

11-12 GEORGE V.

CHAP. 24.

An Act to amend and consolidate the Law relating to
Copyright.

[Assented to 4th June, 1921.]

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

R.S., c. 70;
1908, c. 17;
1915, c. 12.

SHORT TITLE.

1. This Act may be cited as *The Copyright Act, 1921.* Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) "architectural work of art" means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction; Definitions.
"Architectural work of art."
- (b) "artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs; "Artistic work."
- (c) "book" shall include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan separately published; "Book."
- (d) "cinematograph" includes any work produced by any process analogous to cinematography; "Cinematograph."
- (e) "collective work" means,— "Collective work."
- (i) an encyclopædia, dictionary, year book, or similar work;
- (ii) a newspaper, review, magazine, or similar periodical; and,
- (iii) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

- " Delivery." (f) " delivery," in relation to a lecture, includes delivery by means of any mechanical instrument;
- " Dramatic work." (g) " dramatic work " includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;
- " Engravings." (h) " engravings " include etchings, lithographs, woodcuts, prints, and other similar works, not being photographs;
- His Majesty's Dominions. (i) " His Majesty's Dominions " includes any territories under His Majesty's protection to which an order in council made under the provisions of section twenty-eight of the *Copyright Act, 1911*, passed by the Parliament of the United Kingdom relates;
- " Infringing." (j) " infringing," when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act;
- " A work of joint authorship." (k) For the purposes of this Act, " a work of joint authorship " means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.
- " Lecture." (l) " lecture " includes address, speech, and sermon;
- " Legal representatives." (m) " legal representatives " includes heirs, executors, administrators and assigns or other legal representatives;
- " Literary work." (n) " literary work " includes maps, charts, plans, tables, and compilations;
- " Minister." (o) " Minister " means the Minister of the Crown named by the Governor in Council to administer this Act;
- " Musical work." (p) " musical work " means any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced.
- " Performance." (q) " performance " means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;
- " Photograph." (r) " photograph " includes photo-lithograph and any work produced by any process analogous to photography;
- " Plate." (s) " plate " includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls, or other contrivances

for the acoustic representation of the work, are or are intended to be made;

(t) "work of sculpture" includes casts and models.

"Work of sculpture"

COPYRIGHT.

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

"Copyright" defined.

(a) to produce, reproduce, perform or publish any translation of the work;

(b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work;

(c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise;

(d) in the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered;

and to authorize any such acts as aforesaid.

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

Meaning of "Publication."

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

When work deemed to be published, performed or delivered in public.

(4) For the purposes of this Act, a work shall be deemed to be first published within His Majesty's Dominions or within a foreign country to which this Act extends, notwithstanding that it has been published simultaneously in some other place; and a work shall be deemed to be published simultaneously in two places, if the time between the publication in one such place and the other place does not exceed fourteen days or such longer period as may for the time being be fixed by order in council.

When work deemed to be first published, if issued simultaneously in some other place.

When work deemed to be published simultaneously in two places.

Conditions under which copyright complied with in case of unpublished works.

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

When author deemed to be resident.

(6) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident within His Majesty's Dominions if he is domiciled within His Majesty's Dominions.

WORKS IN WHICH COPYRIGHT MAY SUBSIST.

Conditions for obtaining copyright.

4. (1) Subject to the provisions of this Act, copyright shall subsist in Canada for the term hereinafter mentioned, in every original literary, dramatic, musical and artistic work, if the author was at the date of the making of the work a British subject, a citizen or subject of a foreign country which has adhered to the Convention and the Additional Protocol thereto set out in the Second Schedule to this Act, or resident within His Majesty's Dominions; and if, in the case of a published work, the work was first published within His Majesty's Dominions or in such foreign country; but in no other works, except so far as the protection conferred by this Act is extended as hereinafter provided to foreign countries to which this Act does not extend.

Minister may extend copyright to other countries.

(2) If the Minister certifies by notice, published in the *Canada Gazette*, that any country which has not adhered to the Convention and the Additional Protocol thereto, set out in the Second Schedule to this Act, grants or has undertaken to grant, either by treaty, convention, agreement or law, to citizens of Canada the benefit of copyright on substantially the same basis as to its own citizens or copyright protection substantially equal to that conferred by this Act, such country shall, for the purpose of the rights conferred by this Act, be treated as if it were a country to which this Act extends; and it shall be lawful for the Minister to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, under the law of such country, differ from those in this Act.

Copyright in records and other mechanical contrivances.

(3) Copyright shall subsist for the term hereinafter mentioned in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical, literary or dramatic works.

TERM OF COPYRIGHT.

Term of copyright.

5. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be

the life of the author and a period of fifty years after his death.

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

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

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

8.

Term of
copyright in
records and
perforated
rolls.

8. The term for which copyright shall subsist in records, perforated rolls and other contrivances by means of which sounds may be mechanically reproduced shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of such contrivance, and where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within His Majesty's Dominions if it has established a place of business therein.

How long
copyright to
subsist in
posthumous
works.

9. In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section five of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

When copy-
right belongs
to His
Majesty.

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

OWNERSHIP OF COPYRIGHT.

Ownership of
copyright.

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

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

(b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employ-

ment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright; but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to territorial limitations, and either for the whole term of the copyright or for any other part thereof, and may grant any interest in the right by license, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent.

Assignment of right by owner.

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

Limitation in case the author is first owner of copyright.

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

Ownership in case of partial assignment.

COMPULSORY LICENSES.

12. If, at any time after the death of the author of a literary, dramatic, or musical work which has been published or performed in public, a complaint is made to the Governor in Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright

When owner of copyright compelled to grant license to reproduce.

may be ordered to grant a license to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Governor in Council may think fit.

LICENSES.

Application for license to print book in Canada by others than owner.

13. (1) Any person may apply to the Minister for a license to print and publish in Canada any book wherein copyright subsists, if at any time after publication and within the duration of the copyright the owner of the copyright fails:

(a) to print the said book or cause the same to be printed in Canada;

(b) to supply by means of copies so printed the reasonable demands of the Canadian market for such book.

Form stating retail price.

(2) Such application may be in such form as may be prescribed by the regulations and shall state the proposed retail price of the edition of such book proposed to be printed.

Deposit with application.

(3) Every applicant for a license under this section shall with his application deposit with the Minister an amount not less than ten per cent of the retail selling price of one thousand copies of such book and not less than one hundred dollars and such amount shall, if such application is unsuccessful, be returned to such applicant less such deductions for fees as may be authorized by the regulations.

Notice to owner.

(4) Notice of such application shall forthwith be communicated by the Minister to the owner of the copyright in such manner as may be prescribed by the regulations.

If owner does not proceed, application may be granted.

(5) If the owner of the copyright shall not within a delay to be fixed by the regulations after communication of such notice give an undertaking, with such security as may be prescribed by the regulations, to procure within two months after the date of such communication the printing in Canada of an edition of not less than one thousand copies of such book, the Minister in his discretion may grant to the applicant a license to print and publish such book upon terms to be determined by the Minister after hearing the parties or affording them such opportunity to be heard as may be fixed by the regulations.

License to highest or first applicant.

(6) Where two or more persons have applied for a license under this section, the Minister shall award the license to the applicant proposing the terms, in the opinion of the Minister, most advantageous to the author, and if there are two proposing terms equally advantageous to the author, to the applicant whose application was first received.

Rights of licensee.

(7) Such license when issued shall entitle the licensee to the sole right to print and publish such book in Canada during such term, not exceeding five years or for such edition or editions as may be fixed by the license.

(8)

(8) Such licensee shall pay a royalty on the retail selling price of every copy of such book printed under such license, at a rate to be determined by the Minister. Royalty.

(9) The acceptance of a license for a book shall imply an undertaking by the licensee,— Undertaking by licensee.

(a) to print and publish in Canada an edition of the book of not less than one thousand copies, at the price specified in the license, and within two months from the issue of the license; and

(b) to print the same from the last authorized edition of the book in such manner as may be prescribed by the Minister, in full, without abbreviation or alteration of the letterpress, and, without varying, adding to, or diminishing the main design of such of the prints, engravings, maps, charts, musical compositions, or photographs contained in the book as the licensee reproduces.

(10) Every book published under a license under this section shall have printed or otherwise impressed upon it the words "Printed under Canadian license" and the calendar year of such license and the retail selling price of such book. Indorsements on book.

(11) If the Minister on complaint is satisfied that the licensee does not print and keep on sale in Canada a number of copies of the book sufficient to supply the reasonable demands, he shall, after giving the licensee an opportunity of being heard to show cause against the cancellation, cancel the license.

(12) If a book for which a license has been issued is suppressed by the owner of the copyright, the licensee shall not print the book or any further copies thereof, but may sell any copies already printed, and may complete and sell any copies in process of being printed under his license, but the owner of the copyright shall be entitled to buy all such copies at the cost of printing them.

(13) Nothing in this section shall authorize the granting without the consent of the author, of a license to publish a second or succeeding edition of any work whereof such author has published one or more editions in Canada.

SERIAL LICENSE.

14. (1) If the publication of a book is lawfully begun as a serial elsewhere than in His Majesty's Dominions or a foreign country to which subsection one of section four of this Act applies, and the owner of the copyright has refused to grant a license to any person in Canada, being a publisher of a periodical, to publish such book in serial form, a license may in the discretion of the Minister be granted to any person in Canada, being the publisher of a periodical, to publish such book once in serial form in the said periodical, provided that a license shall not be granted to more than one such publisher in the same city, town or place. License to publish book in serial form.

(2)

Application. (2) Such license may be issued by the Minister on application by the publisher in such form as may be prescribed by the regulations.

"Serial" defined. (3) The term "serial" under this section shall mean and refer to any book which is first published in separate articles or as a tale or short story complete in one issue in a newspaper or periodical.

"Owner of a copyright." (4) The term "owner of a copyright" under this section may mean the owner of the right to publish in serial form as distinct and separate from other rights of publication.

Draft contract. (5) The application for a license under this section may be in the form of a draft contract between the licensee and the owner of the copyright.

Terms of license. (6) Such license may be upon the terms proposed in such draft contract, or upon terms prescribed by the regulations; provided that before such terms are settled the owner of the copyright shall be entitled to being fully heard in support of any contentions or representations he may deem it in his interests to make.

Deposit with application. (7) The applicant for a license under this section shall with his application deposit such amount of money as may be required by the regulations, and such money shall on the issue of the license be paid forthwith to the owner of the copyright.

(8) Nothing in this Act shall prohibit the importation and circulation of newspapers, magazines and periodicals which together with foreign original matter contain serials licensed to be printed and published in Canada.

License deemed a contract and licensee subrogated to rights of owner. **15.** (1) Every license issued under sections twelve, thirteen or fourteen shall be deemed to constitute a contract, on the terms embodied in such license or in this Act, between the owner of the copyright and the licensee, and the licensee shall be entitled to the like remedies as in the case of a contract, the licensee shall have the same power and right to take any action or any legal proceedings to prevent or restrain any infringement of copyright which affects the rights of such licensee or to recover compensation or damages for any such infringement that the owner of the copyright would have for an infringement of his copyright.

License declared forfeited on default. (2) The owner of the copyright shall, in addition to any other remedy in respect to such license as a contract, be entitled, in case of default by the licensee in observing the terms of such license, on petition to the Exchequer Court of Canada, to have such license cancelled.

Particulars entered. (3) Particulars of such cancellation may be entered on the Register of Copyrights.

Fees paid to Department. (4) All moneys paid or payable by a licensee or applicant for a license under sections twelve, thirteen or fourteen shall be paid to the Minister.

(5)

(5) All moneys deposited by a successful applicant for a license and all moneys due from time to time by way of royalty or otherwise from licensees shall likewise be paid to the Minister and by him paid out to the persons entitled thereto.

Deposits and
royalty
paid to
Department.

(6) The Minister may by regulations require every copy of a book upon which the royalty has been duly paid to be suitably stamped or marked.

Payment of
royalty
stamped on
book.

INFRINGEMENT OF COPYRIGHT.

16. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright:

Infringement
of copyright.

Provided that the following acts shall not constitute an infringement of copyright:—

Exceptions.

(i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary;

For purposes
of study.

(ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work;

When author
not owner.

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

When per-
manently
situate in
public place.

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

Short passage
for schools.

Not more
than two
passages.

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

Newspaper
report of
public lecture
unless notice
to contrary.

shall affect the provisions in paragraph (i) as to newspaper summaries;

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

Reading of
extract.

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

Infringement
by personal
action.

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

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

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

(d) imports for sale or hire into Canada any work which to his knowledge infringes copyright or would infringe copyright if it had been made within Canada.

Infringement
when repro-
duced for
private profit
without
owner's
consent.

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

Report in
newspaper of
political
speech no
infringement.

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

When making
in Canada,
of records,
etc., not
infringement.

18. (1) It shall not be deemed to be an infringement of copyright in any musical, literary or dramatic work for any person to make within Canada records, perforated rolls, or other contrivances, by means of which sounds may be reproduced and by means of which the work may be mechanically performed, if such person proves,—

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

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

Proviso.

Provided that,—

When
alterations
necessary for
adaptation to
contrivance.

(i) nothing in this provision shall authorize any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably

necessary for the adaptation of the work to the contrivances in question; and,

(ii) for the purposes of this provision, a musical, literary or dramatic work shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced; and,

Musical work defined.

(iii) the making of the necessary manuscript arrangement and instrumentations of the copyrighted work, for the sole purpose of the adaptation of the work to the contrivances in question, shall not be deemed an infringement of copyright.

(2) The royalty as aforesaid shall be two cents for each playing surface of each such record and two cents for each such perforated roll or other contrivance.

Rates of royalties.

(3) If any such contrivance is made reproducing on the same playing surface two or more different works in which copyright subsists, and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright equally.

Apportionment of royalties when several owners.

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

When owner deemed to consent to making of contrivances.

(5) For the purposes of this section, the Governor in Council may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties; and any such regulations may, if the Governor in Council thinks fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

Regulations and notices by Governor in Council.

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

Provisions as to musical works heretofore published.

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

Conditions as to making, and restrictions as to alterations.

(b) No royalties shall be payable in respect of contrivances lawfully made and sold by the manufacturer before the commencement of this Act;

Royalties altered.

(c) Notwithstanding any assignment made before the passing of this Act of the copyright in a literary or dramatic or musical work, any rights conferred by this

Property of author and not of assignee.

Act in respect of the making, or authorising the making, of contrivances by means of which the work may be mechanically performed, shall belong to the author or his legal representatives and not to the assignee, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal representatives.

Copyright deemed to exist at date of making of original plate.

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

Proviso.

Provided that,—

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

CIVIL REMEDIES.

Civil remedies.

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

Costs.

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

Presumptions as to copyright and ownership.

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

- (a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work;
- (b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a

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

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

Ownership of copies, plates, etc.

21. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had no reasonable ground for suspecting that copyright subsisted in the work: Provided that if at the date of the infringement the copyright in the work was duly registered under this Act, the defendant shall be deemed to have had reasonable ground for suspecting that copyright subsisted in the work.

Injunction only remedy when defendant not aware of copyright.

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

No injunction in case of a building.

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

Penalties not to apply.

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

Prescription of action.

SUMMARY REMEDIES.

24. (1) If any person knowingly,—
(a) makes for sale or hire any infringing copy of a work in which copyright subsists; or,

Summary remedies.

(b)

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

Penalties.

he shall be guilty of an offence under this Act and be liable on summary conviction to a fine not exceeding ten dollars for every copy dealt with in contravention of this section, but not exceeding two hundred dollars in respect of the same transaction; or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

Possession of plates for infringement.

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

Penalties.

Power of court to deal with copies or plates.

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

Infringement in case of dramatic, operatic, or musical work.

25. (1) Any person who, without the written consent of the owner of the copyright or of his legal representative, knowingly performs or causes to be performed in public and for private profit the whole or any part, constituting an infringement, of any dramatic or operatic work or musical composition in which copyright subsists in Canada, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars, or, in the case of a second or subsequent offence, either to such fine or to imprisonment for a term not exceeding two months, or to both.

Change or suppression of title or author's name.

(2) Any person who makes or causes to be made any change in or suppression of the title, or the name of the author, of any dramatic or operatic work or musical composition in which copyright subsists in Canada, or who makes or causes to be made any change in such work or composition

composition itself without the written consent of the author or of his legal representative, in order that the same may be performed in whole or in part in public for private profit, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding five hundred dollars, or in the case of a second or subsequent offence, either to such fine or to imprisonment for a term not exceeding four months, or to both.

IMPORTATION OF COPIES.

26. Copies made out of Canada of any work in which copyright subsists which if made in Canada would infringe copyright and as to which the owner of the copyright gives notice in writing to the Department of Customs that he is desirous that such copies should not be so imported into Canada, shall not be so imported, and shall be deemed to be included in Schedule C to *The Customs Tariff, 1907*, and that Schedule shall apply accordingly.

Importation of certain copyright works prohibited.

27. (1) Where the owner of the copyright has by license or otherwise granted the right to reproduce any book in Canada, or where a license to reproduce such book has been granted under sections twelve or thirteen, it shall not be lawful except as provided in subsection three to import into Canada copies of such book, and such copies shall be deemed to be included in Schedule C to *The Customs Tariff, 1907*, and that Schedule shall apply accordingly.

No importation where right or license to reproduce in Canada granted.

(2) Except as provided in subsection three, it shall be unlawful to import into Canada copies of any book in which copyright subsists until fourteen days after publication thereof and during such period or any extension thereof such copies shall be deemed to be included in Schedule C to *The Customs Tariff, 1907*, and that Schedule shall apply accordingly.

Notice required of intention to import.

Provided that if within the said period of fourteen days an application for a license has been made in accordance with the provisions of section thirteen, the Minister may in his discretion extend the said period and the prohibition against importation shall be continued accordingly. The Minister shall forthwith notify the Department of Customs of such extension.

(3) Notwithstanding anything in this Act it shall be lawful for any person:—

Exceptions.

(a) To import for his own use not more than two copies of any work published in any country adhering to the Convention;

(b) To import for use by any Department of His Majesty's Government for the Dominion or any of the provinces of Canada, copies of any work, wherever published;

- (c) At any time before a work is printed or made in Canada to import any copies required for the use of any public library or institution of learning;
- (d) To import any book lawfully printed in the United Kingdom or in a foreign country which has adhered to the Convention and the Additional Protocol thereto set out in the second Schedule to this Act, and published for circulation among, and sale to the public within either; provided that any officer of the Customs, may in his discretion, require any person seeking to import any work under this section to produce satisfactory evidence of the facts necessary to establish his right so to import.

ADMINISTRATION.

Copyright
office.

28. The Copyright Office, established under the *Copyright Act* and amendments thereto, shall continue and shall be attached to the Patent Office, and any officers appointed under the said Act shall continue as if established or appointed under this Act.

Powers of
Commissioner and
Registrar.

29. The Commissioner of Patents may do any act or thing, whether judicial or ministerial, which the Minister is authorized or empowered to do by any provision of this Act, and in the absence or inability to act of the Commissioner of Patents the Registrar of Copyrights may exercise such powers and do any such act or thing.

Registrar.

30. There shall be a Registrar of Copyrights.

Duties of
Commissioner and
Registrar.

31. The Commissioner of Patents or the Registrar of Copyrights shall sign all entries made in the Registers and shall sign all certificates and certified copies under the seal of the Copyright Office.

Other duties
of
Registrar.

32. The Registrar of Copyrights shall perform such other duties in connection with the administration of this Act as may be assigned to him by the Commissioner of Patents.

Seal.

33. There shall be a seal of the Copyright Office and impressions thereof shall be judicially noticed.

Control of
business and
officials.

34. The Commissioner of Patents shall, subject to the Minister, oversee and direct the officers, clerks and employees of the Copyright Office, and have general control of the business thereof, and shall perform such other duties as are assigned to him by the Governor in Council.

Register
to be
evidence.

35. (1) Every register of copyrights under this Act shall be *prima facie* evidence of the particulars entered therein and documents

documents purporting to be copies of any entries therein or extracts therefrom, certified by the Commissioner of Patents or the Registrar of Copyrights and sealed with the seal of the Copyright Office, shall be admissible in evidence in all courts without further proof or production of the originals.

(2) A certificate of registration of copyright in a work shall be *prima facie* evidence that copyright subsists in the work and that the person registered is the owner of such copyright.

REGISTRATION.

36. (1) The Minister shall cause to be kept at the Copyright Office, books to be called the Registers of Copyrights, in which may be entered the names or titles of works and the names and addresses of authors, and such other particulars as may be prescribed. Registers of copyrights.

(2) The author or publisher of, or the owner of, or other person interested in the copyright in any work may cause the particulars respecting the work to be entered in the register. Entries by author, etc.

(3) In the case of an encyclopædia, newspaper, review, magazine or other periodical work, or work published in a series of books or parts, it shall not be necessary to make a separate entry for each number or part, but a single entry for the whole work shall suffice. Single entry sufficient.

(4) There shall also be kept at the Copyright Office such indexes of the registers established under this section as may be prescribed. Indexes.

(5) The registers and indexes established under this section shall be in the prescribed form, and shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of or make extracts from any such register. Form and inspection of registers; extracts may be made.

(6) Any registration made under the *Copyright Act* shall have the same force and effect as if made under this Act. R. S. 1906, c. 70.

(7) Any work in which copyright, operative in Canada, subsisted immediately before the commencement of this Act, shall be registerable under this Act. Subsisting copyright.

37. (1) The application for the registration of a copyright may be made in the name of the author or of his legal representatives, by any person purporting to be agent of such author or legal representatives. By whom application for registration may be made.

(2) Any damage caused by a fraudulent or an erroneous assumption of such authority shall be recoverable in any court of competent jurisdiction. Recovery of damages.

38.

Form of application.

38. Application for registration of a copyright shall be made in accordance with the prescribed form, and shall be deposited at the Copyright Office together with the prescribed fee.

Registration of grant of interest in copyright.

39. (1) Any grant of an interest in a copyright, either by assignment or license, may be registered, if made in duplicate, upon production of both duplicates to the Copyright Office and payment of the prescribed fee. One duplicate shall be retained at the Copyright Office and the other shall be returned to the person depositing it, with a certificate of registration.

When grant is void.

(2) Any grant of an interest in a copyright, either by assignment or license, shall be adjudged void against any subsequent assignee or licensee for valuable consideration without actual notice, unless such assignment or license is registered in the manner directed by this Act before the registering of the instrument under which a subsequent assignee or licensee claims, and no grantee shall maintain any action under this Act, unless his and each such prior grant has been registered.

FEES.

Registration fees.

40. (1) The following fees shall be paid to the Minister in advance before an application for any of the following purposes is received, that is to say:—

Registering a copyright.....	\$ 2 00
Registering an assignment of copyright, in respect of each copyright assigned, including certificate of registration.....	1 00
Certificate of registration of copyright.....	1 00
Certified copies of documents or extracts:—	

For all services

For every folio of one hundred words.....	0 10
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(2) The said fees shall be in full of all services by the Minister or any person employed by him.

Disposal of fees.

(3) All fees received under this Act shall be paid over to the Minister of Finance, and shall form part of the Consolidated Revenue Fund of Canada.

No exemptions.

(4) No person shall be exempt from the payment of any fee or charge payable in respect of any services performed under this Act for such person.

Further fees.

(5) Such further or other fees as may be necessary for the purposes of this Act may be established and imposed by order in council.

Subsistence of substituted right.

41. (1) Where any person is immediately before the commencement of this Act entitled to any such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that Schedule, or to the same interest

in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made, and the work had been one entitled to copyright thereunder.

Provided that,—

Proviso.

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

- (i) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or,
- (ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment.

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

Notice.

(b) where any person has, before the commencement of this Act, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising

from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

" Author " defined.

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

Works made before this Act in force.

(3) Subject to the provisions of subsections six and seven of section eighteen of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

CLERICAL ERRORS NOT TO INVALIDATE.

Clerical errors do not invalidate.

42. Clerical errors which occur in the framing or copying of an instrument drawn by any officer or employee in or of the Department shall not be construed as invalidating such instrument, but when discovered they may be corrected under the authority of the Minister.

RULES AND REGULATIONS.

Governor in Council to make rules and forms.

43. The Governor in Council may make such rules and regulations, and prescribe such forms as appear to him necessary and expedient for the purposes of this Act.

No copyright unless under this Act.

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

Rights saved.

45. (1) The Governor in Council may make orders for altering, revoking, or varying any order in council made under this Act, but any order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the order comes into operation, and shall provide for the protection of such rights and interests.

Laid before Parliament.

(2) Every order in council made under this Act shall be published in the *Canada Gazette*, and shall be laid before Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

46. (1) This Act shall not apply to designs capable of being registered under the *Trade Mark and Design Act*, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process. As to application to designs registrable under R.S., c. 71.

(2) General rules under section thirty-nine of the *Trade Mark and Design Act*, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

REPEAL.

47. All the enactments relating to copyright passed by the Parliament of the United Kingdom are, so far as they are operative in Canada, hereby repealed. Provided that this repeal shall not prejudicially affect any legal rights existing at the time of the repeal. Acts of United Kingdom

48. The *Copyright Act*, chapter seventy of the Revised Statutes of Canada, 1906, and chapter seventeen of the statutes of 1908, are hereby repealed. Acts of Canada.

CONVENTION OF BERNE.

49. The Governor in Council may take such action as may be necessary to secure the adherence of Canada to the revised Convention of Berne, signed the thirteenth day of November, 1908, and the Additional Protocol thereto signed at Berne the twentieth day of March, 1914, set out in the Second Schedule to this Act. Adherence to Convention of Berne.

COMMENCEMENT.

50. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council. Commencement of Act.

FIRST SCHEDULE.

(See sec. 41.)

EXISTING RIGHTS

Existing Right.	Substituted Right.
(a) <i>In the case of Works other than Dramatic and Musical Works.</i>	
Copyright.	Copyright as defined by this Act ¹
(b) <i>In the case of Musical and Dramatic Works.</i>	
Both copyright and performing right.....	Copyright as defined by this Act.
Copyright, but not performing right.....	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.
Performing right, but not copyright.....	The sole right to perform the work in public, but none of the other rights comprised in copyright as defined by this Act.

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

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

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

¹In the case of an essay, article or portion forming part of and first published in a review, magazine or other periodical or work of a like nature the right shall be subject to any right of publishing the essay, article or portion in a separate form to which the author is entitled at the commencement of this Act or would if this Act had not been passed have become entitled under section 18 of the Copyright Act, 1842.

SECOND SCHEDULE.

REVISED BERNE CONVENTION.

Convention for the purpose of revising the Convention of Berne of the 9th September, 1886, the Additional Article and the Final Protocol attached to the same Convention, and the Additional Act and the Interpretative Declaration of Paris of the 4th May, 1896; made on the 13th day of November, 1908, between His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India; His Majesty the German Emperor, King of Prussia; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the Republic of Liberia; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; His Serene Highness the Prince of Monaco; His Majesty the King of Norway; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; His Highness the Bey of Tunis.

[The following is an English translation of the Convention with the omission of the formal beginning and end.]

ARTICLE 1.

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

ARTICLE 2.

The expression "literary and artistic works" shall include any production in the literary, scientific or artistic domain, whatever may be the mode or form of its reproduction, such as books, pamphlets, and other writings; dramatic or dramatico-musical works, choreographic works and entertainments in dumb show, the acting form of which is fixed in writing or otherwise; musical compositions with or without words; works of drawing, painting, architecture, sculpture, engraving and lithography; illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture or science.

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

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

Works

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

ARTICLE 3.

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

ARTICLE 4.

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

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

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

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

ARTICLE 5.

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

ARTICLE 6.

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

ARTICLE 7.

The term of protection granted by the present Convention shall include the life of the author and fifty years after his death.

Nevertheless, in case such term of protection should not be uniformly adopted by all the countries of the Union, the term shall be regulated by the law of the country where protection is claimed, and must not exceed the term fixed in the country of origin of the work. Consequently the contracting countries shall only be bound to apply the provisions of the preceding paragraph in so far as such provisions are consistent with their domestic laws.

For photographic works and works produced by a process analogous to photography, for posthumous works, for anonymous or pseudonymous works, the term of protection shall be regulated by the law of the country where protection is claimed, provided that the said term shall not exceed the term fixed in the country of origin of the work.

ARTICLE 8.

The authors of unpublished works, being subjects or citizens of one of the countries of the Union, and the authors of works first published in one of those countries shall enjoy, in the other countries of the Union, during the whole term of the right in the original work, the exclusive right of making or authorizing a translation of their works.

ARTICLE 9.

Serial stories, tales, and all other works, whether literary, scientific, or artistic, whatever their object, published in the newspapers or periodicals of one of the countries of the Union may not be reproduced in the other countries without the consent of the authors.

With the exception of serial stories, and tales any newspaper article may be reproduced by another newspaper unless the reproduction thereof is expressly forbidden. Nevertheless, the source must be indicated; the legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed. The

The protection of the present Convention shall not apply to news of the day or to miscellaneous information which is simply of the nature of items of news.

ARTICLE 10.

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational purposes, or having a scientific character, or for chrestomathies, the effect of the legislation of the countries of the Union and of special Arrangements existing or to be concluded between them is not affected by the present Convention.

ARTICLE 11.

The stipulations of the present Convention shall apply to the public representation of dramatic or dramatico-musical works, and to the public performance of musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works shall be protected during the existence of their right over the original work against the unauthorized public representation of translations of their works.

In order to enjoy the protection of the present Article, authors shall not be bound in publishing their works to forbid the public representation or performance thereof.

ARTICLE 12.

The following shall be specially included among the unlawful reproductions to which the present Convention applies: Unauthorized indirect appropriations of a literary or artistic work, such as adaptations, musical arrangements, transformations of a novel, tale, or piece of poetry into a dramatic piece and *vice versa*, etc., when they are only the reproduction of that work, in the same form or in another form without essential alterations, additions, or abridgments, and do not present the character of a new original work.

ARTICLE 13.

The authors of musical works shall have the exclusive right of authorizing (1) the adaptation of those works to instruments which can reproduce them mechanically; (2) the public performance of the said works by means of these instruments.

Reservations and conditions relating to the application of this Article may be determined by the domestic legislation of each country in so far as it is concerned; but the effect of any such reservations and conditions will be strictly limited to the country which has put them in force.

The provisions of paragraph 1 shall not be retroactive, and consequently shall not be applicable in any country of the Union to works which have been lawfully adapted in that country to mechanical instruments before the coming into force of the present Convention.

Adaptations made in virtue of paragraphs 2 and 3 of the present Article, and imported without the authority of the interested parties into a country where they would not be lawful, shall be liable to seizure in that country.

ARTICLE 14.

Authors of literary, scientific or artistic works shall have the exclusive right of authorizing the reproduction and public representation of their works by cinematography.

Cinematograph productions shall be protected as literary or artistic works, if, by the arrangement of the acting form or the combinations of the incidents represented, the author has given the work a personal and original character.

Without prejudice to the rights of the author of the original work the reproduction by cinematography of a literary, scientific or artistic work shall be protected as an original work.

The above provisions apply to reproduction or production effected by any other process analogous to cinematography.

ARTICLE 15.

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the Courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

For anonymous or pseudonymous works the publisher, whose name is indicated on the work, shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the legal representative of the anonymous or pseudonymous author.

ARTICLE 16.

Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.

In such a country the seizure may also apply to reproductions imported from a country where the work is not protected, or has ceased to be protected.

The seizure shall take place in accordance with the domestic legislation of each country.

ARTICLE 17.

The provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

ARTICLE 18.

The present Convention shall apply to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin through the expiration of the term of protection.

If, however, through the expiration of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew in that country.

The application of this principle shall take effect according to the stipulations contained in special Conventions existing, or to be concluded, to that effect between countries of the Union. In the absence of such stipulations, the respective countries shall regulate, each in so far as it is concerned, the manner in which the said principle is to be applied.

The above provisions shall apply equally in case of new accessions to the Union, and also in the event of the term of protection being extended by the application of Article 7.

ARTICLE 19.

The provisions of the present Convention shall not prevent a claim being made for the application of any wider provisions which may be made by the legislation of a country of the Union in favour of foreigners in general.

ARTICLE 20.

The Governments of the countries of the Union reserve to themselves the right to enter into special arrangements between each other, provided always that such arrangements confer upon authors more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention. The provisions of existing arrangements which answer to the above-mentioned conditions shall remain applicable.

ARTICLE 21.

The International Office established under the name of the "Office of the International Union for the Protection of Literary and Artistic Works" shall be maintained.

That office is placed under the high authority of the Government of the Swiss Confederation, which regulates its organization and supervises its working.

The official language of the Office shall be French.

ARTICLE 22.

The International Office collects every kind of information relative to the protection of the rights of authors over their literary and artistic works. It arranges and publishes such information. It undertakes the study of questions of general interest concerning the Union, and by the aid of documents placed at its disposal by the different administrations, edits a periodical publication in the French language on the questions which concern the objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorize by common accord the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union with a view to furnish them with any special information which they may require relative to the protection of literary and artistic works.

The Director of the International Office shall make an annual Report on his Administration, which shall be communicated to all the members of the Union.

ARTICLE 23.

The expenses of the Office of the International Union shall be shared by the contracting States. Until a fresh arrangement be made they cannot exceed the sum of 60,000 francs a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in Article 24.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which shall contribute in the proportion of a certain number of units, viz.:—

1st class.....	25 units.
2nd "	20 "
3rd "	15 "
4th "	10 "
5th "	5 "
6th "	3 "

These coefficients are multiplied by the number of countries of each class, and the total products thus obtained gives the number of units by which the total expenses is to be divided. The quotient gives the amount of the unit of expense.

Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed.

The Swiss Administration prepares the Budget of the Office, superintends its expenditure, makes the necessary advances, and draws up the annual account which shall be communicated to all the other Administrations.

ARTICLE 24.

The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in Conferences to be held successively in the countries of the Union by delegates of the said countries. The Administration of the country where a Conference is to meet prepares, with the assistance of the International Office, the programme of the Conference. The Director of the Office shall attend at the sittings of the Conferences, and shall take part in the discussions without the right to vote.

No alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

ARTICLE 25.

States outside the Union which make provision for the legal protection of the rights forming the object of the present Convention may accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention. It may, nevertheless, contain an indication of the provisions of the Convention of the 9th September, 1886, or of the Additional Act of the 4th May, 1896, which they may judge necessary to substitute, provisionally at least, for the corresponding provisions of the present Convention.

ARTICLE 26.

Contracting countries shall have the right to accede to the present Convention at any time for their Colonies or foreign possessions.

They may do this either by a general Declaration comprising in the accession all their Colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.

Such Declaration shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

ARTICLE 27.

The present Convention shall replace, in regard to the relations between the Contracting States, the Convention of Berne of the 9th September, 1886, including the Additional Article and the Final Protocol of the same date, as well as the Additional Act and the Interpretative Declaration of the 4th May, 1896. These instruments shall remain in force in regard to relations with States which do not ratify the present Convention.

The Signatory States of the present Convention may declare at the exchange of ratifications that they desire to remain bound, as regards any specific point, by the provisions of the Conventions which they have previously signed.

ARTICLE 28.

The present Convention shall be ratified, and the ratifications exchanged at Berlin not later than the 1st July, 1910.

Each Contracting Party shall, as regards the exchange of ratifications, deliver a single instrument, which shall be deposited with those of the other countries in the archives of the Government of the Swiss Confederation. Each Party shall receive in return a copy of the *procès-verbal* of the exchange of ratifications signed by the Plenipotentiaries who took part.

ARTICLE 29.

The present Convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.

Such denunciation shall be made to the Government of the Swiss Confederation. It shall only take effect in regard to the country making it, the Convention remaining in full force and effect for the other countries of the Union.

ARTICLE 30.

The States which shall introduce in their legislation the duration of protection for fifty years contemplated by Article 7, first paragraph, of the present Convention, shall give notice thereof in writing to the Government of the Swiss Confederation, who will communicate it at once to all the other States of the Union.

The same procedure shall be followed in the case of the States renouncing the reservations made by them in virtue of Articles 25, 26, and 27.

ADDITIONAL PROTOCOL TO THE INTERNATIONAL COPYRIGHT CONVENTION OF NOVEMBER 13, 1908.

The countries belonging to the International Union for the protection of literary and artistic works, being desirous of permitting the limitation at discretion of the application of the Convention of the 13th November, 1908, have adopted by common consent the following Protocol:—

1. Where any country outside the Union fails to protect in an adequate manner the works of authors who are subject to the jurisdiction of one of the contracting countries, nothing in the Convention of the 13th November, 1908, shall affect the right of such contracting country to restrict the protection given to the works of authors who are, at the date of the first publication thereof subjects or citizens of the said non-Union country, and are not effectively domiciled in one of the countries of the Union.

2. The right accorded by the present Protocol to contracting States belongs equally to any of their oversea possessions.

3. No restrictions introduced by virtue of Article 1 of the present Protocol shall in any way affect the rights which an author may have acquired in respect of a work published in a country of the Union before such restrictions were put in force.

4. The States which restrict the grant of copyright in accordance with the present Protocol shall give notice thereof to the Government of the Swiss Confederation by a written declaration specifying the countries in regard to which protection is restricted, and the restrictions to which rights of authors who are subject to the jurisdiction of these countries are subjected. The Government of the Swiss Confederation will immediately communicate this declaration to all the other States of the Union.

5. The present Protocol shall be ratified, and the ratifications deposited at Berne within a period not exceeding twelve months from the date thereof. It shall come into operation one month after the expiration of this period, and shall have the same force and duration as the Convention to which it relates.

In witness whereof the Plenipotentiaries of the countries belonging to the Union have signed the present Protocol, a certified copy of which shall be transmitted to each of the respective Governments.

Done at Berne, the 20th day of March, 1914, in a single copy, deposited in the archives of the Swiss Confederation.