the British Dominions, France, Germany, and Italy.

For further details of the protection provided under the various conventions, reference should be made to the respective treaties between Austria and the following countries :—

France (11th December 1866).

Hungary (10th May 1887).

Italy (8th July 1890).

Great Britain (24th April 1893).

Germany (30th December 1899).

Although the general principle mentioned above is contained in these treaties, the incidents of protection are so various that it is impossible to deal with them severally in the present work.

The treaty with Great Britain is applicable to all the British colonies and possessions, with the exception of Canada, Cape Colony, New South Wales, and Tasmania.¹

HUNGARY

The author of a book or play in MS. has copyright and playwright.²

The author of a play which is printed or performed is entitled to copyright and playwright on compliance with the following conditions :³—

¹ Orders in Council, 30th April 1894, 2nd February 1895, 11th May 1895.

² Law of 1884, Arts. 6 and 49.

³ Arts. 5, 49, and 50.

- (1) The work must be registered at the Ministry of Agriculture, Trade, and Commerce.¹
- (2) The name of the author, or his recognised literary name, should appear on the title-page under the dedication, or at the end of the preface.²
In case of a play not printed but performed, the author's name should appear in the announcements of the performance.³

The copyright and playwright last for the author's life and fifty years.⁴

The author is also entitled to the right of translation, subject to the following conditions:—

- (1) The right of translation must be reserved in specified languages or in all on the title-page or beginning of the work.⁵
- (2) The translation must be begun within one year after publication of the original work and finished within three years. In the case of works intended for the stage, the translation must be finished within six months.⁶
- (3) Information as to the commencement and the completion of the translation must be registered at the Ministry of Agriculture, Trade, and Commerce.⁷

Actions for piracy must be commenced within three years, and within three months of the time when the complainant had knowledge of the offence and the offender.⁸

The above-mentioned rights are only applicable, apart from treaties, to citizens of Hungary, or where the publisher is a Hungarian, or the author has been a ratepayer in Hungary for two years continuously.⁹

Under Treaties.—Hungary is a party with Austria to the treaties mentioned on p. 78, to which reference should be made.

¹ Arts. 42-44 and 59.

⁴ Arts. 11 and 55.

⁷ *Ibid.*

² Art. 13.

⁵ Art. 7.

⁶ Arts. 36-38.

³ Art. 56.

⁶ *Ibid.*

⁹ Art. 79.

According to the provisions of these treaties as to Hungary, however, registration is required in both countries,¹ *i.e.* where the work is first published, and in the other country where protection is sought.

RUSSIA

There is no protection in Russia for books or plays first published by foreigners outside the Czar's dominions.²

The author of a literary work first published in Russia can acquire copyright by registration, but no deposit of copies is required. There appears to be no law relating to playwright, except a special regulation³ as to plays and operas admitted to the imperial theatres. The censorship is very strict.

The right of translation, which belongs to an author of a registered literary work, is practically useless, because it has been held in the Russian Courts that a translation to be piracy must be "consecutive and word for word."⁴

The want of protection in Russia for the works of foreign authors published abroad deprives Russian authors of protection for their works in other countries, as may be seen from the following case.

Detken and Rocholl v. Treves (27th Feb. 1900).—The plaintiffs, a firm of publishers at Naples, had acquired the copyright in an Italian translation of the novel *Quo Vadis* by the Polish author Sienkiewicz; the defendant announced the publication of a translation of the same work, and the plaintiffs applied to the Court at Milan for an injunction. It appeared that, by a treaty of commerce in 1863, Russia and Italy had reserved to themselves the right of entering into a treaty to secure reciprocal rights for Russian and Italian authors in their respective countries, but that no formal convention to that effect had been concluded.

¹ *E.g.* Treaty with Italy, Art. 4.

² Law of 1887, Art. 1 (as interpreted by the Russian Courts).

³ 13th November 1827.

⁴ Court of Cassation, 13th January 1891.

The Court found that the works of Sienkiewicz written in Polish were not even protected in Russia, and might be translated into Russian with impunity; and that as no convention had been concluded between Russia and Italy for mutual protection of copyright, Russian authors were deprived of the protection allowed by the Italian law.

In view of the defects of Russian law it is important to note that the directors of certain theatres in Russia have recognised a moral obligation to pay for the use of foreign works; and in 1901 they agreed with a representative of foreign authors to acquire the playwright in the foreign plays produced at their theatres. These latter include most of the German theatres in Russia, *e.g.* at Riga and Libau, the theatre of Philippe Boch and "Palme" in St. Petersburg, as well as the Imperial Court Theatres in St. Petersburg and Moscow.¹

FINLAND

An author has no protection in Finland unless he belongs to Finland, or resides in Finland and publishes his work there.²

Subject to the above conditions, the author of a book or play in MS. (*i.e.* not published in printed form) is entitled to protection.³

When a play is printed and published, such an author is entitled to copyright and playwright if the latter is expressly reserved and the name of the author is properly given.⁴ The simple reading of a play in public without scenic accessories is not an infringement of the playwright.⁵

Copyright and playwright last for the author's life and fifty years.⁵

If the right of translation is expressly reserved on the title-page, this right belongs to the author for five years from the date of publication.⁶

¹ *Droit d'Auteur*, 1901, p. 70.

³ Arts. 1 and 12.

⁵ Arts. 3 and 12.

² Law of 1880, Art. 32.

⁴ Art. 12.

⁶ Art. 6.

HOLLAND AND THE DUTCH INDIES

The author of a book or play printed in Holland¹ or the Dutch Indies is entitled to copyright and playwright in Holland and the Dutch Indies on compliance with the following conditions:²—

- (1) The author, editor, or printer must during the month of publication deposit at the Department of Justice (or the Director of Justice in the Indies) two copies, bearing his signature on the title-page, or, if none, on the cover, together with his address and date of publication.
- (2) At the time of the deposit the printer should sign a declaration that the book or play has been printed in Holland or the Dutch Indies.
- (3) The playwright must be expressly reserved by the author on the title-page, or, if none, on the cover.

(Conditions (1) and (2) are sufficient to protect the copyright in a book.)

Unless the above conditions are fulfilled the copyright, or playwright, or both, as the case may be, are lost.

The copyright in a book or printed play lasts for fifty years from the date of the deposit; and, if the author has not assigned it during the fifty years, it continues during his life.³

The playwright in a printed play lasts for ten years from the date of deposit.⁴

The author is also entitled to the right of translation for five years from the date of the deposit, provided:⁵—

- (1) The right of translation is expressly reserved in respect of certain languages, or in all, on the title-page, or, if none, on the cover of the original.

¹ Local printing is essential, but it is doubtful whether publication in Holland is also necessary.

² Law of 1881, Arts. 10-12.

⁴ Art. 15.

³ Art. 13.

⁵ Arts. 5 and 16.

- (2) The author's translation is published in print within three years of the publication of the original.

In the case of a play which is not published in print the copyright and playwright and right of translation are protected during the author's life and thirty years, provided that the author is domiciled in Holland or the Dutch Indies.¹

Holland became one of the "proclaimed" countries on the 20th November 1899. Accordingly a Dutch author can protect his rights in the United States by complying with the formalities set out on pp. 68-70, and American authors are entitled to protection in Holland if they fulfil the requirements of the Dutch law.

Under Treaties.—Belgian and Dutch authors of literary works who comply with the formalities of the law in their own country in which the work is first published are entitled to copyright protection in the other country. This does not apply, however, to the right of translation.²

French and Dutch authors of literary works published in Holland or France are protected in the other country on compliance with the formalities of the country where the work is first published; a certificate from the librarian at the Ministry of the Interior in Paris or from the Minister of the Interior at the Hague is sufficient proof of the right to copyright protection.³

A treaty with Germany was signed in 1884, but it was not ratified by the Dutch Chambers.

The following case illustrates the protection afforded to French authors under the provisions of the French treaty.

Decourcelle v. Abrahamson and Van Stratan (26th May 1896).—The plaintiff, a music publisher at Nice, had acquired the copyright in two musical pieces entitled *Loin du Bal* and *Flirtation*, by two composers who belonged to countries within the copyright Union. The

¹ Arts. 14-16, and 27.

² Treaty with Belgium (30th June 1858).

³ Treaties with France (1855-1884).

pieces had been duly registered in Paris according to the formalities required by French law, and the copies of every edition contained the requisite notice as to reservation of rights. The defendant, a firm of booksellers at Amsterdam, included these compositions in a small collection of musical works which was sold in Holland, and the plaintiff brought an action for infringement of his copyright. The Court at Amsterdam awarded the plaintiff damages and costs.

PORTUGAL

The author of a book or play in MS. is entitled to protection of his copyright and playwright, provided that, if he is a foreigner, he belongs to a country where Portuguese authors are entitled to the same rights as citizens.¹

If a play is published in printed form, the author must deposit two copies before publication in the Royal Conservatoire at Lisbon for registration.² In the case of a non-dramatic book the deposit should be at the Public Library at Lisbon. There is no fee for registration.

On compliance with the above formalities the author, if he belongs to a country giving the reciprocal rights to Portuguese authors, is entitled to copyright and playwright, which lasts for the author's life and fifty years.³

If a play is not printed but performed, it seems that the playwright is unlimited in duration.⁴

Copyright includes the right of translation. A foreign author, however, must exercise the right within three years of publication, and the copyright in his translation expires at the end of ten years from the date of publication of the original.⁵

Under Treaties.—Spanish authors who have complied with the formalities in Spain are protected without other formality in Portugal; and they enjoy the right of trans-

¹ Law of 1867, Arts. 574 and 578.

³ Arts. 576, 579, and 595.

² Art. 604.

⁴ Art. 595.

⁵ Art. 577.

lation for the whole period of copyright (*i.e.* author's life and fifty years). Similarly Portuguese authors are protected in Spain.¹

Authors of literary works written in Portuguese and published in Brazil or Portugal enjoy in the other country the same protection as citizens.²

French and Belgian authors³ are entitled to protection of copyright and playwright in Portugal, if they have complied with the formalities in their respective countries and have registered their rights at the Ministry of the Interior at Lisbon within three months of the publication in France or Belgium.⁴ Similarly, Portuguese authors are protected in France and Belgium if they have complied with the formalities in Portugal and have registered their rights at the Ministry of the Interior in Paris or at Brussels respectively, within three months of the publication in Portugal.

A French or Belgian author, however, should exercise his right of translation within three years of publication, and his copyright in the translation expires at the end of ten years.⁵

SAN MARINO REPUBLIC

There is no local law dealing with copyright or playwright in the Republic.

By a treaty, however, with Italy (28th June 1897) the Republic gives protection to all works protected in Italy; consequently the author of a book or play first published in any of the countries within the Union, who has complied with the formalities of the law in the country where the book or play is first published, is entitled to protection in San Marino.⁶

¹ Treaty with Spain (9th August 1890).

² Treaty with Brazil (9th September 1889).

³ Treaties with France (11th July 1866) and Belgium (11th October 1866).

⁴ Art. 2.

⁵ Law of 1867, Art. 577.

⁶ Berne Convention, Art. 3, amended by Additional Act of Paris.

MONTENEGRO

There is no special copyright law, but literary property is protected, like other property, without any formalities as to registration, etc., if the author is a citizen or resident of Montenegro.¹

Under Treaties.—A French author is entitled to protection of copyright and playright in a book or play published in France, if he has complied with the formalities of French law, on production of the certificate obtained from the librarian to the Minister of the Interior in Paris and viséed by the Consul-General of Montenegro. Similarly an author of Montenegro is protected in France, on production of a certificate obtained from the Minister of Public Education and viséed by the French envoy at Cetigne.²

An Italian author is entitled to protection of his copyright and playright in a book or play published in Italy provided he has complied with the formalities required by Italian law and has expressly reserved his copyright and playright in Montenegro. Similarly an author of Montenegro is entitled to protection in Italy.³

Note.—Montenegro was one of the countries within the Union until 1st April 1900, when she retired from motives of economy.

ROUMANIA

Any author of a book or play who belongs to a country which grants reciprocal rights to Roumanian authors is entitled to copyright and playright in Roumania. Such authors, for instance, would include those who belong to any of the countries within the Union.⁴

The following condition should be complied with:—

¹ Common Law and Civil Code, 1888.

² Treaty with France, 24th January 1902.

³ Treaty with Italy, 27th November 1900.

⁴ Press Law of 1862, Art. 11.

The author should address a written request to the Ministry of Public Education to have his work registered. It is doubtful whether this written request is necessary since the abolition of deposit on 19th March 1904. No deposit of copies is now required.¹

The same formality as to registration is necessary in case of assignment.

Copyright and playwright last for the author's life and ten years after.²

Any infringement of copyright is a misdemeanour.

Piracy is punishable by fine of 100 to 2000 francs and confiscation of copies and materials.³

Every director or manager of a theatre, and every theatrical company, who produce a play at a theatre without the author's leave, are punishable with a fine of 50 to 500 francs and confiscation of the receipts on performance.⁴

By a treaty with France (28th Feb. 1893) Roumanian and French authors shall be entitled in the respective countries to the treatment of the most favoured nation with regard to the protection of literary property.

Note.—Until quite recently an author was required by Roumanian law to deposit seven copies of his work, and failure to do so was held to deprive the author of his copyright. The provision of the law relating to this deposit was repealed on the 19th March 1904.

GREECE

There is no protection of playwright in Greece, or of the copyright of a work in MS.⁵

A Greek author can acquire copyright in a book or printed play for a period of fifteen years.⁶ Two copies of the book must be deposited by the printer with the Commissary-General of the National Library at Athens.

¹ Law, 19th March 1904.

³ Penal Code, 1864, Arts. 339-341.

⁶ *Droit d'Auteur*, 1902, p. 82.

² Law of 1862, Arts. 1-2.

⁴ *Ibid.* 1864, Art. 342.

⁶ Penal Code, 1833, Art. 432.

Outside Athens the deposit must be made to the local authorities.¹

Failure to deposit these copies is punishable by a penalty and does not affect the author's copyright.

The copyright in a book or printed play by a foreign author, who has not acquired a privilege in Greece but who belongs to a country which grants the same protection to Greek authors, is in theory similarly protected.²

TURKEY

The author of a book or play which is printed and published in Turkey is entitled to copyright on compliance with the following conditions:³—

- (1) Permission to print the work must be obtained from the Minister of Public Education, and any agreement for the sale of the copyright must, before publication, be communicated to him.
- (2) The work must be published within a year of the granting of the request for the right of printing.
- (3) Two copies of the work must before publication be deposited at the Ministry of Public Education or in the provinces with the local authorities, accompanied by a declaration of the printer giving the title of the work and the number of copies printed.⁴

Copyright lasts for forty years from the date of publication.

The right of translation belongs to the author for twenty years, if he has expressly reserved this right in the preface, on the cover, or in some other part of the work.

The copyright law in Turkey does not provide for the protection of playwright. In the Consular Courts, however, it is probable that foreigners would receive protection

¹ Law of 1867, Art. 3.

² Penal Code, Art. 433.

³ Law of 1888, Art. 19; Law of 1872, Art. 4.

⁴ Law of 1888, Art. 19.

against infringements by foreigners in the same way as in Egypt, and the law relating to copyright and playwright of the country to which the Court belonged would be enforced.

Turkey has no copyright treaties with other countries.

CHAPTER III

COUNTRIES WITHIN THE MONTE VIDEO CONVENTION (SOUTH AMERICA) AND PAN-AMERICAN CONVENTION (CENTRAL AMERICA).

List of
countries.

The countries belonging to the Monte Video Convention (1889) are as follows :—

Argentine Republic.	France	} only accepted by Argentine Republic and Paraguay.
Paraguay.	Spain	
Uruguay.	Italy	
Peru.	Belgium	
Bolivia.		

Code of the
Monte Video
Convention.

First publication or performance of a book or play in one of these countries entitles the author to the same protection in all the other countries (within the Convention) as he acquires in the particular country where the first publication or performance takes place.¹

There is an exception to the above rule, however, in respect of the period of protection, because no country within the Convention is bound to recognise a longer period of protection than that which its own domestic law allows.²

There is no provision for the protection of unpublished works.

Formalities.

The formalities prescribed by the law of the country within the Convention where the book or play is first published or performed must be complied with.

¹ Monte Video Convention, 1889, Art. 2.

² *Ibid.* Art. 4.

With regard to the four European countries, France, Spain, Italy, Belgium, these formalities are specifically set out in the chapter on countries within the Copyright Union (see pp. 62-3).

Of the five South American States, viz. Argentine Republic, Paraguay, Peru, Uruguay, and Bolivia, only two—Peru and Bolivia—have a precise law for the protection of literary property, though the principle of such protection is recognised in the other States. The formalities required by Peru and Bolivia are set out below, and where there is no copyright law, formalities are, of course, dispensed with.

For instance, if a Paraguayan author first produces his book or play in Paraguay, where no registration is necessary, his play is protected in all the countries within the Convention without any formalities.¹ Again, if the author first publishes his book or printed play in Bolivia, he must comply with the formalities required by Bolivian law as to registration, and his work will be protected in all the countries within the Convention.²

The Argentine Republic and Paraguay have accepted the adherence to the Convention of France, Spain, Italy, and Belgium. Accordingly, a play first published in any one of these European countries, if the formalities of that country are complied with, is entitled to protection in Argentina and Paraguay, and *vice versa*.

France, Spain,
Italy, and
Belgium.

Example.—A play is first published in France and the French formalities complied with.

The author is entitled to protection in Argentina and Paraguay, and (under the Berne Convention) without further formality in all the countries within the Copyright Union (see pp. 62-3).

There is this distinction, however, that under the Berne Convention the protection given in each country is that which the domestic law of the respective countries allows.³

¹ Monte Video Convention, Art. 2.

² *Ibid.*

³ Berne Convention, Art. 2, and see Introduction for distinctions between Monte Video Convention and Berne Convention.

Under the Monte Video Convention the protection in Argentina and Paraguay would be such as is allowed in the country where the play is first published, *i.e.* France, subject, of course, to the exception as to the period of copyright referred to above.¹ In other words, under the Berne Convention each country applies its own domestic law of protection, whereas under the provisions of the Monte Video Convention each State enforces the rights of the author which are allowed to him by the law of the country where the play is first published or produced.²

It is necessary, therefore, to set out shortly the law of the respective States belonging to the Monte Video Convention.

ARGENTINE REPUBLIC, PARAGUAY, AND URUGUAY

There is no copyright law in these States, but literary property, including playright, is recognised and protected in the same way as other property, for the benefit of citizens or resident foreigners.³ Any infringement is regarded as an offence punishable by fine, or an injury for which the author can recover compensation in an action for damages.

There are no formalities as to registration or deposit, and no fixed period of copyright.

Argentina and Paraguay have accepted France, Spain, Italy, and Belgium as countries within the Monte Video Convention.

Paraguay is also one of the countries within the Pan-American Convention (Central America), see p. 96. Consequently, an author or his assignee belonging to Paraguay is entitled to protection in all the countries within the Pan-American Convention, provided he complies with the following formalities:—

- (1) The author or his representative must address a

¹ M. V. Convention, Art. 2.

² See additional Protocol, 12th February 1889, Art. 1.

³ *Droit d'Auteur*, 1903, p. 79.

petition, claiming his rights, to the proper official department of his State.

- (2) He must send with his petition two copies of his work, and one copy for each of the countries within the Pan-American Convention in which he desires protection of his rights.

By complying with the above formalities and by first publication in Paraguay an author or his assignee belonging to Paraguay will be entitled to protection in the following countries :—

Paraguay ¹	}	under the Monte Video Convention.
Argentina		
Peru		
Uruguay		
Bolivia		
France	}	under the Monte Video Convention.
Spain		
Italy		
Belgium		
Guatemala	}	under the Pan-American Convention.
Salvador		
Costa Rica		
Honduras		
Nicaragua		

The following cases in Argentina are useful as regards the rights of foreigners in the Republic.

Sonzogno v. Rivarola (1st Dec. 1900).—The plaintiff was the owner of the copyright in Mascagni's opera *Cavalleria Rusticana*, and the defendant, a music publisher at Buenos Ayres, published parts of the opera in Argentina. The plaintiff, being an Italian, relied upon the Monte Video Convention, to which Italy acceded in April 1900.

The defendant contended (1) that Italy's adherence to the Convention was irregular, because an administrative

¹ Paraguay belongs to both the Monte Video Convention and the Pan-American Convention.

decree was insufficient and the acceptance required the sanction of the Legislature, and (2) that the law of Argentina only protected authors residing in the Republic.

The Court decided in favour of the plaintiff on both these points.¹

Santero v. Bernabei (27th Sept. 1904).—The defendant announced the production at a theatre in Buenos Ayres of the comedy *Dora*, a Spanish adaptation by the plaintiff of M. Sardou's work. The plaintiff sued for protection of his playright, and the Court upheld his claim.²

Ricordi and Co. v. Naldini and Co. (26th May 1905).—The plaintiffs had acquired the playright in the opera *Tosca* from Signor Puccini, the composer, and the defendants gave some unauthorised performances of the opera at the theatre "Marconi." It was agreed that if the plaintiffs' rights were protected in the Argentina Republic, the defendants should pay to the plaintiffs 10 per cent of the gross receipts of each performance. The defendants contended that the copyright law does not protect foreign authors, and that the adhesion of Italy to the Monte Video Convention was irregular and of no effect to protect Italian authors. The Court, however, gave judgment in favour of the plaintiffs for the amount agreed upon.³

PERU

An author who is an inhabitant of Peru can acquire copyright in a book or printed play for his life and twenty years, but he should comply with the following formalities :⁴—

Deposit one copy in the Public Library and another copy in the archives of the Prefecture of the Department where the work is published.⁵ The deposit is *prima facie* evidence of his copyright. If the author wishes to conceal his name he should

¹ *Droit d'Auteur*, 1901, p. 31.

² *Ibid.* 1904, p. 84.

³ *Ibid.* 1905, p. 131.

⁴ Law of 1849, Arts. 1 and 3.

⁵ Art. 5.

deposit at the Prefecture a sealed envelope containing it.

The author is also entitled to the right of translation, but only if he has complied with the above formalities.¹ Any person importing into or selling in the Republic publications made in a foreign country of works, the copyright of which belongs to another, is liable to confiscation of all the copies in his possession, and these become the property of the owner of the copyright.²

The sale of pirated works is also punishable by fines.³

The lawful proprietors of a posthumous work enjoy protection for thirty years.⁴

By complying with the formalities required under the Monte Video Convention (see p. 90), an inhabitant of Peru or of one of the following countries—

Argentina,	Uruguay,
Paraguay,	Bolivia,

is entitled to protection in all the above countries as if he were a citizen.⁵

With the exception of the Monte Video Convention, Peru has no copyright treaty with other countries.

BOLIVIA

An author who is an inhabitant of Bolivia,⁶ or belongs to a country which confers similar rights on Bolivian authors resident in such country (*e.g.* Argentina, Paraguay, Peru, Uruguay, France, etc.), is entitled to protection of copyright and playwright in Bolivia.⁷

The author of a book or play in MS. has copyright and playwright.⁸ If the play is published in printed form the author must comply with the following formalities :⁹—

Deposit three copies before publication—one with the

¹ Art. 8.

³ Art. 6.

⁶ Monte Video Convention, p. 90.

⁷ Monte Video Convention. Also Treaty with France, 1887.

⁸ Law of 1879, Arts. 5 and 25.

² Art. 7.

⁴ Art. 4.

⁶ Law of 1879, Art. 9.

⁹ Arts. 33-34.

Minister of Public Education, another with the Procureur of the district, and a third copy at the Government Library.

A receipt is given for these deposits, which are registered free of charge.

Copyright and playright last for the author's life and fifty years.¹

Copyright includes the right of translation ;² but if the author is a foreigner the right must be exercised within three years, and the copyright in the translation is only protected for ten years from the publication of the original work.³

COUNTRIES WITHIN THE PAN-AMERICAN CONVENTION

The countries within this Convention are—

Guatemala	}	(Central America),
Salvador		
Costa Rica		
Honduras		
Nicaragua		
and		
Paraguay		(South America).

Authors who belong to any of these countries or their assigns are entitled to protection in all the other countries as if they were citizens, if they comply with the following formalities :⁴—

The author or his representative must address a petition to the proper official department of his State, claiming his rights, accompanied by two copies of his work and one copy for each of those countries in which he desires to protect his rights.⁵

The department distributes these copies amongst the several countries, together with a copy of the certificate showing that the author is entitled to protection.⁶

¹ Arts. 7, 10, and 24.

⁴ Pan-American Convention, Art. 5.

² Art. 8.

⁵ Art. 4.

³ *Ibid.*

⁶ Art. 4.

If the author of a book or play fulfils these conditions he secures protection of the copyright, which includes the right of translation and the playwright in all these countries.¹

The author is entitled to these rights for the term allowed in each country respectively, so long as it does not exceed the term allowed by the country in which the work is first published.²

GUATEMALA

An author can protect his copyright in Guatemala by complying with the following conditions:³—

- (1) Application must be made to the Minister of Public Education for the privilege of copyright.
- (2) Four copies of the work must be deposited—one for the National Library, one for the public Archives, and the other two for the Ministry of Public Education.

A certificate of the deposit is proof of the copyright.

- (3) The author must insert on the title-page his name, date of publication, and such conditions or legal information as he thinks necessary.

Copyright includes the right of multiplying copies in MS. or printing;⁴ and, owing to the difficulties of performance without making copies of a play, the copyright in a play seems to include playwright. It also includes the right of translation, if this is expressly reserved by the author specifying certain languages or reserving it in all.⁵

Copyright in Guatemala is perpetual.

The author must be an inhabitant of Guatemala, or belong to a country or State having a treaty with Guatemala. Such countries or States include Salvador,

¹ Arts. 2 and 7.

³ Law of 1879, Arts. 28-32.

² Art. 5.

⁴ Art. 1.

⁵ Art. 18, Art. 5.

Costa Rica, Honduras, Nicaragua, Paraguay, France, and Spain.¹

An author who belongs to Guatemala can protect his rights in—

Salvador,	Nicaragua,
Costa Rica,	and
Honduras,	Paraguay,

by compliance with the condition set out on p. 96.

French authors are protected in Guatemala as if they were citizens;² but they must deposit three copies at the Guatemala Legation in Paris (one at Ministry of Public Education in Guatemala), and obtain a certificate in addition to the formalities required by French law. The protection continues for the term allowed in the country of first publication.³

Spanish authors in Guatemala and citizens of Guatemala in Spain are protected in respect of copyright and playright, and enjoy the benefits of the most favoured nation; but three copies must be deposited at the Ministry of Public Education by Spanish authors, who must also comply with the formalities in Spain if the work is first published in that country.⁴

SALVADOR

The author of a book or play published in Salvador is entitled to copyright provided he deposits a copy of the work, before it is published, with the Minister of Agriculture, bearing the author's name on the title-page.⁵

The author is also entitled to playright, and any performance not authorised by him in writing is illegal.⁶

Copyright and playright last for the author's life.

¹ Pan-American Convention and Treaties with Spain (25th May 1893) and France (21st August 1895).

² Letter of M. Delcassé, 16th May 1899.

³ Treaty with France (21st August 1895).

⁴ Treaty with Spain (25th May 1893).

⁵ Law of 1900, Art. 9.

⁶ Art. 6.

After the author's death these rights belong to his heirs for twenty-five years, provided they are exercised within a year of the author's death.¹

A foreigner who first publishes his work in Salvador is entitled to the same protection as a citizen, and it is the same when, having first published abroad, the author produces a new edition in Salvador.

An author who belongs to Salvador is entitled to protection in the following countries :²—

Guatemala,	Nicaragua,
Costa Rica,	and
Honduras,	Paraguay,

by complying with the condition set out on p. 96.

Salvador has copyright treaties also with France (2nd June 1880) and Spain (23rd June 1884).

COSTA RICA

The author of a book or play in MS. is entitled to protection of his copyright and playwright in Costa Rica.³

When a play is performed or published by printing, the author must protect his copyright and playwright by compliance with the following conditions :⁴—

- (1) Registration at the office of the Public Libraries, and
- (2) Deposit of three copies of the play, signed by the author, within a year of its completion in print; or, if it has been performed but not printed, it will be sufficient to deposit a signed manuscript copy.

Copyright includes the right of translation,⁵ and lasts for the author's life and fifty years.⁶

There is a curious provision that if a literary work has not been duly registered, *e.g.* within the time limited, it

¹ Arts. 1-2.

³ Law of 1896, Arts. 29 and 33.

⁶ Art. 7.

² Art. 5.

⁴ Arts. 27 and 49-62.

⁶ Art. 3.

becomes public property for a period of ten years ; but at the end of such period the author can recover the copy-right by duly registering it within a year.¹

The author must be a resident or citizen of Costa Rica, or belong to a country or State which confers equal advantages on citizens of Costa Rica.

An author who belongs to Costa Rica can protect his rights in—

Guatemala,	Nicaragua,
Salvador,	and
Honduras,	Paraguay,

by complying with the conditions set out on p. 96.²

A citizen of Costa Rica can protect his rights in the United States by complying with the conditions set out on pp. 68-9.

Costa Rica has copyright treaties³ with Spain (14th November 1893) and France (28th August 1896).

HONDURAS

There is no special copyright law in Honduras, but literary property is protected like other property, without any conditions as to registration or deposit.

An author who is a citizen of Honduras is entitled to protection in—

Guatemala,	Nicaragua,
Salvador,	and
Costa Rica,	Paraguay,

by complying with the conditions set out on p. 96.⁴

NICARAGUA

While a book or play is in MS. the author is entitled to protection of copyright and playwright.⁵

When a play is published in printed form, the author

¹ Art. 63.

² Pan-American Convention.

³ *Droit d'Auteur*, 1896, p. 130, 1897, p. 110.

⁴ Pan-American Convention.

⁵ Civil Code, 1904.

protects his copyright by complying with the following conditions :¹—

- (1) The author must request the Minister of Agriculture to recognise his claim to copyright.²
- (2) Six copies must be deposited at the Government department.

A certificate of registration is granted to the author, and this is *prima facie* evidence of his copyright.

- (3) The author must insert on the title-page his name, the date of publication, and any other legal notice he thinks fit.³

The author is also entitled to the playwright.⁴

The right of translation is included in the copyright if it is expressly reserved in certain languages or in all.⁵

Copyright and playwright last for the author's life and thirty years.⁶

Authors not residing in the Republic or publishing their work outside the Republic enjoy the right of translation for ten years.⁷

The author must be a citizen or inhabitant of Nicaragua, or belong to a country which allows the same copyright protection to Nicaraguans as to its own citizens.⁸

Such countries include Guatemala, Salvador, Costa Rica, Honduras, and Paraguay.⁹

If a play is first published outside the Republic the author must reproduce it in Nicaragua within ten years from the date of publication if it is printed, or within four years from the date of first performance.¹⁰

An author who belongs to Nicaragua can protect his rights in

Guatemala,
Salvador,
Costa Rica,

Honduras,
and
Paraguay,

by complying with the conditions set out on p. 96.¹¹

¹ Art. 733.

² Art. 831.

³ Art. 844.

⁴ Art. 765.

⁵ Art. 751.

⁶ Arts. 735, 766, 769.

⁷ Art. 753.

⁸ Arts. 729 and 865.

⁹ Pan-American Convention.

¹⁰ Civil Code, 1904, Art. 858.

¹¹ Pan-American Convention.

PARAGUAY

See under "Countries within the Monte Video Convention" Paraguay, (p. 92).

COLUMBIA

The author of a book or play is entitled to copyright and playwright in Columbia on compliance with the following conditions:¹—

- (1) A request for registration must be made in the form published by the Ministry of Public Education.
- (2) If the play is published in printed form, three signed copies must be deposited—one for the Ministry of Public Education, and two for the National Library.

If the play has been performed, but not printed, one manuscript copy must be deposited.

- (3) Registration and deposit must take place within a year of the date of publication or performance.²

There is no fee payable on registration.

Every assignment of a play must be in writing and registered, otherwise the assignee will lose his rights.³

If a play is not registered within the year above mentioned it becomes public property for ten years, and then is restored to the author or his assigns on condition of registration within a year (*cf.* Costa Rica).⁴

Copyright and playwright last for the author's life and eighty years after.

There is a Government censorship in respect of plays which are printed or performed.⁵

If the author is a Columbian or Spaniard it is immaterial whether his play is first performed or published in Columbia or elsewhere.⁶

Authors who are not citizens of Columbia or of any

¹ Law of 1889, Arts. 29-30.

⁴ Art. 22.

² Art. 31.

⁵ Art. 11.

³ Art. 32.

⁶ Art. 3.

Spanish-speaking country can only be entitled to protection in Columbia by virtue of treaties.

Spanish authors, whose rights are protected in Spain, are entitled to protection in Columbia without further formality. They have the benefit, too, of the most favoured nation clause.¹

Italian authors in Columbia and Columbian authors in Italy enjoy the same rights as citizens in respect of literary property.²

¹ Treaty with Spain (28th November 1885).

² Treaty with Italy (27th October 1892.)

CHAPTER IV

OTHER COUNTRIES OUTSIDE THE COPYRIGHT UNION

Ecuador.	Venezuela.	China.
Brazil.	Mexico.	Corea.
Chili.	Egypt.	Siam.

ECUADOR

THE author of a book or play is entitled to copyright and playwright on compliance with the following conditions :¹—

- (1) The author must register the title of his play and the reservation of his rights.
- (2) If the play is printed, three copies must be deposited with the Registrar—one for the Ministry of Public Education, another for the National Library, and the third for the Provincial Library or local municipality.
If the play is not printed, the deposit of a MS. copy is sufficient.
- (3) Registration must be within six months from the date of publication of a printed play, or, if the play is not printed, within three months from the date of first performance.²

No fee is payable for registration.³

Every agreement relating to the copyright or playwright must be registered, otherwise it will be inoperative.⁴

¹ Law of 1887, Arts. 43-47.

³ Art. 50.

² Art. 49.

⁴ Art. 48.

The copyright lasts for the author's life and fifty years ; the playwright for the author's life and twenty-five years.¹ This protection is apparently only given to published works.²

The author must probably be a citizen of Ecuador ; but it is expressly provided that a foreign author may assign his playwright or his right of translation to a citizen of Ecuador, and the latter shall be entitled to prevent infringement.³

If a citizen of Ecuador first publishes his play outside Ecuador, he can acquire copyright and playwright in Ecuador by complying with the conditions as to registration, etc., mentioned above. The period for registration, however, in such a case is twelve months from publication of a printed play, or six months from the date of performance of a play not printed.⁴

French authors of works published or unpublished enjoy the same protection as citizens.⁵

Authors belonging to Mexico are entitled to the benefits of the most favoured nation in Ecuador.⁶

BRAZIL

The author of a book or play is entitled⁷ to copyright for fifty years, and to playwright and rights of translation for ten years on compliance with the following conditions :⁸—

- (1) A demand for registration, stating the author's nationality, profession, domicile, title of work to be registered, place and date of publication, must be addressed to the director of the National Library.⁹
- (2) A printed copy of the work must be deposited at

¹ Arts. 9 and 35.

² Art. 56.

³ Art. 42.

⁴ Art. 64.

⁵ Treaty with France (9th May 1898).

⁶ Treaty with Mexico (10th July 1888).

⁷ *Droit d'Auteur*, 1902, pp. 125-6.

⁸ Law of 1898, Art. 3.

⁹ Regulations, 11th June 1901.

the National Library within two years from 1st January of the year following publication or first performance.¹

- (3) When a play is printed and put on sale the author should reserve a royalty, or his consent to its performance will be presumed.

The author must be a native or a foreigner resident in Brazil, or a Portuguese author of a work written in the Portuguese language.²

A Brazilian author of a work written in the Portuguese language is similarly protected in Portugal.³

CHILI

The author of a book or play is entitled to copyright and playwright in Chili.⁴

It is sufficient for him, in order to protect these rights, to deposit three copies of the work at the Public Library of Santiago, stating the name of the owner at the head of the work.⁵

The copyright and playwright belong to the author for life, and they become the property of his heirs for five years after his death.⁶

Public performance of a play is prohibited without the *written* consent of the author or his heirs.⁷

The author must be a Chilian, or must publish his play in Chili. If he publishes in Chili a new edition of a work first published in another country, he is entitled to the same rights for a period of ten years.⁸

Chili became one of the "proclaimed" countries on the 25th May 1896; and a Chilian author, accordingly, can protect his rights in the United States by complying with the conditions set out on pp. 68-70.

¹ Law of 1898, Arts. 3 and 13.

² Treaty with Portugal (9th September 1889).

³ *Ibid.*

⁶ Art. 10.

⁷ Art. 5.

⁴ Law of 1834, Arts. 1 and 7.

⁶ Arts. 1, 2, and 5.

⁸ Art. 6.

VENEZUELA

The author of a book or play is entitled to copyright and playwright for an unlimited period.¹

If the work is published in printed form, the author must comply with the following conditions:²—

- (1) The author or his agent must give the title of his work, and request the governor of the district or the State president for a patent securing his copyright.
- (2) On receipt of the request the governor or president must take the verbal oath of the applicant that the work has not been printed previously in Venezuela or elsewhere.
The title is then to be registered and a sealed patent delivered to the applicant.
There are no fees for registration, but the patent must be duly stamped.
- (3) The patent must be printed on the back of the title-page, and published at least four times in the official Gazette.
- (4) Six copies of the work must be deposited at the Registry, and two copies must also be deposited with the Minister of Agriculture for the National Library.³

It is impossible to say in the absence of treaties whether foreigners are entitled to protection in Venezuela; the word "author" in the law of that State is not limited to citizens or inhabitants, and is defined to be "*any person* who composes a scientific, literary, or artistic work."

The safest way to secure protection for a foreigner would seem to be by assignment to a native of Venezuela.

¹ Law of 1894, Arts. 4 and 16.

² Arts. 22-31.

³ Decree 31st December 1904, Art. 8.

MEXICO

The author of a book or play is entitled to copyright—which is perpetual—and playright for life; on his death the latter belongs to his heirs for thirty years.¹

If the work is published in printed form the author must comply with the following conditions:²—

- (1) The author or his attorney must present himself at the ministry of Public Education to secure legal recognition of his copyright.
- (2) Three copies must be deposited.³
- (3) Every author, translator, and publisher must put on the cover of the work his name, the date of publication, and the conditions of reproduction or any legal information he may think proper.⁴
- (4) To protect the right of translation, the author must reserve this right, specifying any particular languages, or if reserved in all.⁵

An assignment of the right of translation should expressly grant the right of preventing others from translating the work.⁶

It is sufficient if the author is an inhabitant of the republic, or if the work is published in Mexico; if it is published outside the republic the conditions as to registration, etc., in Mexico must be complied with.⁷

Foreigners, who are not inhabitants of the republic, can acquire rights in Mexico in respect of works first published abroad, if in their own country Mexican authors enjoy the same protection as is given to citizens.⁸

American authors, accordingly, are entitled to protection in Mexico, which is one of the "proclaimed" countries. Similarly, a Mexican author can protect his rights in the United States by complying with the conditions set out on pp. 68-70.

¹ Law of 1871, Arts. 1253 and 1284.

³ Amendment of the law 1884.

⁵ Art. 1269.

⁷ Arts. 1383-4.

² Arts. 1349-1353.

⁴ Law of 1871, Art. 1364.

⁶ Art. 1270.

⁸ Art. 1386.

Belgium, France, Italy, and Ecuador have treaties with Mexico ; but, owing to the latter's renunciation of the treaty with Spain, some doubt appears to exist as to the benefits conferred by the most favoured nation clause in the respective treaties.

EGYPT

There are no local laws in Egypt dealing specifically with copyright or playwright, but the principle of literary property is recognised, and the Courts protect foreign authors against infringement of their rights.

There are no formalities as to registration or deposit of copies, and no fixed period of copyright.

The following cases relate to the rights of foreigners :—

Société des auteurs et compositeurs dramatique c. Jules Morvand.—The plaintiffs sued the defendant for infringement of their playwright by performing at the Khedival Theatre at Cairo certain pieces including *Bébé*, *Divorçons*, *La Cingalee*, etc. The defendant contended that the law relating to the protection of literary property in Egypt was not applicable to foreigners except by virtue of a treaty, and that none existed between France and Turkey or Egypt.

The French Consular Court at Cairo, however, decided in favour of the plaintiffs, and awarded them compensation for the infringement of their playwright.¹

Enoch & Cie. v. Granato-Mezzacopo (5th December 1903).—The plaintiffs, a firm of music publishers in Paris, had acquired the copyright in a waltz, entitled *Amoureuse*, from the composer Rodolph Berger, and sued the defendant, who had sold certain copies of the waltz in Egypt which had been printed in Bucharest. The mixed Court at Cairo granted an injunction and an inquiry as to damages.

The defendant appealed, and the Court of Appeal confirmed the decision as to the injunction on the 11th

¹ *Droit d' Auteur*, 1897, p. 129.

May 1904, but remitted the damages, because it appeared that the defendant had only sold a few copies inadvertently, and the plaintiffs had not suffered any appreciable damage.¹

CHINA AND COREA

Under the laws of China and Corea there is no protection for foreign dramatists; but the Consular Courts afford some remedies for the infringement of an author's rights.

Any infringement of copyright or playright (according to English law), committed by a British subject in China or Corea, is punishable by a fine (not exceeding £100), or imprisonment (not exceeding three months), or both.

These remedies are available for both British citizens and foreigners, subject, however, to the following conditions:—

- (1) No one shall be punished until a month after the publication of the English copyright law in the Consular offices at Shanghai and Seoul, unless he has been expressly warned of the provisions of the English copyright law.
- (2) Any proceedings, instituted on behalf of anyone who is not a British subject, require the consent in writing of the British Minister or *Charge d'affaires*. Such consent may be withheld, unless there is some effectual provision for the punishment of similar infringements of the rights of British subjects, when committed by the subjects of the foreign power to which the complainant belongs.²

These remedies in the Consular Courts are provided by Order in Council (2nd February 1899) which originally included Japan; but owing to the Anglo-Japanese treaty of 1894, which was made operative by Order in Council

¹ *Droit d'Auteur*, 1904, p. 33.

² Order in Council, 2nd February 1899.

(7th October 1899), the jurisdiction of the British Consular Courts in Japan ceased from 4th August 1899. Now, however, since Japan is one of the countries within the Copyright Union, having acceded to the Berne Convention on the 8th August 1899, any infringement of copyright or playright in Japan is actionable in the Courts of the country according to the law of Japan.¹

SIAM

The author of a book or play first printed and published in Siam is entitled to protection if he complies with the following conditions:²—

- (1) A printed copy, signed by the author, must be submitted for registration within twelve months from the date of publication.
- (2) In addition to this copy, three other copies must be deposited for public libraries.
- (3) A fee of five ticals is payable on registration.

After publication and registration of a work any assignment must be registered.³

The author's copyright includes the right of translation, and indirectly playright appears to be protected, since it is unlawful to make any extracts from a copy-righted work.⁴

The author's protection is the same as in England, for the author's life and seven years, or forty-two years from publication, whichever period is longest.⁵

The nationality of the author is immaterial provided that the work is first printed and published in Siam. This condition permits of simultaneous publication in another country, by which the author's rights may also be protected elsewhere.⁶

¹ *Droit d'Auteur*, 1903, p. 62.

³ Art. 13.

⁵ Art. 5.

² Law of 1901.

⁴ Art. 16.

⁶ Arts. 3 and 7.

TABLE OF COUNTRIES OUTSIDE THE COPYRIGHT UNION
(BOOKS AND PRINTED PLAYS)

Countries.	Duration of Copyright.	Registration and Deposit.		Notices, etc.	Treaties.	Characteristics of International Protection.
		Number of Copies and Time.	Place of Deposit.			
United States	28 yrs. + 14 yrs.	Printed title and two copies (books printed in U.S.) on or before publication.	Librarian of Congress, Washington.	Notice of Copyright in every book or printed play.	Germany, China.	Printing and first publication in United States. Nationality.
Austria.	Life + 30 yrs.	Registration of anonymous or pseudonymous works.	Ministry of Commerce.	Reservation of rights of translation.	Great Britain, France, Italy, Germany, Hungary.	By treaties, or German authors.
Hungary	Life + 50 yrs.	Registration of pseud. and anonymous works; of date of commencement and end of translation; also of works first published abroad for protection under treaty with Great Britain.	Ministry of Agriculture.	Reservation of rights of translation. Name of author on title-page or in announcement of plays.	Great Britain, France, Italy, Germany, Austria.	Two years rate-payer and resident in Hungary. Treaties.
Russia.	Life + 50 yrs.	Registration.	Royal Academy Fine Arts.	...	...	...
Finland	Life + 50 yrs.	...	...	Reservation of play-right and rights of translation. Author's name on title-page.	...	Residence and publication in Finland.

Holland and Dutch Indies	50 yrs. from deposit.	Two copies within one month.	Department of Justice.	Reservation of play-right and rights of translation.	France and Belgium.	Printing in Holland or Dutch Indies. Unpublished works Domicile or Dutch. Treaties.
Portugal	Life + 50 yrs.	Two copies before publication.	Books --- Public Library, Lisbon. Plays --- Royal Conservatory, Lisbon.	...	Spain, France, Belgium, Brazil.	Reciprocity.
San Marino	...	...	...	...	Italy.	Treaty.
Montenegro	...	...	...	...	France, Italy.	Residence. Treaties.
Roumania	Life + 10 yrs.	Written request for registration.	Ministry of Public Education.	...	France.	Reciprocity.
Greece	15 yrs.	Two copies within 10 days. Does not affect the author's rights.	Public Library.	...	...	Reciprocity.
Turkey	Life or 40 yrs.	Two copies before publication.	Ministry of Public Instruction.	Reservation of rights of translation.	...	Consular Courts.
Argentina	...	Only under Monte Video Convention.	See Convention.	...	Monte Video Convention.	...
Paraguay	...	Only under Monte Video Convention.	See Convention.	...	Monte Video Convention.	...
Peru	Life + 20 yrs.	Two copies with author's name on work or in sealed envelope.	Public Library and Archives of Prefecture of Department.	...	Monte Video Convention.	...

TABLE OF COUNTRIES OUTSIDE THE COPYRIGHT UNION—Continued.

Countries.	Duration of Copyright.	Registration and Deposit.		Notices, etc.	Treaties.	Characteristics of International Protection.
		Number of Copies and Time.	Place of Deposit.			
Uruguay	...	Only under Monte Video Convention.	See Convention.	...	Monte Video Convention.	...
Bolivia.	Life + 50 yrs.	Three copies before publication.	Ministry of Public Education, Procureur of District and Government Library.	...	Monte Video Convention.	Citizens of country where Bolivian authors are protected.
Guatemala	Perpetual.	Four copies and request for copyright.	Ministry of Public Education.	Reservation of rights of translation.	France, Spain, and Pan-American Convention.	...
Salvador	Life + 25 yrs.	One copy before publication.	Ministry of Agriculture.	...	France, Spain, and Pan-American Convention.	...
Costa Rica	Life + 50 yrs.	Three signed copies (books). One signed copy (unprinted play) within twelve months.	Office of Public Libraries.	...	France, Spain, and Pan-American Convention.	Residence, or citizenship, of country where Costa Rica authors are protected.
Honduras	...	...	...	...	Nicaragua and Pan-American Convention.	...
Nicaragua	Life + 30 yrs.	Six copies and request for copyright.	Ministry of Agriculture.	Reservation of rights of translation, author's name on title-page.	Honduras and Pan-American Convention.	Residence, or citizenship, of country where Nicaraguan authors are protected.

Columbia	Life + 80 yrs.	Three signed copies (books). One signed copy (unprinted play) and request for copy-right.	Office of Secretary to Provincial Government.	...	Spain, Italy.	Reciprocity with Spanish speaking countries. Treaties.
Ecuador	Life + 50 yrs.	Three copies within six months (books). One copy within three months (unprinted plays).	Cantonal Registration Office.	All agreements must be registered.	France, Mexico.	Treaties.
Brazil	50 yrs.	One printed copy within two years of publication or performance and formal request for copy-right.	National Library.	Reservation of royalties on printed plays.	Portugal.	Residence. Treaty.
Chili	Life + 5 yrs.	Three copies.	Public Library, Santiago.	Name of author or proprietor on work.	...	Publication or republication in Chili.
Venezuela	Perpetual.	Eight copies. Request for copyright patent and oath.	Six at Registry and two at Ministry of Agriculture.	Copyright patent inserted on back of title-page.	...	Doubtful.
Mexico	Perpetual.	Three copies. Personal application.	Ministry of Public Instruction.	Reservation of rights of translation.	France, Belgium, Italy, Ecuador.	Reciprocity, residence, or first publication.
Egypt	...	...	...	...	...	Mixed and Consular Courts.
China	...	...	...	...	United States (very limited).	Consular Courts.
Corea	...	...	...	...	...	Consular Courts.
Siam	Life + 7 yrs. or 42 yrs.	Four copies within twelve months.	Registrar and Libraries.	...	...	Printing and first publication in Siam.

PART III

MISCELLANEOUS AND GENERAL

CHAPTER I

DRAMATISATION OF NOVELS

IN the British Dominions.—A novel is not a dramatic piece, ready and fit for representation on the stage. Consequently, the author of a novel has the copyright in his book, but he has no playwright according to English law.¹ Subject to the exception mentioned below, a novel on publication is open to all the world for the purpose of dramatising.

A person who dramatises a novel, however, is not entitled to infringe the copyright, which consists in the exclusive right to multiply copies of the book, or any substantial part of it.² If a dramatist, for instance, takes so much of the conversation in a novel, for the purpose of a play, as would amount to a substantial infringement of the copyright in the book, he may be restrained from making copies of the play even though they are only intended for the purpose of licence or performance.³

On the other hand, a dramatist may make use of the plot, the characters, and the dramatic situations contained in the novel with impunity.⁴

It must be remembered, however, that playwright attaches to a play, not by reason of performance, but from the moment it is completed in MS.⁵ A novelist,

¹ *Toole v. Young*, 9 Q.B. 531. Exception in Australia, p. 133.

² *Warne v. Seebohm*, 39 Ch.D. 73. See p. 150.

³ *Warne v. Seebohm*, 39 Ch.D. 73.

⁴ *Toole v. Young*, 9 Q.B. 531.

⁵ *Reichardt v. Sapte* (1893), 2 Q.B. 308. See p. 145.

therefore, may dramatise his novel and so acquire play-right. He will be entitled to the exclusive right of representing his dramatic version so soon as it is written, and, as the case may be, even before the novel is published.

If the novelist submits his dramatised version for perusal to his publisher or any third party before the novel is published, it is conceived that he may secure evidence of his title to playright quite as substantial as if he had a so-called "copyright" performance.

As a matter of practice, however, a copyright performance is generally resorted to in such a case, because it enables registration to be made at Stationers' Hall; and registration of a play, although it is not required by law, operates as a danger signal to pirates.

It is competent for another person to dramatise the novel without infringing the dramatised version first completed by the novelist.¹ It is possible for there to be two dramatisations of a novel without an infringement of the playright,² in the same way as there may be two novels derived from a common source without a necessary infringement of copyright.³

If a writer while dramatising a novel takes the incidents, characters, and dialogue of a drama founded upon that novel, and reproduces what is in substance identical with the previous drama, there might be an infringement of the right of the earlier dramatist, if the later drama were represented on the stage.⁴

The test, therefore, in such a case appears to be, is the later drama in substance identical with the previous drama?⁵

In the case of the novelisation of plays the principles are similar, but the result is different.

¹ Reade *v.* Conquest, 30 L.J. C.P. 209.

² Toole *v.* Young, 9 Q.B. 523.

³ Schlesinger *v.* Bedford, 63 L.T. 762. See p. 152.

⁴ Reade *v.* Conquest, 31 L.J. C.P. 153; Schlesinger *v.* Turner, 63 L.J. 764, *Ibid.*

⁵ Harper *v.* Ganthony, Circuit Ct. Southern Dist. of New York, April 1895.

The author of a play having completed a work ready and capable of being printed and published as a book, as well as being performed as a dramatic piece, is entitled to the copyright in addition to the playwright.¹

In the Countries within the Union (except Great Britain).—The author of any novel, who has secured his copyright by compliance with the formalities of the country within the Union in which it is first published, has the exclusive right of dramatisation in all the countries within the Union except the British dominions.²

In the Countries outside the Union.—There is no universal rule in these countries, and their respective laws must be referred to under the separate headings.

The author (or his assigns) of a novel which has been duly copyrighted in the United States has the exclusive right of dramatisation. "Copyrighting" a book in the United States means compliance with the formalities set out on pp. 68-70.³

It is sometimes claimed that the playwright in a novel in the United States, protected as it is by securing the book copyright, is part and parcel thereof, and that it is included in an assignment of the copyright. The utmost care should be taken that no assignment of the copyright should be capable of being construed as passing the playwright without adequate consideration being given for it.

¹ *Gilbert v. The Star Newspaper Co.* (11 *Times Rep.* 4) see p. 145.

² Declaration of Paris, 1896, to which Great Britain has not acceded.

³ Revised Stat., s. 4952.

CHAPTER II

PLAYRIGHT IN SITUATIONS, INCIDENTS, AND STAGE BUSINESS, ETC.

IN English law the copying of any part of a play may be an infringement of the playwright. But a "part" is not the same as a "particle," *e.g.* the crowing of the cock in Hamlet, or the introduction of two or three lines of the dialogue, would not necessarily amount to an infringement. The part taken must be substantial and material.¹

The infringement of playwright does not depend upon the quantity taken, which may be great or small, but if what is copied comprises a material part of the play it is illegal.²

What is substantial and material has reference to the dramatic value or importance of what is taken, apart from the quantity or the dialogue.

In the case cited above the defendant had copied from the plaintiff's drama two scenes or "points"—not part of the dialogue, but in the nature of dramatic situations or scenic effects—yet it was held that there was no substantial or material infringement, because what was taken was so slight and had little bearing upon the dramatic effect of the play.

Where, however, a powerful dramatic situation and incidents were copied from the plaintiff's play—although the dialogue was not taken—it was held to be an infringement of the playwright of the plaintiff.³

¹ Chatterton *v.* Cave, 3 A.C. 483.

² *Ibid.*

³ Daly *v.* Palmer, 6 Blatch, 256. Copinger on *Copyright*, 4th edition, p. 306.

To explain the legal principle, it may be useful to set out fully the details of the particular infringement in that case, which, although decided in America, is a good illustration of the rule which would undoubtedly be applied in the English Courts. The plaintiff's play was called *Under the Gaslight*, and the defendant's play by Mr. Boucicault was entitled *After Dark*.

The scene or dramatic situation and incidents of the plaintiff's play which were infringed by the defendant may thus be summarised :—

There is a railway track, and a signal box or shed into which a woman is locked at her request by a signalman, who then goes away. Two men appear; one of them attacks the other, binds him with a rope and pins him down upon the railway line, leaving him to be killed by an approaching train. The woman in the signal box sees what is done, and, hearing the train approaching, breaks open the door of the signal box with an axe, and frees the intended victim an instant before the train rushes by.

In Mr. Boucicault's play the situation was varied in this wise :—

A man thrown into a wine cellar sees, through a door opening into an adjoining vault, two men carrying the body of a man who is drugged and passed through a hole in the wall. He enlarges this hole with an iron bar and realises that the body is lying upon an underground railway line. Hearing the train approaching, he crawls through the hole and removes the body just in time to save it from the passing train.

In the plaintiff's play it was said that the scene was original, and was the most important and effective situation in the play. In giving judgment the judge explained the legal principle in these words :—

“All that is substantial and material in the plaintiff's ‘railroad scene’ has been used by Boucicault in the same order and sequence of events, and in a manner to convey the same sensations and impressions to those who

see it represented as in the plaintiff's play. Boucicault has, indeed, adapted the plaintiff's series of events to the story of his play, and in doing so has evinced skill and art. But the same use is made in both plays of the same series of events to excite by representation the same emotions in the same sequence. . . . The 'railroad scene' in Boucicault's play contains everything which makes the 'railroad scene' in the plaintiff's play attractive as a representation on the stage."

There may be dramatic rights in a "play without words," such as *L'enfant Prodigue*, if it contains a plot, dramatic incidents, and situations.¹

In America it has been decided that there may be playwright even in a dance, if it contains a story, with dramatic action and incidents.² On the other hand, if the dance is merely a series of graceful movements combined with attractive drapery, lights, and shadows, telling no story, portraying no character, and depicting no emotion, it cannot be the subject of playwright.

This also appears to be the principle of English law, and the distinction is similar to that between a *Ballet d'action* and a *Ballet divertissement*, the former being capable of playwright, while the latter is not.³

In the cases of *Tree v. Bowkett*, *Nethersole v. Bell*, and *Beere v. Ellis* (set out on pp. 153 and 154 respectively), further details will be found of infringements of playwright in situations, incidents, and stage business.

The singing of a song with dramatic action, intended to express various emotions, where the performer assumes certain characters, may be the subject of playwright.⁴

Every case of this kind, however, must depend upon the attendant circumstances, because it has been held that the mere singing of a song, which requires neither acting nor scenery for its production, is not a "dramatic piece."⁵

¹ *Daly v. Palmer*, 6 Blatch, 256, 264.

² *Fuller v. Bemis*, 50 Fed. Rep. 926.

³ 3 & 4 Will. IV. c. 15, s. 1.

⁴ *Russell v. Smith*, 12 Q.B. 217; *Clark v. Bishop*, 25 L.T. 908.

⁵ *Fuller v. Blackpool Winter Gardens*, 2 Q.B. 429.

It is subject to the law relating to "musical compositions," which is outside the scope of the present work.

The burlesque of a play, or the parody of a song, containing portions of the original piece in which playwright exists, has been decided in America as not constituting an infringement of playwright.¹

This mimicry, it was pointed out, is a distinct and different variety of the histrionic art, and need not be an interference with the author's rights in the original piece.²

Music hall "turns" which are of a dramatic character are entitled to protection, and any great literary merit is not essential. Vaudeville artists and authors should remember that, although the performance of a "stage play" is prohibited by English law at a music hall, or any other place of entertainment not duly licensed for the performance of stage plays, this does not in any way affect the playwright of the author or his assignee. The author of a stage play produced at a music hall is entitled to the same remedies for enforcing his playwright as if the piece had been examined by the Lord Chamberlain and performed at a duly licensed theatre.³

¹ Bloom v. Nixon, 125 Fed. Rep. 977.

² *Ibid.*

³ Russell v. Smith, *supra*.

CHAPTER III

TRANSFER OF PLAYRIGHT AND COPYRIGHT

IN the British Dominions.—The assignment of the copyright or playright in any book or play, published in the lifetime of the author, must be in writing. It need not be by deed or witnessed.¹

Another mode of assignment is by making an entry of assignment in the register at Stationers' Hall; and this method has the advantage of not being subject to any stamp or *ad valorem* duty.² The assignment of the copyright in a play does not transfer the playright unless it is expressly included.³

An author can assign his interest in the copyright or playright in a book or play before as well as after publication.⁴

The assignee of the copyright in a book (or printed play) cannot sue for infringement of the copyright unless the assignment is registered, or he is registered as the proprietor of the copyright. This rule does not apply to playright. (See p. 173.)⁵

If a book or play is not published during the lifetime of the author the copyright and playright, according to a recent decision, become the property of the

¹ *Leyland v. Stewart*, 4 Ch.D. 419; 3 & 4 Will. IV. c. 15, s. 2; *Marsh v. Conquest*, 17 C.B.N.S. 218; *Cumberland v. Copeland*, 31 L.J. Ex. 353.

² 5 & 6 Vict. c. 45, s. 13.

³ 5 & 6 Vict. c. 45, s. 13.

⁴ 5 & 6 Vict. c. 45, s. 2 and s. 20; 3 & 4 Will. IV. c. 15.

⁵ 5 & 6 Vict. c. 45, s. 24. Exception in Natal and in the Commonwealth of Australia under Copyright Act 1905.

owner of the author's manuscript from which it is first published.¹

Subject to the above-mentioned exception in the case of posthumous works, copyright and playright being personal property pass at the author's death to his legal representatives.

Apart from assignment, the author may grant a licence to print and publish, or perform his play. The licence should be in writing, and should be carefully drafted, such debatable phrases as the "London right," for instance, should be avoided. A licence need not be registered.²

An exclusive licence, or the sole liberty to print and publish, "is a leave to do a thing, and a contract not to give leave to anybody else to do the same thing." The registered proprietor of the copyright is entitled to sue for an infringement by any one not licensed, but the licensee would not be able to sue alone.³ If the registered proprietor gave a licence to some one else, the person with an exclusive licence would have a remedy against the former for breach of contract, but not against the subsequent licensee. A copyright or playright licence is revocable.

The copyright and playright in a play may be separately assigned to different persons; and are divisible, *e.g.* playright of a play may be assigned for London only, and the provincial or touring rights may be also assigned. It has been held by the Courts in New South Wales, that the proprietor of playright in Great Britain can assign the playright for the Australian Colonies, and the assignee can sue in his own name to restrain infringement of his rights.⁴

In other Countries within and outside the Union.—The domestic laws of the respective countries regulate the sale and transfer of copyright and playright.

¹ 5 & 6 Vict. c. 45, ss. 3 and 20; *Macmillan v. Dent* (1906), 1 Ch.

101.

² 5 & 6 Vict. c. 45, s. 15; 3 & 4 Will. IV. c. 15, s. 2.

³ *Heap v. Hartley*, 42 Ch.D. 470.

⁴ *Holt v. Woods* (1896), 17 N.S.W.R. 36.

In the United States.—An author, if he is a citizen or subject of the United States, or of one of the “proclaimed” countries, can assign his rights in a play in MS., and the author or assignee can sue, in case of infringement, for all the damages occasioned by such injury.¹

After a play has been copyrighted the assignment, which must be in writing, must be registered at the office of the Librarian of Congress within sixty days after the assignment.²

The author cannot assign his rights beyond the period of twenty-eight years in the first instance.

The assignee may sue for infringements committed before the date of the assignment.³

A licence to publish a copyrighted play must be signed by the author or proprietor in the presence of two witnesses.⁴

Upon the death of the author or proprietor without a will the copyright and playwright pass to his next of kin.⁵

In all assignments the author should be careful to state specifically what he is assigning. In English law “copyright” is defined to be the sole liberty of multiplying copies by printing or otherwise. In the United States the equivalent right is that of “printing, publishing, vending, etc.,” but the word “copyright” appears to be sometimes used in a sense which includes playwright, or is sought *ex post facto* to be so construed by the assignee.

¹ Revised Stat., s. 4967.

² Revised Stat., s. 4955.

³ *Gilmore v. Anderson*, 38 Fed. Rep. 846.

⁴ Revised Stat., s. 4965.

⁵ Revised Stat., s. 4952.

CHAPTER IV

RIGHT OF TRANSLATION

In the Countries within the Union.—An author, belonging to any one of the countries within the Union, or his lawful representative, is entitled *in the other countries* to the exclusive right of making or authorising the translation of his work during the whole period of protection of the original work, provided the translation is published in one of these countries within ten years after the first publication of the original work.¹

Under the Code.

If at the end of ten years after the first publication of the original work the author has not published a translation in one of the countries within the Union, this right is forfeited.²

The right of translation is subject to the condition that the author has complied with the formalities required by the law of the country where the original work is first published.³

The right of translation includes the right of having a translation made, and authorised translations are protected as original works.⁴

In Norway and Sweden the author's right of translation is limited to ten years from the year of publication of the original work.⁵

Norway and Sweden.

¹ Berne Convention, Art. 5, amended by Additional Act of Paris, Art. 3. Norway and Sweden, however, have not acceded to the Additional Act, but are bound by the original terms of the Convention; see *infra*.

² 49 & 50 Vict. c. 33, s. 5.

³ Berne Convention, Art. 6.

⁴ *Ibid.*

⁵ *Ibid.* Art. 5. Norway and Sweden have not acceded to the Additional Act.

Publication.

The 31st December of the year in which the original work was first published is admitted as the date of publication, from which the periods relating to the right of translation must be calculated.¹

With regard to the author's right of translation the meaning of "publication" is most important. Under the Code the right of translation must be exercised within a certain period, and it extends over a limited period, dating from the year of publication of the original work; and, as has already been pointed out (p. 16), the performance of a play is publication in English law, while in the other countries within the Union it is not publication. Consequently, if a play is performed, but not issued to the public in printed form, the author does not lose his right of translation in those countries, even though he has not exercised it within ten years from the date of the performance.²

Under Treaties.

In some of the treaties between the countries within the Union there are provisions affecting the author's right of translation, but these are superseded by the Code unless they confer upon authors more extensive rights.³

Under the Domestic Laws.

It should be noted that under the Code the author's exclusive right of translation extends throughout all the countries within the Union, other than the country to which the author belongs. For instance, if a book is first published by an English author, his exclusive right of translation is protected in France, Germany, Belgium, etc. (fourteen countries). But the author's right of translation in his own country is dependent upon the domestic law, which, in the instance just given, would be the law of England.

British Dominions.

There is no provision in the English copyright laws which expressly gives British authors the exclusive right of translation in their own country. On the other hand,

¹ Berne Convention, Art. 5.

² *Raspantini v. Theodoli*, Rome, 10th October 1896.

³ Berne Convention, additional article.

there are certain Indian cases¹ which suggest that such a right is not recognised, unless the author has produced a translation, and so acquires copyright in the translation as if it were an original work.² In cases where the right may be important (*e.g.* in British India, South Africa, or in Wales) a British author can always protect himself in this way, by being first in the field with a translation.³

Under the Copyright Act 1905 the owner of copyright in a book has the exclusive right of translation in Australia and Tasmania, but this is the only part of the British dominions where the right is expressly provided by statute. Where the author has assigned his copyright, and a translation is made with his consent, a notice must be inserted on the title-page of the translation to the effect that the translation has been made by some person other than the author.⁴

The Australian
Common-
wealth.

The right of translation, moreover, must be exercised within ten years.⁵

The author's right of translation is not expressly mentioned in the laws of France; but according to some decisions in the French Courts the "right of reproduction," which belongs to an author, includes the right of translating his work. The translation of a French book into a foreign language necessarily reproduces the original work. Since the translator takes its title, subject, ideas, arguments, and phrases—in a word, everything except the language. And it is the subject, the ideas, the order in which they are presented, and their development which constitute a work, and not the dialect (*idiome*) in which it is written.⁶

France.

The author's copyright includes the right of translation in Germany, and if the copyright is assigned, the author

Germany.

¹ *Munshi v. Mirza* (1890), 14 Ind. L.R., Bombay, 586; *Macmillan v. Shamsal* (1895), 19 Ind. L.R., Bombay, 557.

² 49 & 50 Vict. c. 33, s. 5 (3); Berne Convention, Art. 6.

³ 19 Ind. L.R., Bombay, at p. 570.

⁴ Copyright Act 1905, s. 29.

⁵ *Ibid.* s. 30.

⁶ Judgment of the Tribunal of the Seine, affirmed by the Imperial Court of Paris, 17th July 1847.

reserves his exclusive right of translation in the absence of any stipulation to the contrary.¹

Italy. In Italy the author has the exclusive right of authorising translations of his work for a period of ten years from the date of first publication.²

Belgium. Copyright in Belgium includes the right of making or authorising the translation of the work.³

Spain. The author has the right of translation in Spain.⁴

Switzerland. In Switzerland copyright includes the right of translation, but the author must exercise the right within five years of the publication of the original work.⁵

Tunis, Hayti, and Monaco. The author has the exclusive right of translation in Tunis, Hayti, and Monaco.⁶

Luxembourg and Japan. Copyright includes the exclusive right of translation in Luxembourg and Japan, but the author must exercise the right within ten years.⁷ Under the treaty between Japan and the United States, the right of translation belonging to a Japanese author does not hold good against a citizen or subject of the United States in respect of works published since the 28th February 1906.

Norway, Denmark, and Sweden. In the Scandinavian countries the author has the exclusive right of translation, but it expires at the end of ten years. In Denmark, however, the full term of copyright is allowed if the work is published in several languages within the period of ten years. And in Norway the right of translation is similarly extended, if the work is published in several languages within a year of the original publication. The translation may be from a language to a dialect, or *vice versa*, or from one dialect into another; and Norwegian, Danish, or Swedish are regarded as dialects of the same language.⁸

¹ Law of 1901; Arts. 8, 14.

³ Law of 1886, Art. 12.

⁶ Law of 1883, Arts. 1, 2.

⁶ Tunis, Law of 1889, Art. 5; Hayti, Law of 1885, Art. 5; Monaco, Law of 1889, Art. 4.

⁷ Luxembourg, Law of 1898, Art. 12; Japan, Law of 1899, Arts. 1, 7.

⁸ Norway, Law of 1893, Art. 4; Denmark, Law of 1902, Art. 4, as amended by Law of 1904; Sweden, Law of 1877, Art. 3, as amended by Law of 1904.

² Law of 1882, Art. 12.

⁴ Law of 1879, Arts. 12, 13.

In the Countries outside the Copyright Union.—The domestic laws of most of these countries give the author who acquires copyright the exclusive right of translating or authorising a translation of his work. Special provisions are made in some cases for the protection of this right, e.g. a reservation on the title-page by the author of the particular languages for which he claims the right of translation, and the respective laws of each country, therefore, should be consulted. (See also Table on pp. 112-15.)

The author of a work duly copyrighted in the United States, or his assigns, have the exclusive right to translate it without further formality. United States.

It has already been pointed out¹ that in order to copyright a work in the United States certain formalities must be complied with on or before the day of publication.

There is an exception to this rule, however, in the case of a book first published in another country and in a foreign language.² The author is allowed a period of twelve months from publication to comply with the formalities required for the protection of his rights in the United States, but he must fulfil the following conditions :—

- (1) Deposit one copy with the Librarian of Congress within thirty days after publication abroad, and
- (2) Insert on the title-page, or on the back of the title-page, of the copy and of all copies sold and distributed in the United States a notice of reservation as follows :—

“ Published on the day of
19 . Privilege of copyright in the United
States reserved under the Act approved
1st March 1905, by A. B.”

A printed form,³ to be obtained from the

¹ See p. 68.

² Rev. Stat., 4952, amended 3rd March 1905; Bulletin No. 1, 6th edition, 1st October 1905, Copyright Office, Washington.

³ Appendix, p. 232.

Librarian of Congress, should be filled up and sent with the copy of the original work. No fee is payable in respect of this registration.

If the above conditions are complied with, the author, if he is a citizen of the United States, or a citizen or subject of one of the "proclaimed" countries, secures for a period of twelve months from the date of first publication of the original work—

- (a) Protection against any infringement or appropriation of the work in any way, including unauthorised translation of it.
- (b) Free access to the United States market for the sale of the work.

An author, who has complied with the above conditions, and thus secured protection for the period of twelve months, must, during the period of twelve months, comply with the ordinary requirements of the law as to registration, etc., in the United States (set out on p. 68), in order to secure his rights for a term of twenty-eight years from the date of the later registration.¹

¹ Revised Stat., s. 4952, amended 3rd March 1905. Upon the question whether this provision as to foreign books is applicable to foreign plays first published in printed form see pp. 71-2.

CHAPTER V

REMEDIES FOR INFRINGEMENT OF PLAYRIGHT AND COPYRIGHT

In the British Dominions.—The author has the following remedies for infringement:—

(1) *Of Copyright.*—An action for damages, and an injunction; all pirated copies become the property of the author, and he can recover them by action or their value.¹

(2) *Of Playright.*—An action for damages which shall be:—

(a) Not less than 40s. for each performance, or

(b) The full amount of the benefit or advantage arising from performances,² or

(c) The injury or loss sustained by the plaintiff, whichever shall be the greatest damages.

The plaintiff is also entitled to his taxed costs, which may be allowed on the High Court scale, though only 40s. is recovered as damages.³

The author is also entitled to an injunction to prevent further infringements.

It is not necessary that the infringement should be wilful.⁴

An action for infringement of copyright or playright

¹ 5 & 6 Vict. c. 45, ss. 15 and 23.

² 3 & 4 Will. IV. c. 15, s. 1; 5 & 6 Vict. c. 45, s. 22.

³ 5 & 6 Vict. c. 97, s. 2; *Reeve v. Gibson* (1891), 1 Q.B. 652.

⁴ *Lee v. Simpson*, 3 C.B. 871.

must be brought within a year of the infringement complained of.¹

A British author seeking to restrain infringements in foreign countries must apply to the Courts of the country where his rights are infringed, even though the infringement is perpetrated by a British subject resident in England.²

In the Australian Commonwealth.—Under the Copyright Act 1905, special provisions are made in respect of infringement of copyright and playright registered in Australia and Tasmania. In the first place, an action is not maintainable unless it is commenced within two years after the infringement is committed.³

Secondly, proceedings in a Court of summary jurisdiction for penalties in respect of such infringements must be commenced within six months from the date of the offence.⁴

Moreover, an author of a play can sue the proprietor, tenant, or occupier of a theatre where his playright is infringed,⁵ and after due notice in writing to the performers, he can proceed against any persons who take part in an unauthorised performance.⁶

Any person who, directly or indirectly, is in any way knowingly concerned in the commission of any offence under the Act, may also be proceeded against.⁷

In the other Countries within the Union.—The action or proceedings must be brought in the country where the rights are infringed, and the procedure is regulated by the law of such country.

In the United States.—Where the author's rights in a play in MS. have been infringed, the author can sue for damages and an injunction.⁸ In the case of infringement of copyright the printer and publisher are both liable.⁹

¹ 3 & 4 Will. IV. c. 15, s. 3; 5 & 6 Vict. c. 45, s. 26.

² *Morocco Bound Syndicate v. Harris* (1895), 1 Ch. 535.

³ Copyright Act 1905, s. 48.

⁴ *Ibid.* s. 59.

⁵ *Ibid.* s. 51.

⁶ *Ibid.* s. 54.

⁷ *Ibid.* s. 58.

⁸ *Palmer v. De Witt*, 47 N.Y. 532.

⁹ Revised Statutes, s. 4967.

Where the play has been duly copyrighted in the United States (see p. 68) the author is entitled to damages for the infringement of the playwright (not less than 100 dollars for the first, and 50 dollars for every subsequent performance), and an injunction.¹

For infringement of copyright the damages are one dollar for every sheet, and forfeiture of the plates, etc., is imposed.

In some of the American States it is a criminal offence to perform a play without the permission of the owner of the playwright, and the process of one judicial district can now be enforced in another district, so that the previous immunity of the "one night stand pirate" is strictly provided against.

An action for forfeiture or the recovery of penalties for infringement must be brought within two years after the cause of action has arisen. This does not apply, however, to an action for damages or an injunction.²

The above provisions as to infringement of plays in the United States only apply to a citizen or a subject of the United States, or one of the proclaimed countries.³

¹ Revised Statutes, s. 4966.

² *Ibid.* s. 4968; *Patterson v. Ogilvie Publishing Co.*, 119 Fed. R. 451.

³ Chace Act 1891, s. 13.

CHAPTER VI

THE CENSORSHIP AND LICENSING OF PLAYS

Two Systems
of Censorship.

IN countries where playwright may be protected, there is generally some recognised system of censorship of dramatic pieces, either by way of official sanction obtained before performance, or by official supervision or suppression after performance.

It is an open question which of the two systems is the most satisfactory. The method of official sanction before performance, no doubt, prevents unnecessary expenditure on the production of a play that may turn out to be objectionable, and the licence of the Lord Chamberlain in Great Britain generally relieves the author, and others pecuniarily interested in the production, from considerable anxiety on that account. The censorship of a play in MS., however, is not always free from difficulty when it is exercised by one individual, and, apart from the matter of opinion, it occasionally happens that the stage business of a play may be obviously objectionable when it is represented, though apparently harmless when it is stated in black and white.

The alternative method of postponing the censorship until after performance has certain advantages. An opinion may be more readily formed from the representation of a play than from the MS., and official disapproval of a play appears less oppressive in some cases when public opinion, instead of an individual judgment, has been exercised upon it. On the other hand, there is the

disadvantage of a public scandal, and prevention is often better than cure.

The functions of the Lord Chamberlain with regard to the licensing of plays in Great Britain have frequently been confused with his power of granting licences for theatres. In Great Britain.

It is necessary to distinguish between—

- (1) Licences of Theatres, and
- (2) Licences of Plays.

With the exception of the patent theatres, *e.g.* Drury Lane, Covent Garden, and the Haymarket, every theatre in Great Britain requires a licence for the performance of stage-plays. Most of the West End London theatres are licensed by the Lord Chamberlain, while the other London theatres (excluding the patent theatres) are licensed by the London County Council. The theatres in the provincial towns of Great Britain are generally licensed by the magistrates. Licensing of Theatres.

Strictly speaking, it is illegal for a play to be performed—where money is taken—at any place of entertainment in Great Britain,¹ unless it is a patent theatre, or duly licensed for the performance of stage-plays by the Lord Chamberlain or the local authority. The music halls in London are not licensed for the performance of stage-plays, but they have a licence for music and dancing from the London County Council.

A “stage-play” includes every tragedy, comedy, farce, opera, burletta, interlude, melodrama, pantomime, or other entertainment of the stage or any part thereof.

The above-mentioned statutory definition of a stage-play is sufficiently exhaustive, of course, to embrace a considerable number of the “turns” in any ordinary music-hall programme; and there is hardly a music hall in London where a technical breach of the law is not committed every evening by an unauthorised performance which comes within the definition. It is only fair to Sketches at Music halls.

¹ Ireland is not included under the Theatres Act, 1843.

point out, however, that the statute, which in effect prohibits the performance even of so-called "sketches" at music halls, was passed in 1843, nearly ten years before the first music hall came into existence. Moreover, it was described in Parliament as a "measure of police," and its object was to provide a more effective control over performances calculated to offend against public decency and morals. In the course of the recent series of prosecutions (1904-5) in London, instituted by theatre proprietors to recover penalties for the performance of stage-plays at music halls, no allegation of indecency or impropriety was even suggested; and, as some of the magistrates pointed out, when inflicting merely nominal fines, it was nothing more than a technical offence.

Licensing of
Plays.

The Lord Chamberlain's supervision over plays extends to every part of Great Britain. He can refuse his sanction for the performance of any particular play; and every play which is to be performed in Great Britain is required by law to be submitted to him at least seven days before the intended performance, together with the fee for examining it, which varies from one to two guineas. If a play be performed without the Lord Chamberlain's sanction first obtained,—and money is taken or charged, directly or indirectly, in respect of the performance,—heavy penalties may be imposed by law upon any person who acts in it or is responsible for its production.

The Lord Chamberlain has no copyright jurisdiction, and in the case of a play being publicly performed without this official sanction, the author can sue for infringement of his playright if his consent has not been obtained. The author's consent is necessary even for an unauthorised performance of a play (or "sketch") at a music hall.¹

Informal
Censorship at
Music Halls.

Performances at music halls are subject to an effective supervision by the County Council. It was stated before

¹ *Russell v. Smith* (1848), 12 Q.B. 217.

the Parliamentary Committee of 1898, that County Council officials visit these places of entertainment from time to time, and report if any objectionable performance takes place. The management, moreover, are fully aware of the fact that any complaint may endanger their licence, when the application for renewal comes before the Licensing Committee at the General Annual Licensing Meeting. Accordingly, the public generally are invited by a notice on the programme to call the attention of the management to any performance which may be calculated to give offence. In this way a sort of informal censorship prevails in places of entertainment which are not duly licensed for the performance of stage-plays.

In *France* the censorship was abolished in 1904, but it is still usual in practice to procure in advance the approval of the Minister of the Interior, who has power to intervene and prohibit a play after production, a jurisdiction which he seems to share with the Minister of Fine Arts. In *Austria* the censorship is in the control of the police, all allusions to politics and religion being vigorously vetoed, with results which are often unsatisfactory and occasionally ludicrous. In *Holland*, again, the burgomasters can restrain any dramatic piece, their powers being commonly exercised after production; while in *Germany*, *Italy*, and the *United States*, the police have full authority to make regulations for the censorship of plays either before or after performance. In *Italy* the Prefect of the province is enjoined to prohibit the performance of any play if the written consent of the author or his representative, duly witnessed, has not been presented to him, and objection has been taken by the owner of the playright.

Censorship
in other
Countries.

It is impracticable to give the laws, rules, and regulations under which the various functionaries act in their several countries, as they are not so much a matter of statute as of police practice, which is exercised arbitrarily and is subject to change.

For the convenience of theatrical licensees and others, we give the following official directions :—

DIRECTIONS OF THE LORD CHAMBERLAIN

LORD CHAMBERLAIN'S OFFICE,
ST. JAMES'S PALACE.

Some managers of theatres, or of travelling companies, in the provinces appear to be imperfectly acquainted with the requirements of the Act for Regulating Theatres, 6 & 7 Victoria, cap. 68.

By that Act every theatre "in Great Britain" is placed by the Legislature under the jurisdiction of the Lord Chamberlain of Her Majesty's Household, *so far as the licensing of new stage-plays (or of new additions or interpolations to old stage-plays)* is concerned.

The actual licensees (under the local authorities) of provincial theatres are, in all cases, the responsible parties under the Act. Any instance of wilful infringement of the law is officially reported by the examiner of stage-plays to the local authorities, under and by whose licence the theatre in which such offence shall have been committed is opened.

It is the duty of the licensees to ascertain beforehand that all pieces announced for representation by travelling companies performing at their theatres have been duly licensed.

New stage-plays are licensed for representation to the managers of theatres at which they are intended to be produced. In cases where the piece is produced by the manager of a travelling company, the licence is addressed to the licensee of the theatre in question, for the manager of the company, such licensee being entirely responsible for the due observance of the law and the regulations by companies performing at the theatre of which he is the licensee.

New stage-plays are licensed for representation to managers of theatres, not to the authors, of whom, as such, the licenser has no official cognizance.

With respect to the single performances of new stage-plays "for copyright purposes," it should be understood that the Lord Chamberlain has no copyright jurisdiction, but that his licence is required to legalise the representation of a new stage-play at any theatre in Great Britain.

The subjoined directions may serve for future guidance :—

1. One copy of every new stage-play, and of every new act,

scene, or other part added to any old stage-play, to be sent to the examiner *seven days at least before* the first acting or presenting thereof.

2. Manuscript copies of new stage-plays sent for examination and licence should be clearly and legibly written; they are not returned, but registered and bound in volumes for preservation in the dramatic library of this office. Changes of title should be notified to the examiner of stage-plays *beforehand*.

3. Pantomimes are expressly included in the general designation "stage-plays" under the Act. It is the topical and occasional matter interpolated in pantomimes licensed in former years for other theatres that requires a licence.

4. The reading fee (payable by cheque or postal order) is to be paid at the time when a new stage-play is sent to the examiner; and the said period of seven days shall not begin to run until the said fee shall have been paid.

The scale of reading fees, as fixed by the Lord Chamberlain, in accordance with the Act of Parliament, is as follows:—

For every stage-play of three or more acts, £2 : 2s.

For every stage-play of less than three acts, £1 : 1s.

All communications for the examiner of stage-plays to be addressed to "The Lord Chamberlain's Office, St. James's Palace."

EXAMINER OF ALL THEATRICAL ENTERTAINMENTS.

LEADING CASES ON PLAYRIGHT¹

PUBLICATION OF A PLAY (ENGLISH LAW)

According to English Law performance of a play is equivalent to publication.

“THE SHAUGHRAUN.”

(1876) *Boucicault v. Chatterton* (5. Ch.D. 267).

THE plaintiff sued the defendant to restrain him from representing his play, *The Shaughraun*, at the Adelphi Theatre in 1875. The play had been produced in New York before it was brought to England, but it had not been printed.

Held, that the performance in New York was publication, and the author was deprived of his playright in England because he had first published his play abroad. Performance of a play is publication.

PUBLICATION OF A PLAY (AMERICAN LAW)

According to American law the performance of a play is not publication.

“PLAY.”

(1870) *Palmer v. De Witt* (Am.) (47 N.Y. 532).

A play by Robertson, entitled *Play*, was produced at the Prince of Wales' Theatre in London in 1868, but was not printed. The defendant in 1870 printed and published copies of the play in New York. The plaintiff, to whom Robertson had assigned

¹ Except where otherwise stated the cases are decisions of English Courts.

his American rights, sued in the American Courts to restrain the defendant from infringing his rights.

Held, that the author's rights in the unpublished MS. had not been lost by the performance of the play in England.

Performance of a play is not publication.

PLAYRIGHT IN A PLAY IN MS.

The first production of a play confers no priority upon the producer, the playwright belongs to the author so soon as the work is completed in MS. and before publication.

“A LUCKY DOG.”

(1893) *Reichardt v. Sapte* (2 Q.B. 308).

Plaintiff began writing his play, entitled *The Picture Dealer*, in 1889, and completed the MS. in March 1892. It was performed on June 30, 1892. Defendant began writing his play, called *A Lucky Dog*, in 1889, and completed it in 1890. It was performed at the Strand Theatre on July 4, 1892.

The similarity of the plays was remarkable, but there was no evidence of a common source.

Held, that as the defendant's play was completed in MS. before the plaintiff's play was finished, the plaintiff was not entitled to the playwright.

Note.—By 3 & 4 Will. IV. c. 15, s. 1, the playwright of any play “composed and not printed or published” belongs to the author or his assignee.

COPYRIGHT OF A PLAY IN MS.

The author of a play in MS. has the copyright as well as the playwright.

“HIS EXCELLENCY.”

(1894) *Gilbert v. The Star Newspaper Co. Ltd.*
(11 *Times Rep.* 4.)

Plaintiff was the author of a comic opera called *His Excellency*, which was in rehearsal for production at the Lyric Theatre. The defendant company published in their newspaper

an outline of the plot of the piece, and the plaintiff applied for an injunction. The plaintiff claimed to have the copyright at Common Law, and relied upon the case of *Prince Albert v. Strange* (1 MacN. and Gex 25).

Held, that the defendant had infringed plaintiff's copyright, and plaintiff was entitled to an injunction.

Note.—A similar principle is established according to American law in *Palmer v. De Witt* (see p. 144).

PLAYRIGHT OF A PLAY IN MS. (AMERICAN LAW)

- (1) The author of a play performed, but not printed, has the playright, although it has not been copyrighted.

“CONGRESS”—“AMBITION.”

(1899) *Maxwell v. Goodwin* (93 Fed. R. 665).

Plaintiff was the author of a play entitled *Congress*, which was not printed or copyrighted. He submitted it to the defendant, who rejected it. The defendant produced a play called *Ambition* which, like the plaintiff's play, contained scenes from Washington. The defendant contended that (1) there was no playright at Common Law, and (2) there was no playright in ideas or creations of the imagination apart from the language by which they were expressed.

Held, the defendant's contentions were wrong. The defendant succeeded, however, upon another point.

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- (2) The author of a play performed, and printed merely for the use of the actors, has the playright, although it has not been copyrighted. Such printing is not publication.

“FALKA.”

(1894) *French v. Kreling* (63 Fed. R. 621).

Plaintiff was the owner of an opera by Farnie entitled *Falka*. The music had been printed and published, but the libretto had not. The defendants obtained a copy of the libretto and per-

formed the opera. The plaintiff brought an action for an account and for an injunction. The defendants contended that as the libretto had been printed by the plaintiff for the use of the actors, it had been published, and ought to have been copyrighted.

Held, that the printing of the libretto for the actors only was not publication, and an injunction was granted.

PUBLICATION AS A BOOK BEFORE PERFORMANCE

Publication in England of a dramatic piece as a book, before performance, does not deprive the author of his English playwright.

“THE BELLRINGER.”

(1882) *Chappell v. Boosey* (21 Ch.D. 232).

The plaintiffs were the proprietors of a piece called *The Bellringer*, by John Oxenford, which had been printed and published, and was afterwards performed at one of the ballad concerts in St. James's Hall by the direction of the defendant, who was sued for infringement. The defendant contended that the printing and publishing of a dramatic (or musical) piece before performance deprived the author of his playwright.

Held, that the publication as a book before performance does not take away the rights of representation.

Note.—This case overruled the decision in *Murray v. Elliston* (1822) (5 B. & Ald. 657), which explained the law before the Dramatic Copyright Act, 1833.

PLAY PUBLISHED AS A BOOK (AMERICAN LAW)

An author has no playwright in the U.S. in a play published as a book without registration.

“DIE EHRE”—“HONOUR.”

(1899) *Daly v. Walrath* (40 App. Div. 220).

The plaintiff was the owner of the American playwright in a play by Sudermann called *Die Ehre*, which the author, in violation of his contract with Mr. Lederer, the original assignee, had published in book form in Germany. The defendant in-

tended producing the same play under the name *Honour*, and plaintiff applied for an injunction.

Held, the publication in book form without registration deprived the plaintiff of the playwright, which had become public property on such publication.

Injunction refused.

WHAT IS A "DRAMATIC PIECE"?

- (1) An author has no playwright except in a "dramatic piece."
 A song may be a "dramatic piece."

"THE SHIP ON FIRE."

(1848) *Russell v. Smith* (12 Q.B. 217).

A song, entitled *The Ship on Fire*, founded on the loss of the *Kent* in the Bay of Biscay, was sung at Crosby Hall, the singer being seated at the piano. There was no scenery, no costumes, and the place was not a theatre. Dramatic action was exhibited by the singer alone.

By 5 & 6 Vict. c. 45, s. 2, a dramatic piece is defined to be, "Every tragedy, comedy, play, opera, farce, or other scenic . . . or dramatic entertainment."

Held, that the performance by the singer was a "dramatic piece."

"Dramatic entertainment" is where the action is not related but represented.

- (2) Whether a song is a "Dramatic Piece" is a question of fact in each case.

"DAISY BELL."

(1895) *Fuller v. Blackpool Winter Gardens Co.* (2 Q.B. 429).

A song called *Daisy Bell* was sung in character costume in a burlesque performed in a theatre of the Winter Gardens at Blackpool. Plaintiff sued for infringement of his playwright in the song.

Held, that the song was not a dramatic piece, because it did not require acting or dramatic effect in its representation.

(3) Playright in a song.

“COME TO PECKHAM RYE.”

(1872) *Clark v. Bishop* (25 L.T. 508).

The song, *Come to Peckham Rye*, was sung at music halls with appropriate character, dress, gesture, and expression.

Held, that the plaintiff was entitled to playright in the song. By his singing, acting, and characterisation, he had made the song a thing of value, not as a song merely, but as acted by him in character, and so as a dramatic piece.

WHAT IS A “PLACE OF DRAMATIC ENTERTAINMENT”?

Playright is infringed by performance in a “place of dramatic entertainment” (*i.e.* where the public are being entertained by the performance of a dramatic piece).

“OUR BOYS.”

(1884) *Duck v. Bates* (13 Q.B.D. 843).

A performance of *Our Boys* was given by an amateur dramatic club at Guy’s Hospital for the entertainment of the nurses, attendants, and others connected with the hospital. No money was taken, and about 170 people were present in the audience, all of whom received invitations. The plaintiff, who was the assignee of the rights in the play, sued for the infringement of his rights.

Held, that the performance was private and not a public representation.

A performance may be public where the public are present, although no money is taken.

DRAMATISATION OF NOVEL

(1) A novel on publication is public property for purposes of dramatisation.

“SHOP”—“GLORY.”

(1874) *Toole v. Young* (9 Q.B. 523).

Mr. John Hollingshead was the author of a novel entitled *Not above his Business*, published in *Good Words*, which he

dramatised, calling the play *Shop*, and assigned to the plaintiff. The play was not printed or performed. Mr. Grattan dramatised the novel; and his play, which was called *Glory*, was assigned to the defendant, who produced it on the stage. Mr. Grattan did not know of any dramatic version of the novel, and the two dramas were essentially different.

Held, that Hollingshead, having published his novel, any one could dramatised it.

The author of the play *Glory* had not infringed the playwright in the play *Shop*.

Per Cockburn, C.J.—

“Two persons may dramatised the same novel, for that is common property. It is true that a writer cannot produce and represent a drama, which he has borrowed from a drama written previously by another person; he would then be representing the production of the first dramatist, contrary to the terms of the Act of Parliament. I wish to guard myself against being supposed to lay down that, if a writer, while dramatising a novel, takes the incidents, characters, and dialogue of a previous drama founded upon that novel, and reproduces what is in substance identical with the previous drama, there might not be an infringement of the right of the earlier dramatist if the later drama be represented on the stage. It is not necessary, however, to decide that, because *here the two dramas are not identical*; there is a great deal of difference between the two, the later work being by far the larger, the more complete and the more perfect form into which the materials of the novel have been thrown.”

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- (2) Although an author has no playwright in a novel, by copying substantial portions of the conversation a dramatist infringes the novelist's “copyright.”

“LITTLE LORD FAUNTLEROY.”

(1888) *Warne v. Seebohm* (39 Ch.D. 73).

The defendant dramatised Mrs. Hodgson Burnett's novel, *Little Lord Fauntleroy*, and produced his play at the Prince of Wales' Theatre. Large portions of the dialogue in the play were taken verbatim from the novel. Four copies of the play were made—one for the Lord Chamberlain, and three for the actors.

Held, that the copies of the play were an infringement of the author's “copyright” in the novel.

The author of the novel had no "playright."

Every person is free to make use of a novel as he pleases, so long as he does not print or otherwise multiply copies of the book or any part thereof.

(He must be careful, however, not to infringe an earlier dramatisation of the novel.)

Note.—In the United States the author of a novel has the exclusive right of dramatising it, provided the novel has been duly copyrighted (Revised Statutes, s. 4952). And in the countries within the Union (except Great Britain) the same law prevails (Declaration of Paris, 4th May 1896, page 201).

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- (3) A dramatist by copying substantial portions of a novel infringes the "copyright" in the novel.

"LADY AUDLEY'S SECRET"—"AURORA FLOYD."

(1863) *Tinsley v. Lacy* (32 L.J. Ch. 535).

The plaintiff was the owner of the copyright in Miss Braddon's two novels entitled *Lady Audley's Secret* and *Aurora Floyd*. The defendant, a bookseller, sold two dramas of the same names respectively which were dramatised versions of the novels. A number of passages were copied verbatim, as well as the principal scenes and situations. One-quarter, at least, of the plays—"the vital parts"—was taken bodily from the novels.

Held, that the plays were an infringement of the plaintiff's "copyright" in the novels, and an injunction against the defendant was granted.

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- (4) A dramatised version of a novel, based upon an earlier play of the novelist, may be an infringement of the novelist's play if the two plays are substantially alike.

"GOLD"—"IT IS NEVER TOO LATE TO MEND."

(1862) *Reade v. Conquest* (31 L.J.C.P. 153).

Plaintiff wrote a play called *Gold*, which was performed, and subsequently wrote his novel, *It is Never too Late to Mend*, based upon his play. His son, without any knowledge of the play

by the plaintiff, dramatised the plaintiff's novel, and his version was performed by the defendant at his theatre.

Held, that *substantial parts of the two plays were the same*, and that the defendant had infringed the plaintiff's playright.

It was pointed out that, apart from the playright in his play, the plaintiff had no playright in his novel.

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- (5) Although any one may dramatised a novel, the playright in the earliest dramatised version may be infringed by a subsequent dramatisation, if both plays are substantially the same.

"THE NEW MAGDALEN."

(1891) *Schlesinger v. Turner* (63 L.T. 764).

The plaintiffs were the executors of Mr. Wilkie Collins, who had dramatised his novel, *The New Magdalen*. The defendants announced the performance of a play of the same name, and the plaintiffs applied for an injunction. The defendant's play was a dramatised version of the novel, and, although it had not been copied from the plaintiff's play, the *two versions were similar*, and it was not contested that there was any substantial distinction between them.

Held, that although the defendant was innocent in his intention, the two versions were *substantially the same*, and the plaintiffs were entitled to an injunction.

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- (6) The playright in the earliest dramatised version of a novel is not infringed by a later dramatised version unless the two plays are substantially the same.

"THE WOMAN IN WHITE."

(1891) *Schlesinger v. Bedford* (63 L.T. 762).

The defendant produced a play at the Aquarium at Brighton, which was a dramatisation of the novel by Mr. Wilkie Collins, entitled *The Woman in White*. The plaintiffs were the executors of the novelist, who had previously dramatised his novel, and sued the defendant for infringement of their playright. There was a difference in the two plays with regard to the

characters, situations, etc., and other variations of considerable value and importance.

Held, that the two plays were *essentially different*, and the defendant was entitled to judgment.

PLAYRIGHT IN SITUATIONS, INCIDENTS, ETC.

(1) "AS IN A LOOKING-GLASS."

(1889) *Beere v. Ellis* (5 T.R. 330).

The plaintiff, Mrs. Bernard Beere, had the playright in a play entitled *As in a Looking-Glass*, a dramatised version of the novel of that name by Mr. F. C. Phillips. The defendant produced a similar play, also taken from the novel, and the plaintiff gave particulars of three matters which she complained of as being taken from her play, viz. :—

(1) Certain dialogue—a few sentences—in Act 1.

(2) A special situation with a new incident in Act 3.

(3) The stage business attending the death of the heroine in Act 4.

Held, that as to (1), if that was the only infringement, it would not be sufficient. As to (2), this incident was not in the novel, and was a material part of the plaintiff's play. As to (3), this arrangement differed from the novel, and was an infringement by the defendant.

Injunction granted to plaintiff.

(2) "TRILBY."

(1896) *Tree v. Bowkett* (74 L.T. 77).

The plaintiff, Mr. Beerbohm Tree, complained of the infringement of his version of *Trilby* in respect of certain dialogue, scenic arrangements, and stage business. He claimed to be entitled to playright in the "Picture scene" and the "Prayer scene," neither of which were in the novel of Mr. Du Maurier, or in the American dramatised version. These scenes had been taken by the defendant from the plaintiff's version of *Trilby*.

Held, defendant had been guilty of infringement.

(3) "SAPHO."

Nethersole *v.* Bell (*Times*, July 31, 1905).

The plaintiff acquired the British playright in an adaptation by Mr. Clyde Fitch of the play called *Sapho* by MM. Daudet and Belot. The defendants produced a similar play of the same name at their Manchester theatre, and the plaintiff contended that substantial parts, including dramatic incidents and stage business, of Mr. Clyde Fitch's play were reproduced by the defendants. Mr. Espinasse claimed to be the author of the defendant's play, and alleged that it was written in Australia, and was entirely based upon an English translation of the French novel *Sapho*. It was admitted that anyone might use the novel for purposes of dramatisation; but the judge was not satisfied upon the evidence that Mr. Espinasse had not been influenced by representations on the stage which were known to Mr. Bell when he discussed certain alterations with Mr. Espinasse before the production of the defendant's play. The matter was referred to Mr. Seymour Hicks, as expert, and he reported that there were substantial similarities between the play by Mr. Clyde Fitch and the play produced by the defendants.

The judge stated that there were so many similarities between the two plays that it was impossible for them to be coincidences, and he was obliged to find that there had been copying.

The plaintiff was granted an injunction with costs.

TRIFLING INFRINGEMENT OF PLAYRIGHT

The infringement of playright must be the taking of a substantial and material part.

"THE WANDERING JEW."

(1878) Chatterton *v.* Cave (3 App. Cas. 483).

The plaintiff had produced a drama based on *The Wandering Jew* by Eugene Sue, but had introduced two scenic representations into his play which were not part of the French work. The defendant afterwards produced a play upon the same subject, introducing the two scenic representations first produced by the plaintiff. Except in this respect, there was no copy from, or colourable imitation of the drama of the plaintiff's.

Held, that there was no infringement of the plaintiff's playright. The two scenes or points were not sufficiently substantial and material.

(Cf. the American case of *Daly v. Palmer* set out on pp. 122-24).

PLAYRIGHT IN A DANCE (AMERICAN CASE)

There may be playright in a dance if it tells a story, *i.e.* containing a plot with dramatic situations and incidents.

(1892) *Fuller v. Bemis* (50 Fed. Rep. 926).

The plaintiff, Miss Louie Fuller, registered her skirt dance as a dramatic composition in the United States, and brought an action for infringement.

Held, it is essential for a dramatic composition to tell some story. The plot may be simple, it may be but the representation of a single transaction; but it must repeat or mimic some action, speech, emotion, passion, or character, real or imaginary.

A series of graceful movements, combined with an attractive arrangement of drapery, lights, and shadows, telling no story, portraying no character, depicting no emotion, is not a dramatic composition.

BURLESQUE OR PARODY NOT AN INFRINGEMENT OF PLAYRIGHT OR COPYRIGHT (AMERICAN CASE)

“SAMMY”—“THE RUNAWAY”

(1903) *Bloom v. Nixon* (125 Fed. Rep. 977).

The plaintiff was the owner of the playright and copyright in a song entitled *Sammy*, which was sung by Miss Lotta Faust in a comic opera. In a piece called *The Runaway* Miss Fay Templeton gave a burlesque of Miss Faust singing *Sammy*, and the plaintiff brought an action for an injunction.

Held, that the burlesque was not an infringement, it being *bona-fide* mimicry, and not an attempt to evade the plaintiff's rights.

Note.—From the judgment it appears that the same principle is to be applied to the parody of a composition in which the author has “copyright.”

TITLE OF A PLAY (AMERICAN CASE)

Registration of the title in the U.S. does not give the author the exclusive right to use that title.

“TRILBY.”

(1895) *Harper v. Ranous* (67 Fed. Rep. 904).

Plaintiff was the owner of the copyright in the novel entitled *Trilby*, by Mr. Du Maurier, which had been duly copyrighted. The defendant produced a play of the same name containing the plot, characters, and incidents of the novel. The plaintiff sued for an injunction to restrain the defendants from performing the play and from using the name *Trilby*.

Held, that the plaintiff was entitled to an injunction restraining defendants from performing the play representing scenes, plot, and incidents, etc., of the novel.

Application for injunction to prevent the use of the name *Trilby* as the title of any dramatic composition not representing such scenes, plot, incidents, etc., refused.

It is the name in connection with the novel, not the name alone, which the copyright law protects.

SLIGHT DRAMATIC OR LITERARY MERIT IS
SUFFICIENT (AMERICAN CASE)

“ALI BABA.”

(1894) *Henderson v. Tompkins* (60 Fed. R. 758).

The plaintiff complained of the defendant infringing his rights in a comic song which was sung in the piece entitled *Ali Baba*. In this song the line, “I wonder if dreams come true,” appeared two or three times in each verse, and there was a chorus. The defendant’s song contained this line in every verse, and there was a chorus which was almost identical with the plaintiff’s.

Held, the fact that the song had no great literary merit did not prevent it being capable of playright.

The appropriation of a substantial part of the song constituted an infringement.

PERSON LIABLE FOR INFRINGEMENT OF
PLAYRIGHT

It is the person who represents a play, or causes it to be represented, who is liable for infringement.

“THE MINER’S WIFE”—“LOST IN LONDON.”

(1893) *French v. Day and Gregory* (9 *Times Rep.* 548).

A play entitled *The Miner’s Wife* was produced in Birmingham, and plaintiff alleged that it was a copy or imitation of his drama called *Lost in London*. The defendant, Day, was the proprietor, and Gregory was the manager, of the theatre in Birmingham. Gregory contended that he only received instructions to produce the play, and was not responsible for the infringement. Day submitted to an injunction.

Held, that Gregory’s position was such that he could not be regarded as having represented the play or caused it to be represented.

LICENCE TO PERFORM A PLAY

A licence to perform a play gives only a limited right according to the terms of the licence.

“OUR BOYS.”

(1892) *Duck v. Mayeu* (8 *Times Rep.* 339).

Defendant obtained from the plaintiff permission to perform *Our Boys* for the benefit of a charity at music halls in London. The play was not produced in music halls, but was performed elsewhere for the benefit of the charity.

Held, that the licence granted did not cover the use of the play, and that the defendant had infringed the rights of the plaintiff.

APPENDICES

I

THE DRAMATIC COPYRIGHT ACT, 1833

3 WILL. IV. C. 15

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

WHEREAS, etc. . . . That from and after the passing of this Act the author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed and not printed and published by the author thereof or his assignee, or which hereafter shall be composed, and not printed or published by the author thereof or his assignee, or the assignee of such author, shall have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of Great Britain and Ireland, in the Isles of Man, Jersey, and Guernsey, or in any part of the British dominions, any such production as aforesaid, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof; and that the author of any such production, printed and published within ten years before the passing of this Act by the author thereof or his assignee, or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this Act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof: Provided, nevertheless, that nothing in this

The author of any Dramatic Piece shall have as his Property the sole liberty of representing it, or causing it to be represented, at any place of Dramatic Entertainment.

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

Act contained shall prejudice, alter, or affect the right or authority of any person to represent or cause to be represented, at any place or places of dramatic entertainment whatsoever, any such production as aforesaid, in all cases in which the author thereof or his assignee shall, previously to the passing of this Act, have given his consent to or authorised such representation, but that such sole liberty of the author or his assignee shall be subject to such right or authority.

Penalty on persons performing Pieces contrary to this Act.

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

Limitation of Actions.

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

Explanation of Words.

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

II

THE COPYRIGHT ACT, 1842

5 & 6 VICT. c. 45

An Act to amend the Law of Copyright.

[1st July 1842.]

PREAMBLE—

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

Interpretation
of Act.

females as well as males, and several matters or things as well as one matter or thing, respectively, unless there shall be something in the subject or context repugnant to such construction.

Endurance of Term of Copyright in any Book hereafter to be published in the Lifetime of the Author ;

if published after the Author's Death.

In cases of subsisting Copyright, the Term to be extended, except when it shall belong to an assignee for other consideration than natural love and affection ; in which case it shall cease at the expiration of the present Term, unless its Extension be agreed to between the Proprietor and the Author.

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

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

V. And whereas it is expedient to provide against the suppression of books of importance to the public, be it enacted, that

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

Judicial Committee of the Privy Council may license the republication of Books which the Proprietor refuses to republish after Death of the Author.

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

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

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

Mode of delivering at the British Museum.

VIII. And be it enacted, that a copy of the whole of every book, and of any second or subsequent edition of every book

A copy of every Book to be delivered within a Month after demand to the Officer of the Stationers' Company, for the following Libraries: the Bodleian at Oxford, the Public Library at Cambridge, the Faculty of Advocates at Edinburgh, and that of Trinity College, Dublin.

containing additions and alterations, together with all maps and prints belonging thereto, which after the passing of this Act shall be published, shall on demand thereof in writing, left at the place of abode of the publisher thereof at any time within twelve months next after the publication thereof, under the hand of the officer of the Company of Stationers who shall from time to time be appointed by the said company for the purposes of this Act, or under the hand of any other person thereto authorised by the persons or bodies politic and corporate, proprietors and managers of the libraries following (*videlicet*), the Bodleian Library at Oxford, the Public Library at Cambridge, the Library of the Faculty of Advocates at Edinburgh, the Library of the College of the Holy and undivided Trinity of Queen Elizabeth near Dublin, be delivered, upon the paper of which the largest number of copies of such book or edition shall be printed for sale, in the like condition as the copies prepared for sale by the publisher thereof respectively, within one month after demand made thereof in writing as aforesaid, to the said officer of the said Company of Stationers for the time being, which copies the said officer shall and he is hereby required to receive at the hall of the said company, for the use of the library for which such demand shall be made within such twelve months as aforesaid; and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library.

Publishers may deliver the Copies to the Libraries instead of at the Stationers' Company.

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

Penalty for Default in delivering Copies for the use of the Libraries.

X. And be it enacted, that if any publisher of any such book, or of any second or subsequent edition of any such book, shall neglect to deliver the same, pursuant to this Act, he shall for every such default forfeit, besides the value of such copy of such book or edition which he ought to have delivered, a sum not exceeding five pounds, to be recovered by the librarian or other officer (properly authorised) of the library for the use whereof such copy should have been delivered in a summary way, on conviction before two Justices of the Peace for the county or

place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any Court of record in the United Kingdom, in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

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

Book of Registry to be kept at Stationers' Hall.

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

Making a false Entry in the Book of Registry a Misdemeanour.

XIII. And be it enacted, that after the passing of this Act it shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the Registry Book of the Stationers' Company of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this Act annexed, upon payment of the sum of five shillings to the officer of the said company;

Entries of Copyright may be made in the Book of Registry.

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

Persons ag-
grieved by any
entry in the
Book of Re-
gistry may
apply to a
Court of Law
in term, or
Judge in
vacation, who
may order such
Entry to be
varied or ex-
punged.

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

Remedy for
the Piracy of
Books by
action on the
case.

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

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

XVII. And be it enacted, that after the passing of this Act it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorised by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written, or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions; and if any person, not being such proprietor or person authorised as aforesaid, shall import or bring, or cause to be imported or brought, for sale or hire, any such printed book into any part of the British dominions, contrary to the true

In Actions for Piracy the Defendant to give notice of the Objections to the Plaintiff's Title on which he means to rely.

No Person except the Proprietor, etc., shall import into the British dominions for sale or hire any Book first composed, etc., within the United Kingdom, and reprinted elsewhere, under penalty of For-

feiture thereof,
and also of
£10 and
double the
Value.

Books may be
seized by Offi-
cers of Customs
or Excise.

As to the
Copyright
in Encyclo-
pædias, Pe-
riodicals, and
Works pub-
lished in a
Series, Re-
views, or
Magazines.

intent and meaning of this Act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire, any such book, then every such book shall be forfeited, and shall be seized by any officer of Customs or Excise, and the same shall be destroyed by such officer, and every person so offending, being duly convicted thereof before two Justices of the Peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this Act, five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book.

XVIII. And be it enacted, that when any publisher or other person shall, before or at the time of the passing of this Act, have projected, conducted, and carried on, or shall hereafter project, conduct, and carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portions so composed and paid for, shall be the property of such proprietor, projector, publisher, or other conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this Act; except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively, the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act: Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay,

article, or portion separately or singly without the consent previously obtained of the author thereof, or his assigns: Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right; but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition when published in a separate form, according to this Act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

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

XX. And whereas an Act was passed in the third year of the reign of His late Majesty to amend the law relating to dramatic literary property, and it is expedient to extend the term of the sole liberty of representing dramatic pieces given by that Act to the full time by this Act provided for the continuance of copyright; and whereas it is expedient to extend to musical compositions the benefits of that Act, and also of this Act; be it therefore enacted, that the provisions of the said Act of His late Majesty, and of this Act, shall apply to musical compositions, and that the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this Act provided for the duration of copyright in books; and the provisions hereinbefore enacted in respect of the property of such copyright, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed

Proviso for Authors who have reserved the right of publishing their Articles in a separate form.

Proprietors of Encyclopædias, Periodicals, and Works published in a Series, may enter at once at Stationers' Hall, and thereon have the benefit of the Registration of the whole.

The Provisions of 3 & 4 W. IV. c. 15, extended to Musical Compositions, and the Term of Copyright, as provided by this Act, applied to the liberty of representing Dramatic Pieces and Musical Compositions.

equivalent, in the construction of this Act, to the first publication of any book: Provided always, that in case of any dramatic piece or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing, or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance.

Proprietors of Right of Dramatic Representations shall have all the Remedies given by 3 & 4 W. IV. c. 15.

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

Assignment of Copyright of a Dramatic Piece not to convey the Right of Representation.

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

Books pirated shall become the Property of the Proprietor of the Copyright, and may be recovered by action.

XXIII. And be it enacted, that all copies of any book wherein there shall be copyright, and of which entry shall have been made in the said Registry Book, and which shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover.

No Proprietor of Copyright commencing after this Act shall sue or proceed for any Infringement before making Entry in the Book of Registry.

XXIV. And be it enacted, that no proprietor of copyright in any book which shall be first published after the passing of this Act shall maintain any action or suit at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made in the Book of Registry of the Stationers' Company of such book pursuant to

this Act : Provided always, that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid : Provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the Act passed in the third year of the reign of His late Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the Book of Registry aforesaid.

Proviso for
Dramatic
Pieces.

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

Copyright shall
be Personal
Property.

XXVI. And be it enacted, that if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence ; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath ; and that all actions, suits, bills, indictments, or informations for any offence that shall be committed against this Act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect : Provided that such limitation of time shall not extend or be construed to extend to any actions, suits, or other proceedings which under the authority of this Act shall or may be brought, sued, or commenced for or in respect of any copies of books to be delivered for the use of the British Museum, or of any one of the four libraries hereinbefore mentioned.

General Issue.

Limitation of
Actions ;

not to extend
to Actions,
etc., in respect
of the Delivery
of Books.

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

Saving the
Rights of the
Universities,
and the Col-
leges of Eton,
Westminster,
and Win-
chester.

Saving all subsisting Rights, Contracts, and Engagements.

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

Extent of the Act.

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

Act may be amended this Session.

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

III

THE INTERNATIONAL COPYRIGHT ACT, 1886

49 & 50 VICT. c. 33

An Act to amend the Law respecting International and Colonial
Copyright. [25th June 1886.]

WHEREAS by the International Copyright Acts Her Majesty is authorised by Order in Council to direct that as regards literary and artistic works first published in a foreign country the author shall have copyright therein during the period specified in the order, not exceeding the period during which authors of the like works first published in the United Kingdom have copyright:

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

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

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

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

(2) The Acts specified in the first part of the First Schedule to this Act are in this Act referred to, and may be cited by the

Short Titles
and Construc-
tion.

short titles in that schedule mentioned, and those Acts, together with the enactment specified in the second part of the said schedule, are in this Act collectively referred to as the International Copyright Acts.

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

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

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

- (1) The order may extend to all the several foreign countries named or described therein :
- (2) The order may exclude or limit the rights conferred by the International Copyright Acts in the case of authors who are not subjects or citizens of the foreign countries named or described in that or any other order, and if the order contains such limitation, and the author of a literary or artistic work first produced in one of those foreign countries is not a British subject, nor a subject or citizen of any of the foreign countries so named or described, the publisher of such work, unless the order otherwise provides, shall for the purpose of any legal proceedings in the United Kingdom for protecting any copyright in such work be deemed to be entitled to such copyright as if he were the author, but this enactment shall not prejudice the rights of such author and publisher as between themselves :
- (3) The International Copyright Acts and an order made thereunder shall not confer on any person any greater right or longer term of copyright in any work than that enjoyed in the foreign country in which such work was first produced.

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

(2) Where a work produced simultaneously in the United Kingdom and in some foreign country or countries is by virtue of an

Amendment
as to Extent
and Effect of
Order under
International
Copyright
Acts.

Simultaneous
Publication.

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

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

Modification of certain provisions of International Copyright Acts.

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

V. (1) Where a work being a book or dramatic piece is first produced in a foreign country to which an Order in Council under the International Copyright Acts applies, the author or publisher, as the case may be, shall, unless otherwise directed by the order, have the same right of preventing the production in and importation into the United Kingdom of any translation not authorised by him of the said work as he has of preventing the production and importation of the original work.

Restriction on Translation.

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

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

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

VI. Where an Order in Council is made under the International Copyright Acts with respect to any foreign country, the author and publisher of any literary or artistic work first produced before the date at which such order comes into operation shall

Application of Act to existing Works.

be entitled to the same rights and remedies as if the said Acts and this Act and the said order had applied to the said foreign country at the date of the said production: Provided that where any person has before the date of the publication of an Order in Council lawfully produced any work in the United Kingdom, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such production which are subsisting and valuable at the said date.

Evidence of
Foreign
Copyright.

VII. Where it is necessary to prove the existence or proprietorship of the copyright of any work first produced in a foreign country to which an Order in Council under the International Copyright Acts applies, an extract from a register, or a certificate, or other document stating the existence of the copyright, or the person who is the proprietor of such copyright, or is for the purpose of any legal proceedings in the United Kingdom deemed to be entitled to such copyright, if authenticated by the official seal of a Minister of State of the said foreign country, or by the official seal or the signature of a British diplomatic or consular officer acting in such country, shall be admissible as evidence of the facts named therein, and all Courts shall take judicial notice of every such official seal and signature as is in this section mentioned, and shall admit in evidence, without proof, the documents authenticated by it.

Application
of Copyright
Acts to
Colonies.

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

Provided that—

- (a) the enactments respecting the registry of the copyright in such work shall not apply if the law of such possession provides for the registration of such copyright; and
- (b) where such work is a book the delivery to any persons or body of persons of a copy of any such work shall not be required.

(2) Where a register of copyright in books is kept under the authority of the government of a British possession, an extract from that register purporting to be certified as a true copy by the officer keeping it, and authenticated by the public seal of the British possession, or by the official seal or the signature of the governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession, shall be admissible in evidence of the contents of that register, and all Courts shall take judicial notice of every such seal and signature, and shall

admit in evidence, without further proof, all documents authenticated by it.

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

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

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

Application of
International
Copyright Acts
to Colonies.

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

Making of
Orders in
Council.

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

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

Definitions.

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

The expression "author" means the author, inventor, designer, engraver, or maker of any literary or artistic work, and includes

any person claiming through the author ; and in the case of a posthumous work means the proprietor of the manuscript of such work and any person claiming through him ; and in the case of an encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, includes the proprietor, projector, publisher, or conductor.

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

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

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

The expression "treaty" includes any convention or arrangement.

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

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

Provided as follows :

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

SCHEDULES

FIRST SCHEDULE

INTERNATIONAL COPYRIGHT ACTS

PART I

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

PART II

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

SECOND SCHEDULE

COPYRIGHT ACTS

Session and Chapter.	Title.	Short Title.
8 Geo. 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 therein mentioned.	The Engraving Copyright Act, 1734.
7 Geo. III. c. 38 .	An Act to amend and render more effectual an Act made in the eighth year of the reign of King George the Second, for encouragement of the arts of designing, engraving, and etching historical and other prints, and for vesting in and securing to Jane Hogarth, widow, the property in certain prints.	The Engraving Copyright Act, 1766.
15 Geo. III. c. 53 .	An Act for enabling the two Universities in England, the four Universities in Scotland, and the several Colleges of Eton, Westminster, and Winchester, to hold in perpetuity their copyright in books given or bequeathed to the said universities and colleges for the advancement of useful learning and other purposes of education; and for amending so much of an Act of the eighth year of the reign of Queen Anne as relates to the delivery of books to the warehouse keeper of the Stationers' Company for the use of the several libraries therein mentioned.	The Copyright Act, 1775.
17 Geo. III. c. 57 .	An Act for more effectually securing the property of prints to inventors and engravers by enabling them to sue for and recover penalties in certain cases.	The Prints Copyright Act, 1777.

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

IV

THE BERNE CONVENTION

Signed 9th Sept. 1886. Ratified 5th Sept. 1887.

ARTICLE I.

THE contracting States [which were Great Britain, Germany, Belgium, Spain, France, Italy, Haïti, Switzerland, and Tunis]¹ are constituted into an Union for the protection of the rights of authors over their literary and artistic works.

ARTICLE II.²

Authors of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether *published*³ in one of those countries or *unpublished*, the rights⁴ which the respective laws do now or may hereafter grant to natives.

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

The country of origin of the work is that in which the work is first *published*, or if such *publication* takes place simultaneously in several countries of the Union, that one of them in which the shortest term of protection is granted by law.⁵

For *unpublished* works the country to which the author belongs is considered the country of origin of the work.

¹ Luxembourg, Monaco, Norway, Japan, Denmark, and Sweden have since joined the Union.

² Amended by Additional Act of Paris, Art. 1, par. 1, *post*, p. 197.

³ For the meaning of "publication" see Interpretative Declaration of Paris, 1896, Art. 2, *post*, p. 201.

⁴ "Rights" include playwright, see Art. 9, *post*, p. 187.

⁵ Cf. 49 & 50 Vict. c. 33, s. 3, (2); and Order in Council, 1887, par. 5.

ARTICLE III.

The stipulations of the present Convention apply equally to the publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union.¹

ARTICLE IV.

The expression "literary and artistic works" comprehends books, pamphlets, and all other writings; dramatic or dramatico-musical works; musical compositions with or without words; works of design, painting, sculpture, and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic² domain which can be published by any mode of impression or reproduction.³

ARTICLE V.

Authors of any of the countries of the Union, or their lawful representatives, shall enjoy *in the other countries* the exclusive right of making or authorising the translation of their works until the expiration of ten years from the *publication*⁴ of the original work in one of the countries of the Union.⁵

For works published in complete parts (*livraisons*) the period of ten years commences from the date of publication of the last part of the original work.

For works composed of several volumes published at intervals,

¹ The rights now vest in the author, although he does not belong to any country within the Union. See Additional Act of Paris, 1896, Art. 1, par. 2, *post*, p. 197.

² Includes arrangement of scenery and stage effects. *Porte S. Martin Theatre Co. v. Proprietor Photo Programme* (Paris), 30th December 1898; *Droit d'Auteur*, 1899, p. 19.

³ As to architecture and photographs, see amendments by Additional Act of Paris 1896, Art. 2, par. 1.

⁴ *I.e.* publication in printed form in all the countries within the Union except Great Britain; Declaration of Paris, 1896, Art. 2, *post*, p. 201; *Raspantini v. Theodoli* (Rome), 10th October 1896; *Droit d'Auteur*, 1897, p. 20.

⁵ First paragraph of this article is amended by Additional Act of Paris 1896, Art. 1, par. 3. See *post*, p. 197. The exclusive right of translation applies to playwright as well as copyright, see Art. 9, *post*, p. 187.

as well as for bulletins or collections (*cahiers*) published by literary or scientific societies, or by private persons, each volume, bulletin, or collection is, with regard to the period of ten years, considered as a separate work.

In the cases provided for by the present Article, and for the calculation of the period of protection, the 31st December of the year in which the work was published is admitted as the date of *publication*.¹

ARTICLE VI.

Authorised translations are protected as original works.² They consequently enjoy the protection stipulated in Articles II. and III. as regards their unauthorised reproduction in the countries of the Union.

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

ARTICLE VII.³

Articles from newspapers or periodicals published in any of the countries of the Union may be reproduced in original or in translation in the other countries of the Union, unless the authors or publishers have expressly forbidden it. For periodicals it is sufficient if the prohibition is made in a general manner at the beginning of each number of the periodical.

This prohibition cannot in any case apply to articles of political discussion, or to the reproduction of news of the day or current topics.

ARTICLE VIII.

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies,⁴ the matter is to be decided by the legislation of the different countries of the Union, or by special arrangements existing or to be concluded between them.

¹ See note 4, p. 185 *supra*.

² Cf. English Law, 49 & 50 Vict. c. 33, s. 5, (3); *Macmillan v. Shamsal* (1895), 19 Ind. L.R. Bombay, 557.

³ This article is modified by Additional Act of Paris, 1896, Art. 1, par. 4, *post*, p. 197.

⁴ *I.e.* a collection of extracts and choice pieces, especially from a foreign author, with explanatory notes.

ARTICLE IX.

The stipulations of Article II. apply to the public representation of dramatic or dramatico-musical¹ works, whether such works be published or not.

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

The stipulations of Article II. apply equally to the public performance of unpublished musical works, or of published works in which the author has expressly declared on the title-page or commencement of the work that he forbids the public performance.

ARTICLE X.

Unauthorised indirect appropriations of a literary or artistic work, of various kinds, such as *adaptations, arrangements of music*, etc. are specially included amongst the illicit reproductions to which the present Convention applies, when they are only the reproduction of a particular work, in the same form, or in another form, with non-essential alterations, additions, or abridgments, so made as not to confer the character of a new original work.²

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

ARTICLE XI.

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the Courts of the various countries of the Union, *it will be sufficient*³ that their name be indicated on the work in the accustomed manner.

¹ "Choreographic works" are entitled to the protection given to dramatico-musical works under the Convention in those countries of the Union whose legislation implicitly includes choreographic works amongst dramatico-musical works (Final Protocol, par. 2).

² Adaptations to the English stage of dramatic pieces protected under the Convention are prohibited by Order in Council 1887, s. 6, repealing s. 6 of the Int. Copyright Act, 1852, so far as it applied to dramatic pieces.

³ It is not essential that the name of the author shall appear on the work. *May v. Italian Institute (Rome)*, 10th January 1899; *Droit d'Auteur*, 1900, p. 145.

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

It is, nevertheless, agreed that the tribunals may, if necessary, require the production of a certificate from the competent authority to the effect that the formalities prescribed by law in the country of origin have been accomplished, as contemplated in Article II.¹

ARTICLE XII.

Pirated works may be seized *on importation into those*² countries of the Union where the original work enjoys legal protection.

The seizure shall take place conformably to the domestic law of each State.

ARTICLE XIII.

It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.³

ARTICLE XIV.

Under the reserves and conditions to be determined by common agreement,⁴ the present Convention applies to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin.

ARTICLE XV.

It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into

¹ Cf. 49 & 50 Vict. c. 33, s. 7, see p. 178.

² For "on importation into those" read "by the competent authorities of the." Additional Act of Paris, 1896, Art. 1, par. 5, *post*, p. 197.

³ *Baschet v. Illustrated Standard Co.* (1900), 1 Ch. 73.

⁴ Cf. Final Protocol, par. 4, and Additional Act, Art. 2, par. 1.

separate and particular arrangements between each other, provided always that such arrangements confer upon authors or their lawful representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.¹

ARTICLE XVI.

An international office is established, under the name of "Office of the International Union for the Protection of Literary and Artistic Works."

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

ARTICLE XVII.

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

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

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

ARTICLE XVIII.

Countries which have not become parties to the present Convention, and which grant by their domestic law the protection of rights secured by this Convention, shall be admitted to accede thereto on request to that effect.

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

Such accession shall imply full adhesion to all the clauses

¹ Cf. Additional Article, *post*, p. 190. If the provisions of separate treaties are more restricted, then the provisions of the Convention shall prevail. Crepieux Janin *v.* Lombroso (Rouen), 22nd November 1895; *Droit d'Auteur*, 1897, p. 115.

and admission to all the advantages provided by the present Convention.¹

ARTICLE XIX.

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

They may do this either by a general declaration comprehending all their Colonies or possessions within the accession, or by specially naming those comprised therein, or by simply indicating those which are excluded.²

ARTICLE XX.

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

Such denunciation shall be made to the Government *authorised to receive accessions*³ and shall only be effective as regards the country making it, the Convention remaining in full force and effect for the other countries of the Union.

ARTICLE XXI.

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

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Berne the 9th day of September 1886.

Additional Article.

The plenipotentiaries assembled to sign the Convention concerning the creation of an International Union for the protection of literary and artistic works have agreed upon the following

¹ Cf. Additional Act of Paris, 1896, Art. 3, *post*, p. 197.

² Great Britain and France acceded to the Convention for their Colonies and foreign possessions (*Procès-verbal* of signature). On ratification the accession of Spain was declared to include that of all the territories dependent upon the Spanish Crown (Protocol to *Procès-verbal* recording deposit of ratifications).

³ For "authorised to receive accessions" read "of the Swiss Confederation" (Additional Act of Paris, 1896, Art. 1, par. 6, *post*, p. 197).

Additional Article, which shall be ratified together with the Convention to which it relates :—

The Convention concluded this day in no wise affects the maintenance of existing Conventions between the contracting States, provided always that such Conventions confer on authors, or their lawful representatives, rights more extended than those secured by the Union, or contain other stipulations which are not contrary to the said Convention.¹

In witness whereof the respective plenipotentiaries have signed the present Additional Article.

Done at Berne, the 9th day of September 1886.

Final Protocol.

In proceeding to the signature of the Convention concluded this day, the undersigned plenipotentiaries have declared and stipulated as follows :—

1. As regards Article IV., it is agreed that those countries of the Union where the character of artistic works is not refused to photographs, engage to admit them to the benefits of the Convention concluded to-day, from the date of its coming into effect. They are, however, not bound to protect the authors of such works further than is permitted by their own legislation, except in the case of international engagements already existing, or which may hereafter be entered into by them.

It is understood that an authorised photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the said Convention, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private arrangements between those who have legal rights.

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

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

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright shall not be considered as constituting an infringement of musical copyright.²

¹ Cf. Art. 15 of the Convention and note, *ante*, p. 189.

² Cf. *Boosey v. Whight* (1900), 1 Ch. 122.

4. The common agreement alluded to in Article XIV. of the Convention is established as follows :—

The application of the Convention to works which have not fallen into the public domain at the time when it comes into force shall operate according to the stipulations on this head which may be contained in special Conventions either existing or to be concluded.

In the absence of such stipulations between any countries of the Union, the respective countries shall regulate, each for itself, by its domestic legislation, the manner in which the principle contained in Article XIV. is to be applied.

(Paragraphs 5-7 of Final Protocol are omitted.)

Procès-verbal recording Deposit of Ratifications.

In accordance with the stipulations of Article XXI, paragraph 1, of the Convention for the creation of an International Union for the protection of literary and artistic works, concluded at Berne on the 9th September 1886, and in consequence of the invitation addressed to that effect by the Swiss Federal Council to the Governments of the high contracting parties, the undersigned assembled this day in the Federal Palace at Berne for the purpose of examining and depositing the ratifications of—

Her Majesty the Queen of Great Britain and Ireland,
Empress of India,

His Majesty the Emperor of Germany, King of Prussia,

His Majesty the King of the Belgians,

Her Majesty the Queen Regent of Spain, in the name of His Catholic Majesty the King of Spain,

The President of the French Republic,

The President of the Republic of Haiti,

His Majesty the King of Italy,

The Council of the Swiss Confederation,

His Highness the Bey of Tunis,

to the said International Convention, followed by an Additional Article and Final Protocol.

The instruments of these acts of ratification having been produced and found in good and due form, they have been delivered into the hands of the President of the Swiss Confederation, to be deposited in the archives of the Government of that country, in accordance with clause No. 7 of the Final Protocol of the International Convention.

In witness whereof the undersigned have drawn up the present *procès-verbal*, to which they have affixed their signatures and the seals of their arms.

Done at Berne, the 5th September 1887, in nine copies, one of which shall be deposited in the archives of the Swiss Confederation with the instruments of ratification.

For Great Britain . . .	(L.S.)	F. O. ADAMS.
For Germany	(L.S.)	ALFRED VON BÜLOW.
For Belgium	(L.S.)	HENRY LOUMVER.
For Spain	(L.S.)	COMTE DE LA ALMINA.
For France	(L.S.)	EMMANUEL ARAGO.
For Haïti	(L.S.)	LOUIS-JOSEPH JANVIER.
For Italy	(L.S.)	FÈ.
For Switzerland	(L.S.)	DROZ.
For Tunis	(L.S.)	H. MARCHAND.

Protocol.

On proceeding to the signature of the *procès-verbal*, recording the deposit of the acts of ratification given by the high parties signatory to the Convention of the 9th September 1886, for the creation of an International Union for the protection of literary and artistic works, the Minister of Spain renewed, in the name of his Government, the declaration recorded in the *procès-verbal* of the Conference of the 9th September 1886, according to which the accession of Spain to the Convention includes that of all the territories dependent upon the Spanish Crown.

The undersigned have taken note of this declaration.

In witness whereof they have signed the present Protocol, done at Berne, in nine copies, the 5th September 1887.

Note.—In addition to the nine original signatories to the Berne Convention in 1886, the following countries have since joined the Copyright Union:—Luxembourg (1888), Monaco (1889), Norway (1896), Japan (1899), Denmark (1903), Sweden (1904).

V

ORDER IN COUNCIL

[28th November 1887.]

WHEREAS, etc., Now, etc., it is hereby ordered as follows :—

1. The Convention, as set forth in the First Schedule to this order, shall, as from the commencement of this order, have full effect throughout Her Majesty's dominions, and all persons are enjoined to observe the same.

2. This order shall extend to the foreign countries following, that is to say :—

Belgium, France, Germany, Haïti, Italy, Spain, Switzerland, Tunis, and the above countries are in this order referred to as the foreign countries of the Copyright Union, and those foreign countries, together with Her Majesty's dominions, are in this order referred to as the countries of the Copyright Union.

3. The author of a literary or artistic work which, on or after the commencement of this order, is first produced in one of the foreign countries of the Copyright Union shall, subject as in this order and in the International Copyright Acts, 1844 to 1886, mentioned, have as respects that work throughout Her Majesty's dominions the same right of copyright, including any right capable of being conferred by an Order in Council under section 2 or section 5 of the International Copyright Act, 1844, or under any other enactment, as if the work had been first produced in the United Kingdom, and shall have such right during the same period :

Provided that the author of a literary or artistic work shall not have any greater right or longer term of copyright therein than that which he enjoys in the country in which the work is first produced.

The author of any literary or artistic work first produced before the commencement of this order shall have the rights and remedies to which he is entitled under section 6 of the International Copyright Act, 1886.

4. The rights conferred by the International Copyright Acts 1844 to 1886 shall, in the case of a literary or artistic work first produced in one of the foreign countries of the Copyright Union by an author who is not a subject or citizen of any of the said foreign countries, be limited as follows, that is to say, the author shall not be entitled to take legal proceedings in Her Majesty's dominions for protecting any copyright in such work, but the publisher of such work shall, for the purpose of any legal proceedings in Her Majesty's dominions for protecting any copyright in such work, be deemed to be entitled to such copyright as if he were the author, but without prejudice to the rights of such author and publisher as between themselves.

5. A literary or artistic work first produced simultaneously in two or more countries of the Copyright Union shall be deemed for the purpose of copyright to have been first produced in that one of those countries in which the term of copyright in the work is shortest.

6. Section six of the International Copyright Act, 1852, shall not apply to any dramatic piece to which protection is extended by virtue of this order.

7. The orders mentioned in the second schedule to this order are hereby revoked :

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

8. This order shall be construed as if it formed part of the International Copyright Act, 1886.

9. This order shall come into operation on the sixth day of December, one thousand eight hundred and eighty-seven, which day is in this order referred to as the commencement of this order.

FIRST SCHEDULE

Berne Convention, App. p. 184.

SECOND SCHEDULE

Orders in Council Revoked

Orders in Council of the dates named below for securing the privileges of copyright in Her Majesty's dominions to authors of

works of literature and the fine arts and dramatic pieces, and musical compositions, first produced in the following foreign countries, namely :—

Foreign Country.	Date.
Prussia	27th August 1846.
Saxony	26th September 1846.
Brunswick	24th April 1847.
The States of the Thuringian Union	10th August 1847.
Hanover	30th October 1847.
Oldenburg	11th February 1848.
France	10th January 1852.
Anhalt-Dessau, and Anhalt-Bernbourg	11th March 1853.
Hamburgh	25th November 1853, and 8th July 1855.
Belgium	8th February 1855.
Prussia, Saxony, Saxe Weimar	19th October 1855.
Spain	24th September 1857, and 20th November 1880.
The States of Sardinia	4th February 1861.
Hesse-Darmstadt	5th February 1862.
Italy	9th September 1865.
German Empire	24th September 1886.

The Order in Council of 5th August 1875, revoking the application of section 6 of 15 and 16 Victoria, chapter 12, to dramatic pieces referred to in the Order in Council of 10th January 1852, with respect to works first published in France.

VI

THE ADDITIONAL ACT OF PARIS (MAY 4, 1896)

ARTICLE I.

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

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

“ Authors belonging to any one of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether unpublished, or published for the first time in one of those countries, the rights which the respective laws do now or shall hereafter grant to nationals.”

A fifth paragraph is added in these terms :—

“ Posthumous works are included among those to be protected.”

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

“ Authors not belonging to one of the countries of the Union, who shall have published or caused to be published for the first time their literary or artistic works in a country which is a party to the Union, shall enjoy, in respect of such works, the protection accorded by the Berne Convention and by the present Additional Act.”

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

“ Authors belonging to any one of the countries of the Union, or their lawful representatives, shall enjoy in

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

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

"Serial stories, including tales, published in the newspapers or periodicals of one of the countries of the Union, may not be reproduced, in original or translation, in the other countries, without the sanction of the authors or of their lawful representatives.

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

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

"In any case, the prohibition shall not apply to articles on political questions, to the news of the day, or to miscellaneous information."

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

"Pirated works may be seized by the competent authorities of the countries of the Union where the original work is entitled to legal protection.

"The seizure shall take place conformably to the domestic law of each State."

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

"Such denunciation shall be made to the Government of the Swiss Confederation. It shall only be effective as regards the country making it, the Convention remain-

ing in full force and effect for the other countries of the Union.

ARTICLE II.

The final Protocol annexed to the Convention of the 9th September 1896 is modified as follows :—

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

“As regards Article IV. it is agreed as follows :

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

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

“It is understood that an authorised photograph of a work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the Berne Convention and by the present Additional Act, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private arrangements between those who have legal rights.”

2. No. 4. This clause shall run as follows :—

“The common agreement contemplated in Article XIV. of the Convention is established as follows :—

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

“In the absence of such stipulations between any of the countries of the Union, the respective countries shall regulate, each for itself, by its domestic legislation, the manner in which the principle contained in Article XIV. is to be applied.

“The stipulations of Article XIV. of the Berne Convention

and of the present clause of the final protocol shall apply equally to the exclusive right of translation, in so far as such right is established by the present Additional Act.

“The temporary stipulations noted above shall be applicable to countries which may hereafter accede to the Union.”

ARTICLE III.

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

ARTICLE IV.

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

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

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

In witness whereof, etc.

Note.—All the countries within the Copyright Union except Norway and Sweden have acceded to the Additional Act of Paris 1896.

VII

DECLARATION OF PARIS, 1896¹

DECLARATIONS interpreting certain provisions of the Convention of Berne of September 9, 1886, and of the Additional Act, signed at Paris.

(Paris, May 4, 1896.)

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

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

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

¹ This is the "Interpretative Clause" not ratified by Great Britain.

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

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

In witness whereof, etc.

VIII

ORDER IN COUNCIL, MARCH 7, 1898

1. THE Additional Act of the Berne Convention shall, as from the commencement of this order, have full effect throughout Her Majesty's dominions, and all persons are enjoined to observe the same.

2. This order shall extend to the foreign countries following, that is to say: Germany, Belgium, Spain, France, Italy, Luxembourg, Monaco, Switzerland, and Tunis.

3. The fourth Article of the Order in Council of 28th November 1887 shall, as from the commencement of this order, cease to apply to the foreign countries to which this order extends.

4. The Order in Council of 28th November 1887 shall continue to be of full force and effect save in so far as the same is varied by this order.

5. Nothing contained in this order shall prejudicially affect any right acquired or accrued before the commencement of this order by virtue of the said Order in Council of 28th November 1887, or otherwise, and any person entitled to such right shall continue entitled thereto and to remedies for the same in like manner as if this order had not been made.

6. The author of any literary or artistic work first produced before the commencement of this order shall have the rights and remedies to which he is entitled under section 6 of the International Copyright Act, 1886.

IX

REVISED STATUTES OF THE UNITED STATES

CONSTITUTION, 1787.

ART. I, Sec. 8. The Congress shall have power: . . . To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

ACTS OF CONGRESS

The text of sections 4948 to 4970, inclusive, of the Revised Statutes is printed in *longprimer type*, the amendments passed subsequent to the Revised Statutes being indicated by *italic* type, and omissions, by brackets and footnotes.

Section 4948. All records and other things relating to copyrights and required by law to be preserved, shall be under the control of the Librarian of Congress, and kept and preserved in the Library of Congress.

[The Appropriation Act, approved February 19, 1897, provides for the appointment of a "*Register of Copyrights, who shall, on and after July first, eighteen hundred and ninety-seven, under the direction and supervision of the Librarian of Congress, perform all the duties relating to copyrights, and shall make weekly deposits with the Secretary of the Treasury, and make monthly reports to the Secretary of the Treasury and to the Librarian of Congress, and shall, on and after July first, eighteen hundred and ninety-seven, give bond to the Librarian of Congress, in the sum of twenty thousand dollars, with approved sureties, for the faithful discharge of his duties.*"]

Sec. 4949. The seal provided for the office of the Librarian of Congress shall be the seal thereof, and by it all records and papers issued from the office, and to be used in evidence shall be authenticated.

Copyright
Records.

Register of
Copyrights.

Seal of the
Copyright
Office.

Sec. 4950. The Appropriation Act, approved February 19, 1897, provides: "*The Librarian of Congress shall, on and after July first, eighteen hundred and ninety-seven, give bond, payable to the United States, in the sum of twenty thousand dollars, with sureties approved by the Treasury, for the faithful discharge of his duties according to law.*"

Bond of Librarian of Congress.

Sec. 4951. The Librarian of Congress shall make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year.

Annual Report to Congress of Copyright Publications.

Sec. 4952. The author, inventor, designer, or proprietor of any book, map, chart, dramatical or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and, in the case of dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others; and authors or their assigns shall have exclusive right to dramatise and translate any of their works for which copyright shall have been obtained under the laws of the United States.

Author, etc., and his Assigns shall have sole Liberty of Printing and Vending.

Authors shall have Exclusive Right to Dramatise or Translate.

"Whenever the author or proprietor of a book in a foreign language, which shall be published in a foreign country before the day of publication in this country, or his executors, administrators, or assigns, shall deposit one complete copy of the same, including all maps and other illustrations, in the Library of Congress, Washington, District of Columbia, within thirty days after the first publication of such book in a foreign country, and shall insert in such copy, and in all copies of such book sold or distributed in the United States, on the title-page or the page immediately following, a notice of the reservation of copyright in the name of the proprietor, together with the true date of first publication of such book, in the following words: 'Published _____, nineteen hundred and _____ . Privilege of copyright in the United States reserved under the Act approved March third, nineteen hundred and five, by _____, and shall within twelve months after the first publication of such book in a foreign country, file the title of such book, and deposit two copies of it in the original language or, at his option, of a translation of it in the English language printed from type set within the limits of the United States, or from plates made therefrom, containing a notice of copyright, as provided by the copyright laws now in force, he and they shall have during the term of twenty-eight years from

Book First Published Abroad.

Deposit of One Copy within Thirty Days.

Notice of Copyright for Foreign Edition.

- the date of recording the title of the book or of the English translation of it, as provided for above, the sole liberty of printing, reprinting, publishing, vending, translating, and dramatising the said book: Provided, that this Act shall only apply to a citizen or subject of a foreign State or nation when such foreign State or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as to its own citizens."*
- Foreign Authors who may secure Reservation.
- Definition of "engraving," "cut," and "print."
- Labels.
- Copyright Term 28 years.
- Renewal for Second Term of 14 years.
- Publication of Renewal.
- Assignment of Copyrights.
- Deposit of Title or Description.
- In the construction of this Act the words "engraving" "cut," and "print," shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright of prints, except that there shall be paid for recording the title of any print or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record, under the seal of the Commissioner of Patents, to the party entering the same.*
- Sec. 4953. Copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof in the manner hereinafter directed.
- Sec. 4954. The author, inventor, or designer, if he be still living, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.
- Sec. 4955. Copyrights shall be assignable in law by any instrument of writing, and such assignment shall be recorded in the office of the Librarian of Congress within sixty days after its execution; in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.
- Sec. 4956. No person shall be entitled to a copyright unless he shall, *on or before the day of publication, in this or any foreign country*, deliver at the office of the Librarian of Congress, or deposit in the mail *within the United States*, addressed to the Librarian of Congress, at Washington, District of Columbia, a printed copy of the title of the book, *map, chart, dramatic or*

musical composition, engraving, cut, print, photograph, or chromo, or a description of the painting, drawing, statue, statuary, or a model or design for a work of the fine arts, for which he desires a copyright; nor unless he shall also, not later than the day of the publication thereof, in this or any foreign country, deliver at the office of the Librarian of Congress at Washington, District of Columbia, or deposit in the mail, within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, two copies of such copyright book, map, chart, dramatic or musical composition, engraving, chromo, cut, print, or photograph, or in case of a painting, drawing, statue, statuary, model, or design for a work of the fine arts, a photograph of the same: Provided, that in the case of a book, photograph, chromo, or lithograph, the two copies of the same required to be delivered or deposited as above, shall be printed from type set within the limits of the United States, or from plates made therefrom, or from negatives, or drawings on stone made within the limits of the United States, or from transfers made therefrom. During the existence of such copyright the importation into the United States of any book, chromo, lithograph, or photograph, so copyrighted, or any edition or editions thereof, or any plates of the same not made from type set, negatives, or drawings on stone made within the limits of the United States, shall be, and is hereby prohibited, except in the cases specified in paragraphs 512 to 516 inclusive, in section two of the Act entitled, An Act to reduce the Revenue and equalise the Duties on Imports and for other purposes, approved October 1, 1890; and except in the case of persons purchasing for use and not for sale, who import, subject to the duty thereon, not more than two copies of such book at any one time; and, except in the case of newspapers and magazines, not containing in whole or in part matter copyrighted under the provisions of this Act, unauthorised by the author, which are hereby exempted from prohibition of importation.

Deposit of Two Copies.

Printed from type set within the United States.

Prohibition of Importation.

Exceptions to Prohibition of Importation.

Newspapers and Magazines may be imported.

Books in Foreign Languages, of which only Translations are copyrighted, may be imported.

Provided, nevertheless, that in the case of books in foreign languages, of which only translations in English are copyrighted, the prohibition of importation shall apply only to the translation of the same, and the importation of the books in the original language shall be permitted.

Sec. 4957. The Librarian of Congress shall record the name of such copyright book, or other article, forthwith in a book to be kept for that purpose, in the words following: "Library of Congress, to wit: Be it remembered that on the day of , A. B., of , hath deposited in this office the title of a book (map, chart, or otherwise, as the case may be, or description of the article), the title or description of which is in the following

Entry of Copyright.

words, to wit: (here insert the title or description,) the right whereof he claims as author, (originator or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., Librarian of Congress." And he shall give a copy of the title or description under the seal of the Librarian of Congress, to the proprietor, whenever he shall require it.

Copy of Record.

Fees.

Fee for recording Title.
 Fee for Copy of Record.
 Fee for recording Assignment.
 Fee for Copy of Assignment.
 Fee for Foreign Production.

Sec. 4958. The Librarian of Congress shall receive from the persons to whom the services designated are rendered, the following fees:—1. For recording the title or description of any copyright book or other article, fifty cents. 2. For every copy under seal of such record actually given to the person claiming the copyright, or his assigns, fifty cents. [3. *For recording and certifying any instrument of writing for the assignment of a copyright, one dollar.* 4. *For every copy of an assignment, one dollar.*] All fees so received shall be paid into the Treasury of the United States: *Provided that the charge for recording the title or description of any article entered for copyright, the production of a person not a citizen or resident of the United States, shall be one dollar, to be paid as above into the Treasury of the United States, to defray the expenses of lists of copyrighted articles as hereinafter provided for.*

Catalogue of Title Entries.

And it is hereby made the duty of the Librarian of Congress to furnish to the Secretary of the Treasury copies of the entries of titles of all books and other articles wherein the copyright has been completed by the deposit of two copies of such book printed from type set within the limits of the United States, in accordance with the provisions of this Act, and by the deposit of two copies of such other article made or produced in the United States; and the Secretary of the Treasury is hereby directed to prepare and print, at intervals of not more than a week, catalogues of such title-entries for distribution to the collectors of customs of the United States and to the postmasters of all post offices receiving foreign mails, and such weekly lists, as they are issued, shall be furnished to all parties desiring them, at a sum not exceeding five dollars per annum; and the Secretary and the Postmaster-General are hereby empowered and required to make and enforce such rules and regulations as shall prevent the importation into the United States, except upon the conditions above specified, of all articles prohibited by this Act.

Subscription, \$5 a Year.

Secretary of Treasury and Postmaster-General to prevent Importation.

Deposit of Copy of subsequent Editions.

Sec. 4959. The proprietor of every copyright book or other article shall deliver at the office of the Librarian of Congress, or deposit in the mail, addressed to the Librarian of Congress, at Washington, District of Columbia, a copy of every subsequent edition wherein any substantial changes shall be made: *Provided,*

however, that the alterations, revisions, and additions made to books by foreign authors, heretofore published, of which new editions shall appear subsequently to the taking effect of this Act, shall be held and deemed capable of being copyrighted as above provided for in this Act, unless they form a part of the series in course of publication at the time this Act shall take effect.

New Editions of Foreign Books may be Copyrighted.

Sec. 4960. For every failure on the part of the proprietor of any copyright to deliver, or deposit in the mail, either of the published copies, or description, or photograph, required by sections 4956 and 4959, the proprietor of the copyright shall be liable to a penalty of twenty-five dollars, to be recovered by the Librarian of Congress, in the name of the United States, in an action in the nature of an action of debt, in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

Failure to Deposit Copies.

The following Act in relation to the deposit of copies was approved March 3, 1893: "That any author, inventor, designer, or proprietor of any book, or other article entitled to copyright, who has heretofore failed to deliver in the office of the Librarian of Congress, or in the mail addressed to the Librarian of Congress, two complete copies of such book or description or photograph of such article, within the time limited by title sixty, chapter three, of the Revised Statutes relating to copyrights, and the Acts in amendment thereof, and has complied with all other provisions thereof, who has, before the first day of March, anno Domini eighteen hundred and ninety-three delivered at the office of the Librarian of Congress, or deposited in the mail addressed to the Librarian of Congress, two complete printed copies of such book, or description or photograph of such article, shall be entitled to all the rights and privileges of said title sixty, chapter three, of the Revised Statutes and the Acts in amendment thereof."

Deposit of Copies prior to March 1, 1893.

Sec. 4961. The postmaster to whom such copyright book, title, or other article is delivered, shall, if requested, give a receipt therefor; and when so delivered he shall mail it to its destination.

Postmaster shall give a Receipt, if requested.

Sec. 4962. *No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title-page, or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some visible portion thereof, or of the substance on which the same shall be mounted, the following words, viz.: "Entered according to Act of Congress in the year _____, by A. B.,*

Notice of Copyright.

in the office of the Librarian of Congress at Washington ;" or, at his option the word " Copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out, thus: " Copyright, 18—, by A. B."

Notice of
Copyright on
decorative
Articles.

That manufacturers of designs for moulded decorative articles, tiles, plaques, or articles of pottery or metal subject to copyright, may put the copyright mark prescribed by section forty-nine hundred and sixty-two of the Revised Statutes, and Acts additional thereto, upon the back or bottom of such articles, or in such other place upon them as it has heretofore been usual for manufacturers of such articles to employ for the placing of manufacturers', merchants', and trademarks thereon.

False claim of
Copyright
(penalty for).

Sec. 4963. *Every person who shall insert or impress such notice or words of the same purport, in or upon any book, map, chart, dramatic or musical composition, print, cut, engraving or photograph, or other article, whether such article be subject to copyright or otherwise, for which he has not obtained a copyright, or shall knowingly issue or sell any article bearing a notice of a United States copyright which has not been copyrighted in this country; or shall import any book, photograph, chromo, or lithograph or other article bearing such notice of copyright, or words of the same purport, which is not copyrighted in this country, shall be liable to a penalty of one hundred dollars, recoverable one-half for the person who shall sue for such penalty, and one-half to the use of the United States; and the importation into the United States of any book, chromo, lithograph, or photograph, or other article bearing such notice of copyright, when there is no existing copyright thereon in the United States, is prohibited; and the circuit courts of the United States, sitting in equity, are hereby authorised to enjoin the issuing, publishing, or selling of any article marked or imported in violation of the United States copyright laws, at the suit of any person complaining of such violation: Provided, that this Act shall not apply to any importation of or sale of such goods or articles brought into the United States prior to the passage hereof.*

Penalty,
\$100.00.

Printing, or
importing,
etc., Book
without
permission
prohibited.

Sec. 4964. *Every person who, after the recording of the title of any book and the depositing of two copies of such book as provided by this Act, shall, contrary to the provisions of this Act, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, dramatise, translate, or import, or, knowing the same to be so printed, published, dramatised, translated, or imported, shall sell or expose to sale any copy of such book, shall forfeit every copy thereof to such proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.*

Sec. 4965. *If any person after the recording of the title of any map, chart, dramatic or musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as provided by this Act, shall, within the term limited, contrary to the provisions of this Act, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, dramatise, translate, or import either in whole or in part, or by varying the main design, with intent to evade the law, or, knowing the same to be so printed, published, dramatised, translated, or imported, shall sell or expose to sale any copy of such map or other article as aforesaid, he shall forfeit to the proprietor all the plates on which the same shall be copied, and every sheet thereof, either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or by him sold or exposed for sale: Provided, however, that in case of any such infringement of the copyright of a photograph made from any object not a work of fine arts, the sum to be recovered in any action brought under the provisions of this section shall be not less than one hundred dollars, nor more than five thousand dollars, and: Provided, further, that in case of any such infringement of the copyright of a painting, drawing, statue, engraving, etching, print, or model or design for a work of the fine arts, or of a photograph of a work of the fine arts, the sum to be recovered in any action brought through the provisions of this section shall be not less than two hundred and fifty dollars, and not more than ten thousand dollars. One-half of all the foregoing penalties shall go to the proprietors of the copyright and the other half to the use of the United States.*

Printing, etc.,
Map, Chart,
Dramatic or
Musical Com-
position, or
Art Works
without
permission
prohibited.

Penalty for
Infringement
of Copyright
of Photograph

Penalty for
Infringement
of Copyright
of a work of
the Fine Arts.

Sec. 4966. *Any person publicly performing or representing any dramatic or musical composition for which a copyright has been obtained, without the consent of the proprietor of said dramatic or musical composition, or his heirs or assigns, shall be liable for damages therefor, such damages in all cases to be assessed at such sum, not less than one hundred dollars for the first and fifty dollars for every subsequent performance, as to the court shall appear to be just. If the unlawful performance and representation be wilful and for profit, such person or persons shall be guilty of a misdemeanour, and upon conviction be imprisoned for a period not exceeding one year. Any injunction that may be granted upon hearing after notice to the defendant by any circuit court in the United States,*

Penalty for
performing or
representing
Dramatic or
Musical Com-
position with-
out consent.

Injunction.

Suit for
Injunction.

or by a judge thereof, restraining and enjoining the performance or representation of any such dramatic or musical composition, may be served on the parties against whom such injunction may be granted anywhere in the United States, and shall be operative and may be enforced by proceedings to punish for contempt or otherwise by any other circuit court or judge in the United States; but the defendants in said action, or any or either of them, may make a motion in any other circuit in which he or they may be engaged in performing or representing said dramatic or musical composition to dissolve or set aside the said injunction upon such reasonable notice to the plaintiff as the circuit court or the judge before whom said motion shall be made shall deem proper service of said motion to be made on the plaintiff in person or on his attorneys in the action. The circuit courts or judges thereof shall have jurisdiction to enforce said injunction, and to hear and determine a motion to dissolve the same, as herein provided, as fully as if the action were pending or brought in the circuit in which said motion is made.

Certified Copy
of Papers.

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

Penalty for
Printing MS
without
consent.

Sec. 4967. Every person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, shall be liable to the author or proprietor for all damages occasioned by such injury.

No Action
shall be main-
tained after
Two Years.

Sec. 4968. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

When Amend-
ments of March
3, 1891, apply
to Foreigners.

"That this Act shall only apply to a citizen or subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may at its pleasure become a party to such agreement. The existence of either of the conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time as the purposes of this Act may require." (SEC. 13).

X

ACT OF MARCH 3, 1905.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section forty-nine hundred and fifty-two of the Revised Statutes be, and the same is hereby amended so as to read as follows :

“Sec. 4952. The author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph, or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same ; and, in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others. And authors or their assigns shall have exclusive right to dramatise or translate any of their works for which copyright shall have been obtained under the laws of the United States.

“Whenever the author or proprietor of a book in a foreign language, which shall be published in a foreign country before the day of publication in this country, or his executors, administrators, or assigns, shall deposit one complete copy of the same, including all maps and other illustrations, in the Library of Congress, Washington, District of Columbia, within thirty days after the first publication of such book in a foreign country, and shall insert in such copy, and in all copies of such books sold or distributed in the United States, on the title-page or the page immediately following, a notice of the reservation of copyright in the name of the proprietor, together with the true date of first publication of such book, in the following words : ‘Published , nineteen hundred and . Privilege of

Author, etc., and his Assigns shall have sole Liberty of Printing and Vending.

Authors shall have exclusive Right to Dramatise or Translate.

Books first published Abroad.

Deposit of One Copy within Thirty Days.

Notice of Copyright for Foreign Edition.

copyright in the United States reserved under the Act approved March third, nineteen hundred and five, by _____, and shall, within twelve months after the first publication of such book in a foreign country, file the title of such book, and deposit two copies of it in the original language or, at his option, of a translation of it in the English language, printed from type set within the limits of the United States, or from plates made therefrom, containing a notice of copyright, as provided by the copyright laws now in force, he and they shall have during the term of twenty-eight years from the date of recording the title of the book, or of the English translation of it, as provided for above, the sole liberty of printing, reprinting, publishing, vending, translating, and dramatising the said book: Provided that this Act shall only apply to a citizen or subject of a foreign State or nation when such foreign State or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as to its own citizens."

Foreign Author
who may
secure Reser-
vation.

Approved, March 3, 1905.

XI

DIRECTIONS FOR REGISTERING COPYRIGHTS

TO WHOM APPLICATION FOR COPYRIGHT SHOULD BE MADE

ALL correspondence regarding copyright business and all articles forwarded in relation to copyright should be addressed: "The Register of Copyrights, Copyright Office, Library of Congress, Washington, D. C."

Address
Register of
Copyrights.

Please do not send any stamps or stamped envelopes for return postage, as all mail matter sent from the Copyright Office, addressed to any part of the United States (including Alaska, the Philippines, and Hawaii), Canada and Mexico, is carried without postage under Government frank. Also, please do not send any remittance to pay for blanks or circulars of any kind, as they are furnished without charge upon request.

Do not send
return
Postage.

Send no
Money for
Circulars, etc.

APPLICATION FOR COPYRIGHT REGISTRATION

It is highly desirable that each application for copyright entry shall be so made that the law is strictly complied with, so that no question can arise as to the validity of the entry recorded. Also, that the application shall be in such a form that the Copyright Office can, upon its receipt, promptly make the entries desired, and thus avoid delay through the necessity for correspondence.

Application for
Copyright.

To aid in accomplishing this the Copyright Office prepares application forms, which should be used in all cases, in accordance with the directions for filling them up, printed on the blanks. The forms will be furnished upon request. The forms are made as simple as the law will allow, and it is desirable that all the information asked for shall be supplied. The following information called for in the blanks *is necessary, and without it no entry of title can be made*:

Application
Forms.

The application must state the *nature* of the article for which copyright is desired—*i.e.*, whether it is a *book, periodical, map, drama, musical composition, engraving, photograph, lithograph, chromo, or a painting, drawing, or statuary*. The classes of articles named in the copyright statutes as subject to copyright are

Application
must state
Nature of
Article.

- Articles subject to Copyright. printed on the application blanks, and no article can be registered in the Copyright Office which cannot be classed under one or the other designation used in the law to indicate the articles subject to copyright protection. Indefinite designations, such as "publication," "reproduction," "picture," "work of art," etc., should not be used. The term "chart" should only be used to indicate some form of map, and not in its ordinary sense in referring to printed matter spread out upon a sheet. Such articles should be described as Books. The words "engraving," "cut," and "print" are understood to mean only a work of art, and the articles which they designate are subject to copyright registration in the Copyright Office, Library of Congress, only when they are articles sold or exchanged for their artistic value. The term "print" should not be used to designate something merely printed. The terms "design" and "model" should only be used to designate a distinctly artistic production. If only the *words* of a song are desired to be protected, the application should be made out for a "book"; if protection is desired for both words and music, application should be made for a "musical composition." Do not apply for entry of a "comedy," a "drama," or a "farce," or use any similar differentiating term, but in all cases use the statutory designation "dramatic composition."
- Chart. 2. When application is made in the case of a book, photograph, chromo, or lithograph, it is necessary to state that "the two copies of the same required to be delivered or deposited as above shall be printed from type set within the limits of the United States, or from plates made therefrom, or from negatives, or drawings on stone made within the limits of the United States, or from transfers made therefrom."
- Engraving, Cut, and Print. 3. It is not necessary to state the name of the author if it is desired to keep the book or other article anonymous, but the *nationality* of the *author* of any literary, dramatic, musical, or artistic work is required in order to determine the fee to be charged, and also to determine whether the article, in the case of a foreign work, is the production of a citizen of some country to the subjects of which country the privilege of copyright in the United States has been extended.
- Design and Model. In the case of an author who is a native of a foreign country, but a *legal or permanent resident* of the United States, that fact should be stated, or the citizenship should be given as of the United States. If the author is of foreign nativity, but has declared his intention to become a citizen of the United States, that fact should be stated.
- Dramatic Composition. State that Article is printed or made within the United States.
- State Nationality of Author.
- Author of Foreign Nativity, but Legal Resident of United States.

4. An entry of copyright claim cannot be made unless the application for such entry contains a distinct statement *in whose name* the claim of copyright is to be registered. The Copyright Office cannot *infer* from the form of application who is the intended claimant. The application must distinctly state the full name and address of the person who claims to be the proprietor of the copyright. No entry can be made in a fictitious name, such as a *nom de plume* or pseudonym. The *real* name of the claimant should be stated. Not only does the law require that the real name of the copyright claimant shall be printed in the notice of copyright which it is obligatory to print upon each copy of any article copyrighted, but it also requires that the name of the copyright claimant shall be printed in the catalogue of copyright entries. If an author desires to preserve his anonymity, and to avoid putting his name on record, he should arrange to have some other person make the copyright entry in such person's name as "proprietor," under an arrangement with himself as author. Entry may be made in the name of a firm, of a corporation, or trustee, or in two or more names as joint authors or proprietors.

State Name
of Claimant.

Nom de plume
or Pseudonym.
Real Name of
Claimant must
be stated.

Firm or Cor-
poration Name
may be used.

5. The blank should be filled up to state whether the copyright is claimed as *author* or as *proprietor* of the work whose title is recorded.

State whether
Author or
Proprietor.

One application form will serve for a number of titles, provided the information called for on pages 1 and 2 of the blank is equally applicable to each title. In case, however, the titles are typewritten on page 3 of blank "A," a space of one inch should be left after each title, and no more to be put upon each page than will allow this space, which is required for receiving the date and number stamp which pertains to each title.

One Applica-
tion will serve
for several
Titles.

Application form A is to be used only for the following articles: Book; Periodical; Musical composition; Dramatic composition; Map or chart; Engraving, cut, or print; Chromo or lithograph; Photograph.

Application
Forms.

Application form B is to be used only for the following productions: Painting; Drawing; Statue; Statuary; Model or design intended to be perfected as a work of the fine arts.

In case of application for renewal of copyright, for the further term of fourteen years, a third form of application (form C), specially designed for this purpose, is furnished by the Copyright Office.

Application forms D and E have been devised for applying for Interim Term copyright, and one year's reservation of copyright respectively. Form D is now obsolete; form E can be supplied on request.¹

¹ See p. 232.

APPLICATION FOR COPYRIGHT REGISTRATION.

FORM A
FOR WORKS
MULTIPLIED BY
MECHANICAL
MEANS.

To the Register of Copyrights,
Washington, D. C.:

Inclosed find \$ cents in money order, which you are requested to apply as follows:

(a) As the statutory fee for recording the accompanying title \$ cents.

(b) As the statutory fee for a copy under seal of such record (Certificate), fifty cents.

Please read the following directions with care, and fill in the required information with exactness in order to avoid delay in your copyright business.

<p>1. Use only one of these eight designations: A—BOOK (if literary composition, in prose or verse, including newspaper article, magazine contribution, serial story, or single poem); B—PERIODICAL; C—MUSICAL COMPOSITION; D—DRAMATIC COMPOSITION; E—MAP or CHART; F—ENGRAVING, CUT, or PRINT; G—CHROMO or LITHOGRAPH; H—PHOTOGRAPH. USE NO OTHER TERMS THAN THE ABOVE.</p>	<p>1. NATURE OF ARTICLE.</p>
<p>2. Write an abbreviation of the accompanying printed title, sufficient to identify the latter. One blank will serve for more than one title if the information asked for on pages 1 and 2 of the blank is equally applicable to each title.</p>	<p>2. TITLE OF WORK.</p>
<p>3. Write full name of person in whose name as "Author" or "Proprietor" the claim of copyright is to be recorded, and state legal residence. The notice of copyright on every copy of the article must have name of claimant printed in exactly the form written here, for example: Copyright, 190.. by (Here insert year.) (Here insert full name of claimant.)</p>	<p>3. NAME OF CLAIMANT OF COPYRIGHT, AND LEGAL RESIDENCE. <i>Name,</i>..... <i>Residence,</i>..... (City.) (State.)</p>
<p>4. If a <i>Book, Chromo, Lithograph, Photograph</i> or <i>Periodical</i>, state in what <i>country</i> the article is to be printed or produced. See below. This information is not obligatory in the case of other copyright articles, but is desirable.</p>	<p>4. COUNTRY IN WHICH THE ARTICLE IS TO BE PRINTED OR PRODUCED.</p>
<p>5. If in space 3 the name of the <i>author</i> is given, write opposite the word AUTHOR. If in space 3 the name of the <i>proprietor</i> is given, write opposite the word PROPRIETOR.</p>	<p>5. FORM OF CLAIM.</p>
<p>6. If the author, composer, or designer is living, state citizenship and residence; if dead, state nationality when living. If naturalized citizen of the United States, so state. It is not necessary to divulge the name and residence of any author who is not also the claimant of the copyright. It is OBLIGATORY TO INDICATE THE NATIONALITY. The meaning of the word "nationality" in this case is the country to which the applicant now owes allegiance by birth or naturalisation.</p>	<p>6. NAME OF THE { AUTHOR } AND OF { TRANSLATOR } AND OF { EDITOR } THE COUNTRY OF WHICH HE IS NOW A CITIZEN OR SUBJECT. <i>Name,</i>..... [May be withheld if desired.] <i>Residence,</i>..... [May be withheld if desired.] NATIONALITY { Name of Country of which he is now a citizen or subject. } [MUST BE GIVEN.]</p>
<p>7. State, if desired, specifically upon what copyright protection is claimed, e.g., "Preface," "Notes and Emendations," "Illustrations," "New matter added in new edition," etc.,</p>	<p>7. SPECIFICATION OF NATURE OF CLAIM OF COPYRIGHT.</p>
<p>8. Give name of person to whom reply is to be sent, together with full address.</p>	<p>8. NAME AND ADDRESS TO WHOM REPLY IS TO BE MAILED. <i>Name,</i>..... <i>Address,</i>.....</p>

SPECIAL NOTICE.—In the case of a book, photograph, chromo, or lithograph, the two copies required to be deposited must "be printed from type set within the limits of the United States, or from plates made therefrom, or from negatives, or drawings on stone made within the limits of the United States, or from transfers made therefrom."

FILING THE TITLE

The first step to be taken in order to secure copyright protection, according to law, is the transmission to this office of *a printed copy of the title of the book or other article* (Revised Statutes, section 4956). The copying of such title-page into the record books of the Copyright Office becomes the recording of the claim of copyright. The requirements of the statute are definite, and it is incumbent that they shall be exactly complied with. If, therefore, no title is sent no entry can be made.

Printed or
Typewritten
Title must be
Filed.

Formal application for copyright should be made by filling up the application blank in accordance with the directions printed on it, and mailing it with the required fee, addressed: "The Register of Copyrights, Copyright Office, Library of Congress, Washington, D. C." The application should always be accompanied by a title-page. Preferably a *printed* title of the book or other article should be sent; or, in lieu thereof, a third copy of the article. But if this cannot be done, the title should be *typewritten* on page 3 of the blank, and should be worded exactly as it is proposed to print the title of the published book or other article. The copyright law distinctly requires the filing of a "printed" title, and if a typewritten title is sent it is accepted at the risk of the sender. *Written titles cannot be accepted.* "Sending two copies of a book or other article is *not* a compliance with the requirement of the law that a title *and* two copies are to be sent, but *three* copies will serve if such copies bear the printed title."

Formal Appli-
cation should
be made.

Printed Title
should be sent.

In the case of music, preferably the *printed title cover* of the music should be sent when this contains a complete title, with names of author of the words and composer of the music; or, in lieu thereof, a *third* copy of the piece of music. But if this cannot be done, the complete title should be *typewritten* on blank page of the application form. If several typewritten titles are to be sent with one application, they can be put upon page 3 of the application blank, 1 inch apart, so as to allow the date and number stamp to come between. Typewritten titles are accepted upon the sole responsibility of the sender.

Music Titles.

In the case of music published and sold in different editions *arranged for different instruments*, the title of each arrangement should be forwarded for record, and should be a complete printed title distinctly denoting the arrangement or instrumentation. In such cases it is the name and nationality of the author of the arrangement, not of the original composer of the music, which should be stated. In the case of musical compositions published

Arrangements
of Music.

in various keys the prudent course, also, is to register the title of each separate edition of the music printed, with a statement of the key.

Original Works
of Art.

In the case of a painting, drawing, statue, statuary, or a model or design for a work of fine arts, in lieu of, or in addition to the title, if there is one, a *description* is required to be sent, and a *photograph* to be filed. This photograph is required for identification, and should be a *photograph taken directly from the work of art*, and not a print, half-tone, photogravure, or any other kind of reproduction.

Title must be
Filed before
Publication.

Great care should be taken to send the required title or description for record *before the publication* or distribution of any copies of the article which it is desired to copyright. The law states explicitly (section 4956, Revised Statutes) that "*No person shall be entitled to a copyright unless he shall, on or before the day of publication in this or any foreign country, deliver at the office of the Librarian of Congress, or deposit in the mail within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, a printed copy of the title of the book, map, or chart, dramatic or musical composition, engraving, cut, print, photograph, or chromo, or a description of the painting, drawing, statue, statuary, or a model or design, for a work of the fine arts, for which he desires a copyright.*"

DATE OF REGISTRATION OF TITLE

Date of
Registration.

All titles are recorded under the date of their receipt in the Copyright Office. This course is obligatory, and requests to give dates to the title records anterior to actual receipt of titles cannot be acquiesced in. If, for special reasons, it is desired to have a title recorded on a certain date, it is incumbent on the person sending it to forward title and proper application sufficiently early to insure their receipt at the Copyright Office on or before the date named.

Legal Holi-
days.

On such days as by law are legal holidays in the District of Columbia, the Copyright Office is not open and no registrations are made. In arranging for days of simultaneous publication these days or dates should be avoided. The following are legal holidays under which dates no entries will be made: The first day of January (New Year's day), the twenty-second day of February (Washington's birthday), the fourth day of March (each fourth year inauguration day), the thirtieth day of May (Decoration day), the fourth day of July (Independence day), the first Monday in September (Labour's Holiday), the twenty-fifth day of December

Legal Holi-
days.

(Christmas day). In addition, any day appointed or recommended by the President as a day of public fast or thanksgiving becomes a legal holiday, on which date no registrations are made. The last Thursday in the month of November is thus appointed Thanksgiving day, and no copyright entries are made on that day. In case any one of these holidays falls upon Sunday, the next succeeding Monday is considered the legal holiday, on which date no registrations are made.

WORKS IN MORE THAN ONE VOLUME

In the case of works published in parts or volumes, the title of each part or volume should be recorded as if an independent work. Of newspapers, magazines, or other periodical publications, the title for each number, *distinguished by volume, number, and date*, is required to be filed as if it were a distinct work.

In the case of engravings, photographs, or other articles published with variations, or music in different arrangements, a title is required to be recorded for each variety, and must be so worded as to clearly differentiate the different editions or issues. Each pose, in the case of a photograph, requires separate entry under some distinguishing title, number, or mark.

Each Volume requires Separate Entry.
Each Number of a Periodical requires Separate Entry.
Each Variation requires Separate Entry.
Each pose of Photograph requires Separate Entry.

WHO CAN APPLY FOR COPYRIGHT REGISTRATION

1. The *author* of any literary, musical, dramatic, or artistic work, who is a citizen of the United States, or a subject of any country to whose citizens the United States has extended the benefits of copyright, is privileged to obtain copyright in the United States. 2. Any person to whom an author, *who has the privilege of copyright in the United States*, has transferred his copyright, can apply for and obtain copyright entry as a "proprietor." 3. The executors or administrators of any qualified author. 4. A translator, and the editor, compiler, dramatiser, or abridger of a work, may, under the copyright law, be considered as the author of the translation, the compilation, the dramatisation, or the abridgment, and can apply for and obtain copyright registration.

The Author or his Assigns can obtain Copyright.
Assigns of Author privileged to Copyright.
Translator, Editor, Dramatiser, or Compiler.

The mere *possession* of a book, either in manuscript or printed form, does not of itself give the possessor the privilege of copyright registration.

DEPOSIT OF COPIES

The second step required to be taken to complete a copyright is the deposit of *two* copies of the article for which the title has

Deposit of Copies.

Must be before
Publication.

been recorded. This should be made before the publication or distribution of any copies of the article, the law explicitly providing that "*No person shall be entitled to a copyright unless he shall also, not later than the day of the publication thereof, in this or any foreign country, deliver at the office of the Librarian of Congress, at Washington, District of Columbia, or deposit in the mail within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, two copies of such copyright book, map, chart, dramatic or musical composition, engraving, chromo, cut, print, or photograph, or, in case of a painting, drawing, statue, statuary, model, or design for a work of the fine arts, a photograph of the same.*"

Penalty for
Noncompliance,
\$25.
Two Copies
required.

Unless this deposit is made a penalty of \$25 is incurred.

Books, Photo-
graphs,
Chromos, and
Lithographs,
must be made
in United
States.

Two copies are required, and they must be complete copies of the best edition. The original words of the Revised Statutes (section 4959) before the passage of the Act of March 3, 1891, are: "Two complete printed copies thereof, of the best edition issued." In the case of books, the copies must be printed from type set within the limits of the United States. Photographs must be prints from negatives made in the United States, or from transfers made therefrom, and chromos and lithographs from drawings on stone or transfers therefrom made in the United States.

Book pub-
lished in
Periodical.

When a book is published serially in a periodical, *two* copies of each number of the *magazine* containing it should be deposited, and if afterwards published as a complete work, then two copies of the completed book should be deposited.

One Copy of
New Edition
required.
Copies should
be marked.

In the case of a *new edition* the law requires the deposit of *one* copy (Revised Statutes, section 4959).


When sending the copies, please see that they are plainly marked with the distinguishing title of the article and the name and address of the sender. It is impossible to keep track of articles not bearing titles or other distinguishing marks in an office receiving more than three thousand articles each week. In any letter referring to an article sent for deposit, please name or describe the article fully and exactly.

Deposit of One
Copy.

Regarding the deposit of one copy, to secure reservation of copyright for one year in the case of foreign books, see the provisions of the Act of March 3.

Regarding the deposit of plays, see page 18.

All articles, such as photographs, engravings, etc., sent for deposit should bear a distinguishing title, number, or mark. In the case of a series of photographs of the same subject, each pose should have some distinguishing mark.

 Please send only the two copies required by law, and do not duplicate the transmission of copies, as doing so is of no value to the copyright protection, and results in loss of time in the office. The deposit of copies should never *precede* the registration of the title.

Send only
Two Copies.

The articles should be addressed: "The Register of Copyrights, Copyright Office, Library of Congress, Washington, D. C."

Address.

MANUSCRIPTS OR OTHER ORIGINAL ARTICLES

Manuscripts cannot be accepted as deposits to complete copyright, and should not be sent to the Copyright Office. No original drawings, paintings, or statuary, or models for pottery, porcelain, or glassware; nor any original articles or devices, such as models for games, puzzles, etc., should be sent to the Copyright Office.

Manuscripts
should not be
sent.

RECEIPT FOR COPIES DEPOSITED

By special provision of Congress, all articles deposited in the Library of Congress, Copyright Office, to complete entries of copyright, are catalogued, and the titles published in the weekly publication entitled "Catalogue of title entries of books and other articles entered in the office of the Register of Copyrights, Library of Congress, at Washington, D. C., under the copyright law, wherein the copyright has been completed by the deposit of two copies." In this publication are given: The title of the article deposited; the name of the claimant of copyright; the date and entry number of the record of claim of copyright; and the number and date of the deposit of the copies sent to complete the copyright.

Receipt for
Copies
deposited.

This printed publication, therefore, is equivalent to a published receipt for copies deposited to complete copyright, and is the only form of receipt which the office is authorised by law to give, except that a certified receipt can be given upon payment of the legal fee of 50 cents.

Catalogue
entry equivalent
to Receipt
for Deposit.

If for special reasons, however, receipts for the deposit of copies are required, they can be given. A blank receipt card or form should be properly filled out by the sender of the article, ready for dating and signing, and be sent with the two copies of the article required by law to be delivered.

Special Receipt
given if
desired.

These blank receipt cards or forms will be supplied on request, and they should be so fully and carefully filled out that no question of identity can arise, otherwise no receipt can be furnished.

Blank Receipt
Forms.

NOTICE OF COPYRIGHT¹

Notice of
Copyright.

The third step requisite to secure any valid copyright is the printing of the claim of copyright on each copy of the article protected. No copyright can be protected against infringement unless the notice prescribed by law is inserted in every copy produced. The wording of the notice is determined by the copyright statute, and must be one or other of these two forms :

Notice,
Form of.

a. Entered according to Act of Congress, in the year

....., by, in the Office
(Here insert date.) (Here insert full name of claimant.)

of the Librarian of Congress, at Washington ; or,

b. Copyright,, by
(Here insert year.) (Here insert full name of claimant.)

Notice, where
Printed.

In the case of a book the law prescribes that this notice shall be printed on the title-page, or the page immediately following ; and in the case of other articles copyrighted the notice must be inscribed on some visible portion thereof, or of the substance on

Date of Notice.

which the same shall be mounted. The date given in the copyright notice should agree with the year date of the entry of the title upon the records of the Copyright Office, and the name of the copyright claimant, as printed, should agree with the name recorded as proprietor of the copyright. A variance between the claim as recorded and as printed upon the article would cast a doubt upon the validity of the copyright ; hence care should be used to see that they agree.

Variance in
Claim of
Copyright.

PENALTY FOR FALSE NOTICE OF COPYRIGHT

False Notice of
Copyright.
Penalty \$100.

The law imposes a penalty of \$100 upon any person who shall insert the notice of copyright, *or words of the same purport*, upon any book or other article which has not been copyrighted, *whether such article is subject to copyright or otherwise* ; or who shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in the United States ; or who shall import any book, photograph, chromo, or lithograph, or other article bearing such notice of copyright, or words of the same purport, which is not copyrighted in this country.

Importation
of Articles
bearing false
Claims.

¹ *Note.*—For the notice of copyright reservation required to be printed in foreign books, deposited to secure one year's reservation of copyright, see the provisions of the Act of March 3, 1905.

COPYRIGHT FEES

The copyright fees prescribed by law are as follows:—

For recording each title of a book, or other article, the production of a citizen or resident of the United States, the charge is (50) cents. If a certificate of copyright (*i.e.*, a certificate of the entry of the title) is desired, there is an additional charge of fifty (50) cents, or \$1 in all.

Copyright Fees.
Fee for Citizen.

For recording each title of a book, or other work, the production of a person *not* a citizen or resident of the United States, the charge is \$1. This fee of \$1 is required to be paid for recording the title of every work whose original *author* or producer is "a person not a citizen or resident of the United States," whether the proprietor of the copyright is or is not a citizen or resident of the United States. A certificate of such record requires the payment of fifty (50) cents additional, or \$1.50 in all.

Fee for Foreigner.

For every copy under seal of the record of entry of any title, the charge is fifty (50) cents.

Copy of Record.

For a certified receipt for the deposit of the two copies required by law, the charge is fifty (50) cents.

Receipt for Deposits.

For recording and certifying any instrument of writing for the assignment of a copyright, of ordinary length, the charge is \$1; and for each copy of an assignment, \$1.

Assignment.

It is optional with the copyright applicant to pay the fee for a certificate at the time of entry of title. A certificate of copyright is convenient *primâ facie* evidence of copyright entry; but this document can be had in the form of a certified *copy of record* at any time subsequent to the registration of title.

Certificate of Copyright.

In no case should any postage stamps or stamped envelopes be sent for reply, as all Copyright Office mail is forwarded under a Government frank.

All remittances should be by *money order* or express order, payable to the REGISTER OF COPYRIGHTS. No money (currency or coin) should be placed in any letter or package of books, music, or other matter sent to the Copyright Office; and all remitters are respectfully urged to take care to send an identifiable remittance. Postage stamps should not be sent as fees.

Remittances.

TERMS OF COPYRIGHT AND RENEWAL

The first term of copyright is for twenty-eight years from the time of recording the title in the Copyright Office. *The title is recorded on the day of its receipt in the Copyright Office, in*

Term of Copyright.

accordance with the provisions of the copyright statutes, and no date *prior* to the day of receipt can be given to the entry of title.

Renewal.

Within six months before the expiration of the first term of copyright, the copyright statutes provide (Revised Statutes, section 4954) that the author, if he be still living, or his widow or children, if he be dead, can have the copyright continued for a further term of fourteen years. This renewal requires the filing of the title a second time, and the deposit of the two copies, exactly the same as in the case of an original copyright. The fees are also the same, but in the case of a renewal a certificate is obligatory, and this certificate must be published, for the space of four weeks, in some one or more newspapers printed in the United States. This publication of the certificate of renewal must take place within two months from its date.

Publication of Certificate.

Regarding the term of one year's reservation of copyright, accorded to foreign books see the provisions of the act of March 3, 1905.

ASSIGNMENT OF COPYRIGHTS

Assignment of Copyright.

Copyrights are assignable in law by any instrument of writing. This should state the names of the assignee and the assignor, the title of the book or other article assigned; should contain a statement of "valuable consideration," and should be dated. Every assignment must be recorded in the Copyright Office within sixty days after its execution, "in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice" (Revised Statutes, section 4955).

Must be Recorded.

The original instrument of assignment must be sent to be placed on record, and it is returned to the sender by mail after it has been recorded. If 8 cents is received it will be sent by registered mail. No blank form for assignment of copyright is issued from the Copyright Office.

Fee for Recording Assignment.
Fee for Copy of Assignment.

The fee for recording and certifying any instrument of writing for the assignment of a copyright, of ordinary length, is \$1. The same fee is prescribed by law for each copy of an assignment.

PUBLICATION AFTER ENTRY OF TITLE

Publication after Entry.

The time of publication of any work of which the title has been recorded is not limited by the statute, but the Courts have intimated that the publication should take place within a "reason-

able time." The United States' copyright law makes no provision for this interim period, and the inchoate right secured by the filing of the title-page prior to publication has not been determined; but the entry of the *title*, either of a book, periodical, or other publication subject to copyright, does not secure a monopoly in the use of such title. The title is only protected as an integral part of the work which it designates; hence only the titles of specific publications are subject to copyright registration.

Registration of Title gives no Monopoly of use.

TRANSLATION AND DRAMATISATION

The Act of March 3, 1891 (51st Congress, 2nd session, chapter 565, section 1; Statutes at Large, vol. xxvi. p. 1107), provides that "authors or their assigns shall have *exclusive* right to dramatise and translate any of their works for which copyright shall have been obtained under the laws of the United States."

Translation and Dramatisation.

Translations authorised by the authors or proprietors of copyrighted works, and translations of non-copyrighted books, are subject to registration in the Copyright Office as original productions, and application for copyright registration should be made as for an original work.

Translations.

Dramatic compositions should be applied for upon printed or typewritten title, as in the case of other literary compositions. It has been the practice of the Copyright Office to receive and credit, at the responsibility of the claimant, two *typewritten* copies of a drama, but the safer course to pursue is to file *printed* copies.

Dramatic Compositions.

Deposit of Copies of Drama.

PERIODICALS

The general title of a newspaper or periodical, apart from the contents, cannot be registered for protection under the copyright law. *Each number*, therefore, of a periodical should be entered by its title, distinguished by a statement of the volume, number, and date of the issue. Application can be made for the entry, in advance, of a number of issues, by sending the printed title headings with the variations as to volume, number, and date written in, each issue requiring a separate fee and separate complete title. If typewritten titles are sent, each title should be typewritten *in full*, and no ditto marks used. The entry of title should *precede publication*, and *two* copies of each issue should be sent to the Library of Congress, *Copyright Office*, at the earliest moment after printing. Owing to the difficulty of insuring the receipt of the two copies of a newspaper in the

Periodicals.

Each Number requires separate Entry.

Postmaster's
Receipt for
mailing of
Two Copies
should be
taken.

Library of Congress *on or before the day of publication*, as required by law, it is a desirable precaution to obtain the postmaster's receipt, to serve, in case of need, as evidence of the mailing of the two copies "on or before the day of publication" (Revised Statutes, section 4961).

Variance in
Claim should
be avoided.

Care should be taken, in applying, that the name of the copyright claimant is stated in the same form as it is intended to print it in the notice of copyright required to be printed on each paper ; and special care should be taken that the year date in the printed notice of copyright agrees with the year date of the entry of title, without regard to the date of publication of the paper.

Date of Claims
on Periodicals.

XII

ACT OF MARCH 3, 1905

CONGRESS has passed a law, approved March 3, 1905, enacting provisions whereby the foreign author of a book in some language or languages other than English is granted a year during which to comply with the present requirements of law as to registration of title, deposit of two American type-set copies, printing of notice, and payment of fee, provided that within thirty days from the first publication of his book abroad he deposits one copy of such book in the Library of Congress, and prints in all copies of such edition the notice of reservation of copyright provided in the Act. Following are directions for taking action under the new law :—

DIRECTIONS

I. WORKS PROTECTED

The protection accorded by this Act is only applicable to books produced (subsequent to the date of the Act) in some language other than English.

Books previously published, if issued in new editions containing new matter, may secure protection for the new matter contained therein.

II. AUTHORS BENEFITED

The privileges secured by the Act are available in the case of books in languages other than English when the authors or proprietors of such books, or their executors, administrators, or assigns, are citizens or subjects of any of the following countries : Belgium, Chile, China, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions (including Australia, Canada, India, New Zealand, etc.), Italy, Mexico, the Netherlands (Holland) and possessions, Portugal, Spain, Switzerland, Japan, and Norway.

III. HOW RESERVATION OF COPYRIGHT MAY BE SECURED

In order to insure the benefits available under this Act, the following measures are required to be taken :—

1. Print upon all copies of the original edition of the book desired to be protected—

(a) The true date of first publication.

(b) The name of the person reserving the privilege of copyright as proprietor of the work.

This notice must be printed in the following form, and no other :—

“Published — [here insert the true date of first publication of the book]. Privilege of copyright in the United States reserved under the Act approved March 3, 1905, by — [here insert the true legal name of the author or proprietor].”

This notice must be printed on the title-page or on the back of the title-page.

2. One copy of the book must be sent, by post or otherwise, addressed

Library of Congress (Copyright Office), Washington, D. C., United States of America.

This copy must be complete, with all illustrations, maps, etc.

It must be sent so as to reach the Library of Congress, Washington, D. C., U.S.A., within thirty days after first publication abroad ; otherwise the desired protection cannot be secured.

It must be sent with all charges prepaid.

The book should be accompanied by a statement that it is sent under the provisions of the Act of March 3, 1905, in order to justify the claim of the reservation of copyright. This statement should preferably be made upon the printed form supplied with this circular. The statement should contain the full legal name of the copyright claimant, the title of the book, the date of first publication, and the claim for reservation of the copyright. If the printed form of application is used, the Post-Office authorities state that the copy and application can be sent together, under the postage rate for commercial papers, namely, five cents for the first ten ounces or less, and one cent for each two additional ounces or fraction thereof. If the printed form is not used, the same statements should be supplied in the form of a letter, but should then be sent sealed by letter post.

[No fee is required to be sent with the copy of the original edition of the book.]

Exact compliance with the above directions will secure for a period of twelve calendar months from the date of first publication—

(a) Protection against any infringement or appropriation of the work in any way, including unauthorised translation of it.

(b) Free access to the United States' market for the sale of the work.

Under the laws in force, if printed wholly in some language or languages other than English, no customs duties will be required to be paid. If partly printed in English, however, an *ad valorem* duty of twenty-five per cent will probably be charged.

IV. HOW COPYRIGHT FOR FULL TERMS MAY BE SECURED

Having complied with all the above-described stipulations, and thus secured protection for the interim term of twelve calendar months after the date of first publication of the book, in order to obtain the full benefit of the privileges of the copyright laws now in force the following steps are required to be taken :—

1. The work must be type-set in the United States, either in the original language or in a translation into English.

2. All copies of either the translation or the original thus printed in the United States must bear on the title-page, or the page immediately following, a notice of copyright in one or the other of the following forms : “Entered according to Act of Congress, in the year —, by A. B., in the office of the Librarian of Congress, at Washington,” or “Copyright, 19—, by A. B.”

3. The title-page of either the original work, as reissued in the United States, or the title-page of the translation into English, as produced in the United States, must be filed in the Copyright Office, at Washington, D. C., on or before the day of the publication of the American edition of the original work or of the translation.

4. The title-page sent for filing should be accompanied by a formal application desiring registration of the work for copyright protection and the fee provided by law, namely \$1.00; and if a certificate of registration is desired, fifty cents additional.

5. Two copies of the American edition of the original work, or two copies of the American edition of an authorised translation of it, must be deposited in the Copyright Office at Washington not later than the day of publication of such issue in the United States of the original or of the translation.

6. If the work is reproduced in the language of the original by type-setting within the limits of the United States, or if a translation of it into English is so produced, and the other formalities indicated above are carefully complied with, protection is secured for a term of twenty-eight years from the date of the recording of the title of the book, or of the English translation of it; and within six months before the expiration of the twenty-eight years the privilege of renewing the copyright for fourteen years additional reverts to the author, his widow, if he is not living, or to his children.

APPLICATION FOR RESERVATION OF COPYRIGHT FOR FOREIGN
BOOKS PRINTED IN OTHER LANGUAGES THAN ENGLISH.

Place,.....

Date,....., 19.....

Register of Copyrights,
Library of Congress,
Washington, D.C., U.S.A.

The accompanying book, entitled :.....

(Give above a fairly full title, with the name of the author and publisher.)

was published on the day of 19.....

This is a complete copy, containing all maps and illustrations, and is sent for deposit in the Library of Congress (Copyright Office), within thirty days after first publication, under the provisions of the Act of March 3, 1905, for the purpose of reserving the right of copyright for twelve months from the date stated above as the date of first publication of this book. The notice of the reservation of copyright in the name of the proprietor, together with the true date of first publication of such book, is inserted in this copy and in all copies intended to be sold or distributed in the United States in the following words :—

“Published,....., nineteen hundred and.....
Privilege of copyright in the United States reserved under the Act approved March third, nineteen hundred and five, by.....”

Acknowledgment of receipt should be sent to

(Name)

(Address)

This reservation of right it is desired should be registered in the name of the undersigned,

....., } The author
....., } The proprietor } Use only one of these
} } } designations, erasing
} } } the other.

who is a citizen or subject of

(Name of country.)

CUSTOMS REGULATIONS AS TO IMPORTATION OF
COPYRIGHT ARTICLES, 1900ENTRY OF IMPORTED MERCHANDISE: COPYRIGHTED BOOKS AND
OTHER ARTICLES

Art. 613. Copyrighted books and articles, the importation of which is prohibited by section 4956, Revised Statutes, as amended by section 3 of the Act of 3rd March 1891, shall not be admitted to entry. Such books and articles, if imported *with* the previous consent of the proprietor of the copyright, shall be seized by the collector of customs, who will take the proper steps for the forfeiture of the goods to the United States under section 3082, Revised Statutes.¹

Art. 614. Copyrighted books and articles imported contrary to said prohibition and *without* the previous consent of the proprietor of the copyright, being primarily subject to forfeiture to the proprietor of the copyright, shall be detained by the collector, who shall forthwith notify such proprietor in order to ascertain whether or not he shall institute proceedings for the enforcement of his right to the forfeiture.

Art. 615. If the proprietor institute such proceedings and obtain a decree of forfeiture, the goods shall be delivered to him upon payment of the expenses incurred in the detention and storage and the duties accrued thereon. If such proprietor shall fail to institute such proceedings within sixty days from date of notice, or shall declare in writing that he abandons his right to the forfeiture, then the collector shall proceed as in the case of articles imported with the previous consent of such proprietor.

Art. 616. Copyrighted articles, the importation of which is not prohibited, but which, by virtue of section 4965, Revised Statutes, as amended by section 8 of said Act, are forfeited to the proprietor of the copyright when imported without his previous consent, and are moreover subject to the forfeiture of \$1 or \$10 per copy, as the case may be, one-half thereof to the said proprietor and the other half to the use of the United States, shall be taken possession of by the collector, who shall take the necessary steps for securing to the United States half of the sum

¹ Treasury Decisions 10269, 8th Oct. 1890; 11098, 2nd May 1891; 11436, 3rd July 1891; 11449, 9th July 1891; 11617, 11th Aug. 1891; 14898, 20th Apr. 1894; 15664, 28th Feb. 1895; 16046, 14th May 1895; 16739, 3rd Feb. 1896; 17454, 13th Oct. 1896; 17885, 11th Mar. 1897; 20430, 16th Dec. 1898; 21003, 13th Apr. 1899; 21012, 17th Apr. 1899.

so forfeited, and shall keep the goods in his possession until a decree of forfeiture is obtained, and the half of the sum so forfeited, as well as the duties and charges accrued, are paid; whereupon he shall deliver the goods to the proprietor of the copyright. Duties collected on prohibited copyrighted articles cannot be refunded.¹

In case of failure to obtain a decree of forfeiture, the goods shall be admitted to entry.

JOINT REGULATIONS OF THE TREASURY AND POST-OFFICE
DEPARTMENTS

Art. 617. For the purpose of carrying into effect the provision in section 4965, Revised Statutes, as amended by the copyright Acts of 3rd March 1891 and 2nd March 1895, which prohibit the importation of musical compositions duly copyrighted thereunder, and under the authority conferred by section 4958, Revised Statutes, as amended, which provides that "the Secretary [of the Treasury] and Postmaster-General are hereby empowered and required to make and enforce such rules and regulations as shall prevent the importation into the United States, except upon the conditions above specified, of all articles prohibited by this Act," the following regulations are promulgated for the government of the officers of the customs and of the postal service, viz. :²

Art. 618. Inasmuch as under paragraph 403, Act of 24th July 1897, music in books or sheets, except in certain specified cases, is liable to customs duty, postmasters are instructed to carefully examine the mails from foreign countries, and to forward all musical publications found therein to the nearest customs officer. Customs officers are instructed to keep a close watch for matter imported through the usual channels in violation of the copyright Act.³

Art. 619. Upon the receipt of such matter from postmasters or in the usual channels, customs officers will proceed to collect, in the regular manner, the duty on all such matter as is properly admissible, and shall hold all music in books or sheets imported in violation of any copyright of the United States, and notify by mail the owner of the copyright and the owner, importer, or consignee of the prohibited articles, or the person to whom addressed.

¹ Treasury Decision 19722, 22nd July 1898.

² Treasury Decision 19514, 21st June 1898.

³ Treasury Decision 20490, 4th Jan. 1899.

Art. 620. If within three months from the mailing of the notice the owner of the copyright shall not institute proceedings for forfeiture of such articles under the provisions of section 4965, Revised Statutes, as amended by the Act of 2nd March 1895 (28 Stat., 965), or the owner or importer of the prohibited articles, or the person to whom addressed, shall not appear and show cause to the contrary, the customs officer is directed to burn or otherwise destroy the prohibited articles.¹

TREASURY RULINGS AS TO IMPORTATION

The two following decisions of the Treasury Department relating to the importation of books printed abroad from plates made from type set in the United States are of interest:—

The first decision, rendered 26th October 1903, deals with books wholly printed abroad from plates made from type set in the United States. The Department ruled as follows:—

“The statute does not provide that books shall be printed in the United States. It merely states that the article shall be produced from type set within the limits of the United States, or from plates made therefrom. Therefore, it is the view of this Department that if the statutory requirements relating to the procurement of the copyright are complied with, and the books are printed from type set within the limits of the United States, or from plates made therefrom, the said books are not liable to the prohibitive provisions of section 4956 of the Revised Statutes as amended.”²

In the second instance, type was set up in this country and plates produced for 19 pages of introductory matter for a new edition of an English book now in the public domain. Registration of title of the book was made to secure copyright of the Introduction, and two copies of the Introduction were deposited. The plates were then shipped to England and an edition of the work produced, consisting of 19 pages of introduction printed from American made plates, and 412 pages of other text matter printed wholly in England. The notice of copyright on the title-page was unqualified, and when the question of importation was submitted to the Treasury Department the following ruling was rendered:—

¹ Reprinted from “Customs Regulations of the United States Prescribed for the Instruction and Guidance of Officers of Customs. United States Treasury Department.” 8°. Washington: Government Printing Office, 1900, pages 210, 211, 212.

² Treasury Decision No. 24742, 26th October 1903.

“The natural inference is that the notice of copyright covers the entire book. Clearly, in the opinion of this Department, the books are prohibited importation into the United States by virtue of the provisions of section 3 of the Act of 3rd March 1891, amending section 4956 of the Revised Statutes prohibiting the importation of books bearing notice of copyright in the United States when such books are manufactured abroad” (Letter from Assistant Secretary of the Treasury, 15th March 1904).

XIII

TREATY BETWEEN THE UNITED STATES AND JAPAN

ARTICLE I.

THE subjects or citizens of each of the two high contracting parties shall enjoy in the dominions of the other the protection of copyright for their works of literature and art, as well as photographs, against illegal reproduction, on the same basis on which protection is granted to the subjects or citizens of the other, subject, however, to the provisions of Article II. of the present Convention.

ARTICLE II.

The subjects or citizens of each of the two high contracting parties may without authorisation translate books, pamphlets, or any other writings, dramatic works, and musical compositions, published in the dominions of the other by the subject or citizens of the latter, and print and publish such translations.

ARTICLE III.

The present Convention shall be ratified, and the ratifications thereof shall be exchanged at Tokio as soon as possible. It shall come into operation from the date of the exchange of ratifications, and shall be applicable to such works only as shall be published after it shall have come into operation. Either of the contracting parties shall have the right, at any time, to give notice to the other of its intention to terminate the present Convention, and at the expiration of three months after such notice is given this Convention shall wholly cease and determine.

In witness whereof the above-mentioned plenipotentiaries

have signed the present Convention and have affixed thereto their seals.

Done in duplicate at Tokio, in the English and Japanese languages, this 10th day of November, of year one thousand nine hundred and five, corresponding to the 10th day of the 11th month of the 38th year of Meiji.

LLOYD C. GRISCOM.
TARO KATSURA.

XIV

REGISTRATION OF BOOKS AND PLAYS IN GREAT BRITAIN

FORM OF REQUIRING ENTRY OF PROPRIETORSHIP.

TO THE REGISTERING OFFICER APPOINTED
BY THE STATIONERS' COMPANY.

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

(Every particular given must be clearly written.)

FOR OFFICIAL USE.

Received _____

No. _____

Title of Book.	Name of Publisher, and Place of Publication.	Name and Place of Abode of the Pro- prietor of the Copy- right.	Date of First Publication.

Dated this _____ day of _____, 1901.

Witness,

(Signed)

N.B.—In filling up the above form special care must be taken to insert the full and correct title of the Book, the name of the *first publisher*, with the place and *exact day* of first publication. All names to be written in full.

A stamped and addressed envelope must be enclosed with all communications to which an answer is required.

COPYRIGHT REGISTRY

Instructions for Registration of Books first published within the British Dominions under the provisions of the Copyright Acts, 5 & 6 Vict. c. 45, and 49 & 50 Vict. c. 33.

Book.—The term “Book” means and includes every volume, part or division of a volume, pamphlet, sheet of letterpress, sheet of music, map, chart, or plan, separately published.

Term of Copyright in Books.—If published in lifetime of author, then forty-two years from publication, or life of author and seven years from his death, whichever shall be the longer term.

If published after author’s death, then proprietor has copyright for forty-two years from first publication.

The copyright in articles in encyclopædias, reviews, magazines, periodical works, or works published in a series of books or parts, belongs to the proprietor of the work when such articles have been composed upon the terms that the copyright shall belong to him and shall have been actually paid for by him; but after twenty-eight years from first publication the right of publishing in separate form such articles as have been published in reviews, magazines, or other periodical works of a like nature, reverts to the author; and during such twenty-eight years the proprietor may not publish separately without the previous consent of the author or his assigns. Authors may by contract reserve to themselves the right of publishing in a separate form before the expiration of the twenty-eight years.

Necessity for Registration.—Copyright is created by the statute, and does not depend upon registration, which is permissive only, and not compulsory, but no proprietor of copyright in any book can take any proceedings in respect of any infringement of his copyright unless he has, before commencing his proceedings, registered his book.

Mode of Registration.—A proprietor of copyright desiring to register at Stationers’ Hall must lodge there a demand signed by him and witnessed, in the form printed on the back hereof, together with a fee of 5s. for each entry.

Special care should be taken that the full and proper title of the book, and the correct day, month, and year of first publication are entered, as any error or omission may invalidate the entry.

A book cannot be registered before it is published.

A proprietor of the copyright in an encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, will be entitled to all the benefits of registration upon his registering the first volume, number, or part.

Music.—Proprietors of copyright in musical compositions entitled to, and desirous of retaining the right of, public representation or performance, must print on the title-page of every copy a notice to the effect that the right of public representation or performance is reserved.

Assignments.—Registered copyrights, or any share or shares thereof, may be assigned, without payment of any stamp duty, by the registered proprietor lodging, at Stationers' Hall, a demand signed by him in the form prescribed by the statute, together with a fee of 5s. Forms of assignment can be obtained at Stationers' Hall.

Certified Copies of entries are supplied on payment of a *fee of* Certificate 5s. 5s. each, and such copies are *prima facie* proof of the matters alleged therein.

Searches.—A printed Lexicographical Index of all literary works registered between 1842 and 1897 is now provided for the use of persons desirous of searching the Book Register. The statutory fee for each entry searched for is 1s. Search 1s.

Public Libraries.—A copy of every book published (whether registered at Stationers' Hall or not) and of any second or subsequent edition containing additions and alterations, must be delivered at, or forwarded by post or rail carriage prepaid to, the British Museum immediately after publication; and four copies should be delivered at Stationers' Hall for the Public Libraries at Oxford, Cambridge, Edinburgh, and Dublin.

Newspapers.—Proprietors registering newspapers at Stationers' Hall should also register at Somerset House, pursuant to the Newspaper Libel and Registration Act, 1881 (44 & 45 Vict., c. 60). This Act does not extend to Scotland. For forms apply to the Registrar, Companies' Registration office, Somerset House, London, W.C.

British Possessions.—Books first published in any British Possession which does not provide for registration should be registered at Stationers' Hall.

International Copyright.—Under the provisions of the Berne Convention, books copyright in Great Britain are protected in the following countries:—Belgium, France, Germany, Italy, Spain, Switzerland, Tunis, Hayti, Luxembourg, Monaco, Norway, Japan, and Denmark (including the Farøe Islands, but excluding Iceland, Greenland, and the Danish Antilles).

United States, etc.—To secure copyright in Great Britain of works intended to be published in America and other foreign countries (except the Kingdoms and States represented in the Austrian Reichsrath) which have not adopted the provisions of the Berne Convention, simultaneous publication in both countries is essential, and the work should be registered at Stationers' Hall, and one copy delivered to the British Museum, and four copies lodged at Stationers' Hall for the Public Libraries. The name of the *British* publisher and place of publication must in all cases be inserted in the second column of the form on the other side.

Foreign Reprints.—Proprietors of books first composed, or written, or printed in the United Kingdom, desiring to prevent the importation of foreign reprints, are advised to give notice in writing to the Commissioners of Customs, accompanied by a statutory declaration that the copyright subsists, and when it will expire. Registration at Stationers' Hall is also necessary before duties can be levied for the benefit of the proprietor of copyright on foreign reprints of British copyright works imported into the Bahamas, Barbados, Bermuda, British Guiana, Cape of Good Hope, Grenada, Jamaica, Natal, Nova Scotia, Newfoundland, Prince Edward Island, St. Christopher, St. Lucia, and St. Vincent.

Applicants not conversant with the mode of registration are recommended in all cases to forward with the demand for registration a copy of the book to be registered for comparison before entry, as no alteration can be made in the "Register," or any error corrected, except by an order of the High Court of Justice, or one of the judges thereof.

Forms used at Stationers' Hall can be obtained on application, price 1d. each.

Postage stamps cannot be received in payment of fees.

Post Office and Postal Orders to be made payable, and all communications to be addressed, to *The Registrar, Stationers' Hall, London, E. C.*

Office hours, 10 a.m. to 4 p.m. Saturdays, 10 a.m. to 2 p.m.

STATIONERS' HALL, August 1903.

N.B.—Separate instructions can be obtained for registration of right to represent and perform Dramatic Pieces and Musical Compositions; also for registration of Paintings, Drawings, and Photographs, under 25 & 26 Vict. c. 68.

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

TO THE REGISTERING OFFICER APPOINTED
BY THE STATIONERS' COMPANY.

FOR OFFICIAL USE.

I _____ of
being the Assigner of the copyright of the
book hereunder described, do hereby require
you to make Entry of the Assignment of the
Copyright therein.

Received _____

Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
**The date of the previous Registration or Assignment must be given here.....		

Dated this _____ day of _____, 19 _____.

(Signed)

N.B.—The title of the book must correspond precisely with that in the original entry on the "Register," and the address of the Assigner and Assignee respectively must be inserted in the proper column after his name. All names to be written in full.

A stamped and addressed envelope to be enclosed with all communications to which an answer is required.

COPYRIGHT REGISTRY.

Instructions for Assignment of Copyright in Books under the Provisions of the Copyright Act, 5 & 6 Vict. c. 45.

The registered proprietor of copyright in a book may transfer ^{Entry 5s} his copyright, or any share or shares thereof, *without payment of any stamp duty*, by lodging, at Stationers' Hall, a demand signed by him in the form prescribed by the statute, and printed on the back hereof, together with a fee of 5s.

Special care should be taken that the correct particulars are entered, as any error or omission may invalidate the entry, and no alteration can be made in the "Register," or any error corrected, except by an order of the High Court of Justice, or one of the judges thereof.

Certified copies of entries are supplied on payment of a fee of ^{Certificate 5s} 5s. each, and such copies are *prima facie* proof of the matters alleged therein.

Search 1s.

A printed Lexicographical Index of all literary works registered between 1842 and 1897 is now provided for the use of persons desirous of searching the Book Register. The statutory fee for each entry searched for is 1s.

Forms can be obtained at Stationers' Hall, price 1d. each.

Postage stamps cannot be received in payment of fees.

Post Office and Postal Orders to be made payable, and all communications to be addressed, to *The Registrar, Stationers' Hall, London, E.C.*

Office hours, 10 a.m. to 4 p.m. Saturdays, 10 a.m. to 2 p.m.

STATIONERS' HALL, December 1901.

Separate forms and instructions can be obtained for registration of proprietorship of copyright in Books, and of right to represent and perform Dramatic Pieces and Musical Compositions; also for registration of Paintings, Drawings, and Photographs, under 25 & 26 Vict. c. 68.

FORM OF REQUIRING ENTRY OF PROPRIETORSHIP OF DRAMATIC PIECE OR MUSICAL COMPOSITION

TO THE REGISTERING OFFICER APPOINTED BY THE STATIONERS'
COMPANY.

I, _____ of _____, do hereby certify, That I am the Proprietor of the sole *Liberty of Representation or Performance of a Dramatic Piece or Musical Composition*, intituled _____, and I hereby require you to make entry in the Register Book of the Stationers' Company of my proprietorship of such sole *Liberty of Representation or Performance*, according to the particulars underwritten.

(Every particular given must be clearly written.)

Title of Dramatic Piece or Musical Composition.	Name and Place of Abode of the Author or Composer.	Name and Place of Abode of the Proprietor of the Sole Liberty of Representation or Performance.	Time and Place of First Representation or Performance.

Dated this _____ day of _____, 19 _____.

Witness, _____ (Signed)

N.B.—*All names to be written in full.*

A stamped and addressed envelope should be enclosed with all applications requiring an answer.

COPYRIGHT REGISTRY.

DRAMATIC PIECES AND MUSICAL COMPOSITIONS.

Instructions for Registration of the right to represent and perform Dramatic Pieces and Musical Compositions not printed and published, see 3 & 4 Will. IV. c. 15; and 5 & 6 Vict. c. 45.

The Right to represent or perform a dramatic piece or musical composition is a right distinct from the copyright in a book containing or consisting of such dramatic piece or musical composition, and no assignment of the copyright of any such book conveys any right of representation or performance unless so specified; and by the 22nd sec. of 5 & 6 Vict. cap. 45, an entry of every such assignment should be made in the Registry Book.

The Author or Assignee of the Author of any tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic entertainment or musical composition, not printed and published, has, as his own property, the sole liberty of representing, or causing to be represented or performed, any such dramatic piece or musical composition at any place of dramatic entertainment whatever in Her Majesty's dominions for forty-two years from the first public representation, or the life of the author and seven years from his death, which shall be longest.

Mode of Registration.—The proprietor of the right of representation of any dramatic piece or musical composition desiring to register his right at Stationers' Hall, must lodge there, for entry in the Register Book, a statement of the particulars, signed by him and witnessed, in the form on the back hereof, with a fee of 5s.

Special care must be taken to give the precise particulars required, and the day, month, and year of the first representation, as any error may invalidate the entry, and no alteration can be made in the "Register," or any error corrected, except by an order of the High Court of Justice, or one of the judges thereof.

Registration cannot be effected until after the date of the first representation or performance.

Assignments may be made by the registered proprietor of his interest, or any portion thereof, by filling up and lodging at Stationers' Hall, for entry in the Register Book, a statement

signed and witnessed by him in the form prescribed by the Statute, together with a fee of 5s.

Certified Copies of entries can be obtained on payment of a fee of 5s., and such copies are *prima facie* proof of the matters alleged therein.

Music.—Proprietors of copyright in printed musical compositions entitled to, and desirous of retaining, the right of public representation or performance, must print on the title-page of every copy a notice to the effect that the right of public representation or performance is reserved.

Forms of Entry and Assignment can be obtained at Stationers' Hall, price 1d. each.

Postage stamps cannot be received in payment of fees.

Post Office and Postal Orders to be made payable, and all communications to be addressed, to *The Registrar, Copyright Office, Stationers' Hall, Ludgate Hill, E.C.*

Office hours, 10 a.m. to 4 p.m. Saturdays, 10 a.m. to 2 p.m.

STATIONERS' HALL, *March 1895.*

N.B.—Separate instructions can be obtained for registration of Books; also for registration of Paintings, Drawings, and Photographs, under 25 & 26 Vict. c. 68.

XV

THE COPYRIGHT ACT 1905

(COMMONWEALTH OF AUSTRALIA)

AN Act relating to Copyright.

[Assented to 21st December 1905.]

Be it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Copyright Act 1905*. Short Title.
2. This Act shall commence on a day to be fixed by Proclamation. Commencement.
3. This Act is divided as follows :— Parts.
 - Part I.—Preliminary.
 - Part II.—Administration.
 - Part III.—Literary, Musical, and Dramatic Copyright.
 - Part IV.—Artistic Copyright.
 - Part V.—Infringement of Copyright.
 - Part VI.—International and State Copyright.
 - Part VII.—Registration of Copyrights.
 - Part VIII.—Miscellaneous.
4. In this Act, unless the contrary intention appears— Interpretation.

“Artistic work” includes—

 - (a) any painting, drawing, or sculpture ; and
 - (b) any engraving, etching, print, lithograph, woodcut, photograph, or other work of art produced by any process, mechanical or otherwise, by which impressions or representations of works of art can be taken or multiplied :

“Author” includes the personal representatives of an author :

“Book” includes any book or volume, and any part or division of a book or volume, and any article in a book or volume, and any pamphlet, periodical, sheet of letter-press, sheet of music, map, chart, diagram, or plan separately published, and any illustration therein :

“Dramatic work,” in addition to being included in the definition of book, means any tragedy, comedy, play, drama, farce, burlesque, libretto of an opera, entertainment, or other work of a like nature, whether set to music or otherwise, lyrical work set to music, or other scenic or dramatic composition :

“Lecture” includes a sermon :

“Musical work,” in addition to being included in the definition of book, includes any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced :

“Periodical” means a review, magazine, newspaper, or other periodical work of a like nature :

“Pirated artistic work” means a reproduction of an artistic work made in any manner without the authority of the owner of the copyright in the artistic work :

“Pirated book” means a reproduction of a book made in any manner without the authority of the owner of the copyright in the book :

“Portrait” includes any work the principal object of which is the representation of a person by painting, drawing, engraving, photography, sculpture, or any form of art :

“Publish” and “Publication” in relation to a book refer to offer for sale or distribution, in each case with the privity of the author, so as to make the book accessible to the public :

“The Registrar” means the Registrar of Copyrights or a Deputy Registrar of Copyrights :

“State Copyright Act” means any State Act relating to the registration of the copyright or performing right, or lecturing right in books, or dramatic or musical works, or in artistic works or fine art works, or in lectures.

What is
Simultaneous
Publication or
Performance.

5. For the purposes of this Act publication, performance, or delivery in the Commonwealth shall be deemed to be simultaneous with publication, performance, or delivery elsewhere if the period between the publication, performances, or deliveries does not exceed fourteen days.

6. No copyright, performing right, or lecturing right shall

subsist under this Act in any blasphemous, indecent, seditious, or libellous work or matter.

Blasphemous, etc., matter not protected. Application of the Common Law.

7. Subject to this and any other Act of the Parliament, the Common Law of England relating to proprietary rights in unpublished literary compositions shall, after the commencement of this Act, apply throughout the Commonwealth.

8. (1) The State Copyright Acts so far as they relate to the copyright in any book, the performing right in any musical or dramatic work, the lecturing right in any lecture, or the copyright in any artistic or fine art work, shall not apply to any book, dramatic or musical work, lecture, or artistic work in which copyright, performing right, or lecturing right subsists under this Act.

State Copyright Acts not to apply to Copyright under this Act.

(2) Subject to Part II. of this Act, nothing in this Act shall affect the application of the laws in force in any State at the commencement of this Act to any copyright or other right in relation to books, or dramatic or musical works, or lectures, or artistic or fine art works acquired under or protected by those laws before the commencement of this Act.

Saving of Rights under State Laws.

PART II.—ADMINISTRATION.

DIVISION I. THE REGISTRAR AND THE COPYRIGHT OFFICE.

9. (1) There shall be a Registrar of Copyrights.

Registrar.

(2) The Governor-General may appoint one or more Deputy Registrars of Copyrights who shall, subject to the control of the Registrar of Copyrights, have all the powers conferred by this Act on the Registrar.

10. For the purposes of this Act an office shall be established which shall be called the Copyright Office.

Copyright Office.

11. There shall be a seal of the Copyright Office, and impressions thereof shall be judicially noticed.

Seal of Copyright Office.

DIVISION 2. THE TRANSFER OF THE ADMINISTRATION OF THE STATE COPYRIGHT ACTS.

12. The Governor-General may, by proclamation, declare that, from and after a date specified in the proclamation, the administration of the State Copyright Acts of any State, so far as they relate to the registration of the copyright in any book, the performing right in any musical or dramatic work, the lecturing right in any lecture, and the copyright in any artistic or fine art work, or to the registration of any assignment or grant of, or

Transfer of Administration.

licence in relation to, any such right, shall be transferred to the Commonwealth, and thereupon, so far as is necessary for the purposes of this section—

Effect of
Transfer of Ad-
ministration.

Cf. Patents Act
1903, ss. 18
and 19.

- (a) the State Copyright Acts of the State shall cease to be administered by the State, and shall thereafter be administered by the Commonwealth, so far as is necessary for the purpose of completing then pending proceedings, and of giving effect to then existing rights, and the Registrar shall collect for the State all fees which become payable thereunder ; and
- (b) all powers and functions under any State Copyright Act vested in the Governor of the State, or in the Governor with the advice of the Executive Council of the State, or in any minister, officer, or authority of the State, shall vest in the Governor-General or in the Governor-General in Council, or in the minister, officer, or authority exercising similar powers under the Commonwealth as the case requires or as is prescribed ; and
- (c) all records, registers, deeds, and documents of the Copyright Office of the State, vested in or subject to the control of the State, shall, by force of this Act, be vested in and made subject to the control of the Commonwealth.

PART III.—LITERARY, MUSICAL, AND DRAMATIC COPYRIGHT.

Copyright in
Books.

13. (1) The copyright in a book means the exclusive right to do, or authorise another person to do, all or any of the following things in respect of it:—

- (a) To make copies of it :
- (b) To abridge it :
- (c) To translate it :
- (d) In the case of a dramatic work, to convert it into a novel or other non-dramatic work :
- (e) In the case of a novel or other non-dramatic work, to convert it into a dramatic work : and
- (f) In the case of a musical work, to make any new adaptation, transposition, arrangement, or setting of it, or of any part of it, in any notation.

(2) Copyright shall subsist in every book, whether the author is a British subject or not, which has been printed from type set up in Australia, or plates made therefrom, or from plates or negatives made in Australia in cases where type is not necessarily

used, and has, after the commencement of this Act, been published in Australia before or simultaneously with its first publication elsewhere.

14. (1) The performing right in a dramatic or musical work means the exclusive right to perform it, or authorise its performance, in public.

Performing
Right in
Dramatic and
Musical
Works.

(2) Performing right shall subsist in every dramatic or musical work, whether the author is a British subject or not, which has, after the commencement of this Act, been performed in public in Australia before or simultaneously with its first performance in public elsewhere.

15. (1) The lecturing right in a lecture means the exclusive right to deliver it, or authorise its delivery, in public, and, except as hereinafter provided, to report it.

Lecturing
Right in
Lectures.

(2) Lecturing right shall subsist in every lecture, whether the author is a British subject or not, which has, after the commencement of this Act, been delivered in public in Australia before or simultaneously with its first delivery in public elsewhere.

16. (1) The copyright in a book shall begin with its first publication in Australia.

Commence-
ment of Copy-
right, Perform-
ing Right, and
Lecturing
Right.

(2) The performing right in a dramatic or musical work shall begin with its first performance in public in Australia.

(3) The lecturing right in a lecture shall begin with its first delivery in public in Australia.

17. (1) The copyright in a book, the performing right in a dramatic or musical work, and the lecturing right in a lecture, shall subsist for the term of forty-two years, or for the author's life and seven years, whichever shall last the longer.

Term of Copy-
right, Perform-
ing Right, and
Lecturing
Right.

(2) Where the first publication of a book, the first performance in public of a musical or dramatic work, or the first delivery in public of a lecture takes place after the death of the author, the copyright, performing right, or lecturing right, as the case may be, shall subsist for the term of forty-two years.

(3) Where a book or a dramatic or musical work is written by joint authors the copyright and the performing right shall subsist for the term of forty-two years, or their joint lives, and the life of the survivor of them and seven years, whichever shall last the longer.

(4) If a lecture is published as a book with the consent in writing of the owner of the lecturing right, the lecturing right shall cease.

Ownership in
Copyright,
Performing
Right, and
Lecturing
Right.

18. (1) The author of a book shall be the first owner of the copyright in the book.

(2) The author of a dramatic work or musical work shall

be the first owner of the performing right in the dramatic or musical work.

(3) The author of a lecture shall be the first owner of the lecturing right in the lecture.

Ownership in
the case of
Joint Authors.

19. Where there are joint authors of a book, or of a dramatic or musical work, or of a lecture, the copyright, or the performing right, or the lecturing right, as the case may be, shall be the property of the authors.

Separate
Authors.

20. Where a book is written in distinct parts by separate authors, and the name of each author is attached to the portion written by him, each author shall be entitled to copyright in the portion written by him in the same manner as if it were a separate book.

Encyclopædia
and similar
works.

21. The proprietor or projector of an encyclopædia, or other similar permanent work of reference, who employs some other person for valuable consideration in the composition of the whole or any part of the work, shall be entitled to the copyright in the work in the same manner as if he were the author thereof.

Copyright in
Articles pub-
lished in
Periodicals.

22. (1) The author of any article, contributed for valuable consideration to and first published in a periodical, shall be entitled to copyright in the article as a separate work, but so that

(a) he shall not be entitled to publish the article or authorise its publication until one year after the end of the year in which the article was first published, and

(b) his right shall not exclude the right of the proprietor of the periodical under this section.

(2) The proprietor of a periodical, in which an article, which has been contributed for valuable consideration, is first published shall be entitled to copyright in the article, but so that—

(a) he shall not be entitled to publish the article or authorise its publication except in the periodical in its original form of publication, and

(b) his right shall not exclude the right of the author of the article under this section.

Copyright
in Articles
published in
Periodicals
without
Valuable
Consideration.
Copyright,
etc., to be
Personal
Property.

23. The author of any article contributed without valuable consideration to, and first published in, a periodical, shall be entitled to copyright in the article as a separate work.

24. The copyright in a book, the performing right in a dramatic or musical work, and the lecturing right in a lecture, shall be personal property, and shall be capable of assignment and of transmission by operation of law.

25. The copyright in a book, and the performing right in a dramatic or musical work, and the lecturing right in a lecture, shall be deemed to be distinct properties for the purposes of ownership, assignment, licence, transmission, and all other purposes.

Copyright and other Rights to be Separate Properties.

26. The owner of the copyright in a book, or of the performing right in a dramatic or musical work, or of the lecturing right in a lecture, may assign his right either wholly or partially, and either generally or limited to any particular place or period, and may grant any interest therein by licence; but an assignment or grant shall not be valid unless it is in writing signed by the owner of the right in respect of which it is made or granted.

Assignment of Copyright.

27. Any second or subsequent edition of a book containing material or substantial alterations or additions shall be deemed to be a new book, but so as not to prejudice the right of any person to reproduce a former edition of the book, or any part thereof, after the expiration of the copyright in the former edition.

New Editions.

Provided that while the copyright in a book subsists no person, other than the owner of the copyright in the book or a person authorised by him, shall be entitled to publish a second or subsequent edition thereof.

28. Copyright in a book shall not be infringed by a person making an abridgment or translation of the book for his private use (unless he uses it publicly, or allows it to be used publicly by some other person), or by a person making fair extracts from or otherwise fairly dealing with the contents of the book for the purpose of a new work, or for the purposes of criticism, review, or refutation, or in the ordinary course of reporting scientific information.

Making of Abridgment, etc., for Private Use.

29. Where the author has parted with the copyright in his book, and a translation or abridgment of the book is made with the consent of the owner of the copyright by some person other than the author, notice shall be given in the title-page of every copy of the translation or abridgment that it has been made by some person other than the author.

Translations or Abridgments.

30. Where a translation of a book into a particular language is not made within ten years from the date of the publication of the book by the owner of the copyright or by some person by his authority—

Failure of Author to make or cause Translation of Book.

(a) Any person desirous of translating the book into that language may make an application in writing to the Minister for permission so to do:

(b) The Minister may thereupon by notice in writing

inform the owner of the copyright of such application, and request him to make or cause to be made a translation of the book into that language within such time as the Minister deems reasonable, or to show cause why such application should not be granted :

- (c) If the owner of the copyright fails to comply with such notice the Minister may grant such application.

Copyright in Translations.

31. Copyright shall subsist in a lawfully produced translation or abridgment of a book in like manner as if it were an original work.

Notice of Reservation of Performing Right.

32. (1) Where a dramatic or musical work is published as a book, and it is intended that the performing right is to be reserved, the owner of the copyright, whether he has parted with the performing right or not, shall cause notice of the reservation of the performing right to be printed on the title-page or in a conspicuous part of every copy of the book.

Defendant's Rights where no Notice of Reservation of Performing Right.

(2) Where—

(a) proceedings are taken for the infringement of the performing right in a dramatic or musical work published as a book, and

(b) the defendant proves to the satisfaction of the Court that he has in his possession a copy of the book containing the dramatic or musical work, and that that copy was published with the consent of the owner of the copyright, and does not contain the notice required by this Act of the reservation of the performing right,

judgment may be given in his favour either with or without costs as the Court, in its discretion, thinks fit ; but in any such case the owner of the performing right (if he is not the owner of the copyright) shall be entitled to recover from the owner of the copyright damages in respect of the injury he has incurred by the neglect of the owner of the copyright to cause due notice to be given of the reservation of the performing right.

Report of Lecture in a Newspaper.

33. (1) Unless the reporting of a lecture is prohibited by a notice as in this section mentioned, the lecturing right in a lecture shall not be infringed by a report of the lecture in a newspaper.

(2) The notice prohibiting the reporting of a lecture may be given—

(a) orally at the beginning of the lecture ; or

(b) by a conspicuous written notice affixed, before the lecture is given, on the entrance doors of the building in which it is given, or in a place in the room in which it is given.

(3) When a series of lectures is intended to be given by the same lecturer on the same subject, one notice only need be given in respect of the whole series.

PART IV.—ARTISTIC COPYRIGHT.

34. The copyright in an artistic work means the exclusive right of the owner of the copyright to reproduce or authorise another person to reproduce the artistic work, or any material part of it, in any manner, form, or size, in any material, or by any process, or for any purpose. Meaning of Copyright.
35. Copyright shall subsist in every artistic work whether the author is a British subject or not, which is made in Australia after the commencement of this Act. Copyright in Artistic Works.
36. The copyright in an artistic work shall begin with the making of the work, and shall subsist for the term of forty-two years, or for the author's life and seven years, whichever shall last the longer. Commencement and Term of Artistic Copyright.
37. The author of an artistic work shall be the first owner of the copyright in the work. Ownership of Copyright in Artistic Work.
38. When an artistic work, being a portrait, is made to order for valuable consideration, the person to whose order it is made shall be entitled to the copyright therein as if he were the author thereof. Copyright in Portraits.
39. (1) When a photograph is made to order for valuable consideration the person to whose order it is made shall be entitled to the copyright therein as if he were the author thereof. Copyright in Photographs.
- (2) Subject to subsection (1) of this section, when a photograph is made by an employee on behalf of his employer the employer shall be deemed to be the author of the photograph.
40. (1) Subject to section thirty-four of this Act the engraver, or other person who makes the plate or other instrument by which copies of an artistic work are multiplied shall be deemed to be the author of the copies produced by means of the plate or instrument. Engravings and Prints.
- (2) When the plate or other instrument mentioned in this section is made by an employee on behalf of his employer the employer shall be deemed to be the author of the copies produced by means of the plate or instrument.
41. (1) When the owner of the copyright in any artistic work being a painting, or a statue, bust, or other like work, disposes of such work for valuable consideration, but does not Copyright in case of Sale of Painting, Statue, or Bust.

assign the copyright therein, the owner of the copyright (except as in this section mentioned) may in the absence of any agreement in writing to the contrary make a replica of such work.

Right of Author to make Replicas of Statues, etc., in Public Places.

(2) When a statue, bust, or other like work, whether made to order or not, is placed or is intended to be placed in a street or other like public place, the author may, in the absence of any agreement to the contrary, make replicas thereof.

Artistic Copyright is Personal Property.

42. The copyright in an artistic work shall be personal property, and shall be capable of assignment and of transmission by operation of law.

Copyright and Ownership in Artistic Works.

43. The copyright in an artistic work and the ownership of the artistic work shall be deemed to be distinct properties for the purposes of ownership, assignment, licence, transmission, and all other purposes.

Assignment of Copyright.

44. The owner of the copyright in an artistic work may assign his right wholly or partially, and either generally or limited to any particular place or period, and may grant any interest therein by licence; but an assignment or grant shall not be valid unless it is in writing signed by the owner of the copyright.

PART V.—INFRINGEMENT OF COPYRIGHT.

Infringement of Right under Act.

45. If any person infringes any right conferred by this Act in respect of the copyright in a book, the performing right in dramatic or musical work, the lecturing right in a lecture, or the copyright in an artistic work, the owner of the right infringed may maintain an action for damages or penalties or profits, and for an injunction, or for any of those remedies.

Damages in case of Performing Right or Lecturing Right.

46. In assessing the damages in respect of the infringement of the performing right in a dramatic or musical work, or the lecturing right in a lecture, regard shall be had to the amount of profit made by the infringer by reason of the infringement, and to the amount of actual damage incurred by the owner of the performing or lecturing right.

Notice of Objection to Title.

47. The plaintiff in any action for the infringement of a right conferred by this Act shall be presumed to be the owner of the right which he claims unless the defendant in his pleadings in defence pleads that the defendant disputes the title of the plaintiff, and states the grounds on which the plea is founded, and the name of the person, if any, whom the defendant alleges to be the owner of the right.

Limitation of Actions
(Cf. 5 & 6 Vict. c. 45, s. 26).

48. No action for any infringement of copyright, performing right, or lecturing right under this Act shall be maintainable

unless it is commenced within two years next after the infringement is committed.

49. All pirated books and all pirated artistic works shall be deemed to be the property of the owner of the copyright in the book or work, and may, together with the plates, blocks, stone, matrix, negative, or thing, if any, from which they are printed or made, be recovered by him by action or other lawful method.

Property in
Pirated Books
or Artistic
Work.

50. If any person—

- (a) sells, or lets for hire, or exposes, offers, or keeps for sale or hire, any pirated book or any pirated artistic work ;
or
- (b) distributes, or exhibits in public, any pirated book or any pirated artistic work ; or
- (c) imports into Australia any pirated book or any pirated artistic work,

Penalties for
dealing with
Pirated Books.

he shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding Five pounds for each copy of such pirated book or pirated artistic work dealt with in contravention of this section, and also to forfeit to the owner of the copyright every such copy so dealt with, and also to forfeit the plates, blocks, stone, matrix, negative, or thing, if any, from which the pirated book or pirated artistic work was printed or made.

Provided that the whole penalties inflicted on any one offender in respect of the same transaction shall not exceed Fifty pounds.

Provided also that no person shall be convicted of an offence under this section if he proves to the satisfaction of the Court at the hearing that he did not know, and could not with reasonable care have ascertained, that the book was a pirated book, or the work was a pirated artistic work.

51. Where a dramatic or musical work is performed in a theatre or other place in infringement of the performing right of the owner of that right, the proprietor, tenant, or occupier who permitted the theatre or place to be used for the performance shall be deemed to have infringed the performing right, and shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding Five pounds for each such offence, and the Court may, in addition to the penalty, order the defendant to pay to the owner of the performing right in respect of each such infringement a sum by way of damages to the amount of Ten pounds, or to such amount as the Court deems equal to the profits made by the performance of the work, whichever sum is greater.

Liability in
respect of Use
of Theatre.

Provided that no person shall be convicted of an offence

under this section if he proves to the satisfaction of the Court at the hearing that he did not know and could not with reasonable care have ascertained that the dramatic or musical work was performed in infringement of the performing right of the owner of that right.

Search War-
rant and
Seizure of
Pirated Copies.

52. (1) A Justice of the Peace may upon the application of the owner of the copyright in any book or in any artistic work, or of the agent of such owner appointed in writing:—

(a) If satisfied by evidence that there is reasonable ground for believing that pirated books or pirated artistic works are being sold, or offered for sale—issue a warrant, in accordance with the form prescribed, authorising any constable to seize the pirated books or pirated artistic works, and to bring them before a Court of summary jurisdiction.

(b) If satisfied by evidence that there is reasonable ground for believing that pirated books or pirated artistic works are to be found in any house, shop, or other place—issue a warrant, in accordance with the form prescribed, authorising any constable to search, between sunrise and sunset, the place where the pirated books or pirated artistic works are supposed to be, and to seize and bring them, or any books or artistic works reasonably suspected to be pirated books or pirated artistic works, before a Court of summary jurisdiction.

(2) A Court of summary jurisdiction may, on proof that any books or artistic works brought before it in pursuance of this section are pirated books or pirated artistic works, order them to be destroyed or to be delivered up, subject to such conditions, if any, as the Court thinks fit, to the owner of the copyright in the book or artistic work.

Power of
Owner of
Copyright to
require delivery
to him of
Pirated Books
and Works.

53. (1) The owner of the copyright in any book or artistic work, or the agent of such owner appointed in writing, may by notice, in accordance with the prescribed form, require any person to deliver up to him any pirated reproduction of the book or work, and every person to whom such notice has been given, and who has any pirated reproduction of the book or work in his possession or power, shall deliver up the pirated reproduction of the book or work in accordance with the notice.

Penalty: Ten pounds.

(2) A person shall not give any notice in accordance with this section without just cause.

Penalty: Twenty pounds.

(3) In any prosecution under subsection (2) of this section

the defendant shall be deemed to have given the notice without just cause unless he proves, to the satisfaction of the Court at the hearing, that at the time of giving the notice he was the owner of the copyright in the book or artistic work, or was the agent of such owner appointed in writing, and had reasonable ground to believe that the person to whom the notice was given had pirated reproductions of the book or work in his possession or power.

54. (1) The owner of the performing right in a musical or dramatic work, or the agent of the owner appointed in writing, may, by notice in writing in accordance with the prescribed form, forbid the performance of the musical or dramatic work in infringement of his right, and require any person to refrain from performing or taking part in the performance of the musical or dramatic work, and every person to whom a notice has been given in accordance with this section shall refrain from performing or taking part in the performance of the musical or dramatic work specified in the notice in infringement of the performing right of such owner.

Power of Owner of Performing Right to Forbid Performance in Infringement of his Right.

Penalty: Ten pounds.

(2) A person shall not give any notice in pursuance of this section without just cause.

Penalty: Twenty pounds.

(3) In any prosecution under subsection (2) of this section, the defendant shall be deemed to have given the notice without just cause unless he proves, to the satisfaction of the Court at the hearing, that at the time of giving the notice he was the owner of the performing right in the musical or dramatic work, or the agent of the owner appointed in writing, and had reasonable ground to believe that the person to whom the notice was given was about to perform or take part in the performance of the musical or dramatic work in infringement of the performing right of the owner.

55. Any person, who in any notice given in pursuance of this Act, makes a representation which is false in fact, and which he knows to be false or does not believe to be true, that he is

Penalty for False Representations in Notices.

(a) the owner of the copyright in any book or artistic work,
or

(b) the owner of the performing right in a musical or dramatic work, or

(c) the agent of any such owner,

shall be guilty of an offence against this Act.

Penalty: Two years' imprisonment.

56. (1) The owner of the copyright in any book or artistic work, or the agent of such owner appointed in writing, may, in

Request to
Police to seize
Pirated Books
and Works.

accordance with the prescribed form, request that any pirated reproductions of the book or work be seized by the police, and may lodge the request at any police station.

(2) Any police constable in the town or district in which the police station is situated (whether in the service of the Commonwealth or of a State) may, at any time in the daytime within seven days after the request was so lodged, seize all pirated reproductions of the book or work mentioned in the notice, and all reproductions of the book or work which he has reasonable ground to believe are pirated reproductions, found by him in the possession of any person other than the owner of the copyright in the book or work.

(3) Every police constable who seizes any books or works in pursuance of this section shall forthwith bring all such books or works before a Court of summary jurisdiction.

(4) A Court of summary jurisdiction may, on the application of any person interested, make such order for the disposal of the books or works as it thinks just.

(5) A person shall not lodge any request at any police station in accordance with this section without just cause.

Penalty: Twenty pounds.

(6) In any prosecution under subsection (5) of this section the defendant shall be deemed to have lodged the request without just cause unless he proves, to the satisfaction of the Court at the hearing, that at the time of lodging the request he was the owner of the copyright in the book or artistic work, or was the agent of such owner appointed in writing, and had reasonable ground to believe that pirated reproductions of the book or work were being unlawfully sold, or let for hire, or exposed or offered or kept for sale or hire, or distributed, or exhibited in public, in the town or district in which the police station is situated.

Application of
Penalties.

57. Where proceedings for any penalty under this Act are instituted by the owner of the copyright in any book or in any artistic work, or by the owner of the artistic work, the penalty shall be paid to him by way of compensation for the injury he has sustained. In any other case the penalty shall be paid to the Consolidated Revenue Fund.

Aiders and
Abettors.

58. Whoever aids, abets, counsels, or procures, or by act or omission is in any way, directly or indirectly, knowingly concerned in the commission of any offence against this Act, shall be deemed to have committed that offence, and shall be punishable accordingly.

59. Proceedings may be instituted in any Court of summary

jurisdiction for the recovery of any penalty under this Act, but no such proceedings shall be instituted after the expiration of six months from the date of the offence in respect of which the penalty is imposed.

Limitation of
Actions in
Court of
Summary
Jurisdiction.

60. An appeal shall lie from any conviction or order (including any dismissal of any information, complaint, or application) of a Court of summary jurisdiction, exercising jurisdiction with respect to any offence or matter under this Act, to the Court, and in the manner and time provided by the law of the State in which the proceedings were instituted in the case of appeals from Courts of summary jurisdiction in that State.

Appeal from
Courts of
Summary
Jurisdiction.

61. (1) The following goods are prohibited to be imported:—

Importation of
Pirated Works.

(a) All pirated books in which copyright is subsisting in Australia (whether under this Act or otherwise); and

(b) All pirated artistic works in which copyright is subsisting in Australia (whether under this Act or otherwise).

(2) All pirated books and pirated artistic works imported into Australia contrary to this section shall be forfeited, and may be seized by any officer of Customs.

(3) Subject to this Act the provisions of the *Customs Act 1901* shall apply to the seizure and forfeiture of pirated books and artistic works under this section to the same extent as if they were prohibited imports under that Act.

(4) The provisions of this section shall not apply to any book or artistic work unless the owner of the copyright therein, or his agent, has given written notice to the Minister of the existence of the copyright and of its term.

(5) A notice given to the Commissioners of Customs of the United Kingdom by the owner of the copyright, or his agent, of the existence of the copyright in a book or artistic work and of its term, and communicated by the said Commissioners to the Minister, shall be deemed to have been given by the owner to the Minister.

PART VI.—INTERNATIONAL AND STATE COPYRIGHT.

62. The owner of any copyright or performing right in any literary, musical, or dramatic work or artistic work entitled to protection in Australia by virtue of any Act of the Parliament of the United Kingdom, or entitled to protection in any State by virtue of any State Copyright Act in force at the commencement of this Act, shall, on obtaining a certificate of the registration of his copyright or performing right under this part of this Act, have the same protection in the Commonwealth against the

Protection in
Australia of
International
and State
Copyright.

infringement of his copyright or performing right as the owner of any copyright or performing right under this Act.

Registration of
International
Copyright.

63. (1) The owner of any copyright or performing right who desires to obtain the benefit of this part of this Act may, in manner and in accordance with the form prescribed, make application to the Registrar for the registration of his copyright or performing right.

(2) The Registrar may thereupon, and on being satisfied by proof of the prescribed particulars, and on payment of the prescribed fee, register the copyright or performing right, and issue to the applicant a certificate of registration in accordance with the prescribed form.

PART VII.—REGISTRATION OF COPYRIGHTS.

Copyright
Registers.

64. The following Registers of Copyrights shall be kept by the Registrar at the Copyright Office :—

The Register of Literary Copyrights.

The Register of Fine Arts Copyrights.

The Register of International and State Copyrights.

Method of
Registration.

65. The owner of any copyright, performing right, or lecturing right under this Act may obtain registration of his right in the manner prescribed.

Registration of
Assignments
and Trans-
missions.

66. When any person becomes entitled to any copyright, performing right, or lecturing right under this Act by virtue of any assignment or transmission, or to any interest therein by licence, he may obtain registration of the assignment, transmission, or licence in the manner prescribed.

How Regis-
tration
Effected.

67. The registration of any copyright, performing right, or lecturing right under this Act, or of any assignment or transmission thereof, or of any interest therein by licence, shall be effected by entering in the proper register the prescribed particulars relating to the right, assignment, transmission, or licence.

Trusts not
Registered.

68. (1) No notice of any trust expressed, implied, or constructive shall be entered in any Register of Copyrights under this Act, or be receivable by the Registrar.

(2) Subject to this section, equities in respect of any copyright, performing right, or lecturing right under this Act may be enforced in the same manner as equities in respect of other personal property.

Register to be
Evidence.

69. Every Register of Copyrights under this Act shall be *prima facie* evidence of the particulars entered therein, and documents purporting to be copies of any entry therein or

extracts therefrom, certified by the Registrar and sealed with the seal of the Copyrights Office, shall be admissible in evidence in all Federal or State Courts without further proof or production of the originals.

70. Certified copies of entries in any register under this Act or of extracts therefrom shall on payment of the prescribed fee be given to any person applying for them. Certified Copies.

71. Each register under this Act shall be open to public inspection at all convenient times on payment of the prescribed fee. Inspection of Register.

72. The Registrar may, in prescribed cases and subject to the prescribed conditions, amend or alter any register under this Act by— Correction of Register.

(a) correcting any error in any name, address, or particular ; and

(b) entering any prescribed memorandum or particular relating to copyright or other right under this Act.

73. (1) Subject to this Act the Supreme Court of any State or a judge thereof may, on the application of the Registrar or of any person aggrieved, order the rectification of any register under this Act by— Rectification of Register by the Court.

(a) the making of any entry wrongly omitted to be made in the register ; or

(b) the expunging of any entry wrongly made in or remaining on the register ; or

(c) the correction of any error or defect in the register.

(2) An appeal shall lie to the High Court from any order for the rectification of any register made by a Supreme Court or a judge under this section.

74. (1) The owner of any copyright or performing right under this Act, or of any interest therein by licence, shall not be entitled to bring any action or suit, or institute any proceedings for any infringement of the copyright or performing right, unless such right or interest has been registered in pursuance of this Act. Owner cannot sue before Registration.

(2) When such right or interest has been registered the owner thereof may, subject to this Act, bring actions or suits, or institute proceedings for infringements of the copyright or performing right, whether those infringements happened before or after the registration.

(3) This section shall not affect the right of the owner of the lecturing right in a lecture to bring actions or suits or institute proceedings for infringements of his lecturing right.

75. (1) Every person applying for the registration of the copyright in any book shall deliver to the Registrar two copies

Delivery of
Books to
Registrar.

of the whole book, with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published and bound, sewed, or stitched together, and on the best paper on which the book is printed.

(2) Every person applying for the registration of the copyright in any work of art shall deliver to the Registrar one copy of the work of art or a photograph of it.

(3) The Registrar shall refuse to register the copyright in any book or work of art until subsections (1) and (2) of this section have been complied with.

(4) One copy of each book delivered to the Registrar in pursuance of this section shall be forwarded by him to the librarian of the Parliament, and the other copy shall be retained by the Registrar, until otherwise prescribed.

False Repre-
sentation to
Registrar.
Patents Act
1903, s. 112.

76. No person shall wilfully make any false statement or representation to deceive the Registrar or any officer in the execution of this part of this Act, or to procure or influence the doing or omission of anything in relation to this part of this Act or any matter thereunder.

Penalty: Three years' imprisonment.

PART VIII.—MISCELLANEOUS.

Provision
against Sup-
pression of
Books.

77. If the Governor-General is satisfied that the owner of the copyright in any book, or of the performing right in any dramatic work or musical work, or of the lecturing right in any lecture, has refused, after the death of the author, to republish or allow republication of the book, or the public performance of the dramatic or musical work, or the publication as a book of the lecture, and that by reason thereof the book, dramatic work, musical work, or lecture is withheld from the public, he may grant any person applying for it a licence to republish the book, or to perform the dramatic work, or musical work, or to publish the lecture as a book, in such manner and subject to such conditions as to the Governor-General seem fit.

Power to
award Costs.

78. In any action or proceeding taken in any Court under this Act, the Court shall have power to award costs at its discretion.

Regulations.

79. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, or for the conduct of any business relating to the Copyrights Office.

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