The question of copyright

by

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THE
QUESTION OF COPYRIGHT

COMPRISING THE TEXT OF THE COPYRIGHT LAW OF THE UNITED STATES, A SUMMARY OF THE COPYRIGHT LAWS AT PRESENT IN FORCE IN THE CHIEF COUNTRIES OF THE WORLD

TOGETHER WITH
A REPORT OF THE LEGISLATION NOW PENDING IN GREAT BRITAIN,
A SKETCH OF THE CONTEST IN THE UNITED STATES, 1837-1891,
IN BEHALF OF INTERNATIONAL COPYRIGHT, AND CERTAIN PAPERS ON THE DEVELOPMENT OF THE CONCEPTION OF LITERARY PROPERTY, AND ON THE RESULTS OF THE AMERICAN ACT OF 1891,

COMPILLED BY
GEO. HAVEN PUTNAM, A.M.
SECRETARY OF THE AMERICAN PUBLISHERS' COPYRIGHT LEAGUE

SECOND EDITION, REVISED, AND WITH ADDITIONAL MATERIAL

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PREFACE TO SECOND EDITION.

The original edition of this volume was prepared for the press very hurriedly, immediately after the passage of the Act of 1891, for the purpose of putting into shape, for convenient reference, the text of the new law, with an analysis of its provisions, and of presenting with this a brief record of the international copyright movement in this country, and a sketch of the development throughout the world of the conception of literary property. Five years have passed since the United States, through this law of 1891, adopted the policy which had for a number of years been accepted by nearly all the other literature-producing states of the world, a policy which assumed that the producers of intellectual property were entitled to the protection given by law to all other producers, and to the enjoyment of the fruits of their labors, irrespective of political boundaries. The American recognition of this principle was coupled with certain conditions which, while they had no logical connection with authors' rights, were believed, by the political party that in 1891 controlled the national policy, to be called for by the exceptional industrial conditions of our country.
It was, on the other hand, the opinion of those who, in 1891, were carrying on the contest (begun nearly half a century before) in behalf of the rights of authors, American as well as foreign, and of what they held to be the honor of the nation, that these hampering conditions and restrictions would doubtless be removed in a few years' time. There is as yet, it must be admitted, no progress to be recorded in this direction, and it is evident that the date when the United States is to come into full literary fellowship with other civilized states by accepting the unrestricted copyright of the Convention of Berne, is to be postponed beyond the original expectation. Such an advance to a logical and civilized policy in regard to literary property must, however, certainly be secured in the not very remote future, and in any case the most difficult step forward was taken when we expressed our willingness to acknowledge, even with illogical conditions, the property rights of aliens, and in so doing, were able to secure recognition on the other side of the Atlantic (and on much more favorable terms) for the similar rights of Americans.

I have presented in a later chapter my impressions concerning the general results of the legislation of 1891, and in regard to its effects upon the interests of both the readers and the producers of books. It is in order to admit that the Act has on the whole worked with less friction and with less considerable difficulty than had been anticipated by those who were responsible for its provisions as first drafted, and who were in a position to realize how seriously
the purpose and the consistency of character of the measure had been imperilled by certain hastily considered "amendments" crowded into the bill, during the last days of the contest, by both the friends and opponents of copyright.

A summary of the copyright cases which have been brought before the courts since July, 1891, and the issues of which have turned upon the international provisions of the law that went into effect, is given in one of the following chapters. The list is not a considerable one, and the Act has thus far not only withstood the various attacks made upon its general purpose, but has received, in the details thus far tested, the substantial support of the courts. Certain suits which are at this date (January, 1896) still pending, will probably be more important than those already decided, in determining the purport of its several provisions.

I have given the record of the Covert amendment, which was adopted in 1895, and which is the only change that has been made in the law since March, 1891. This amendment secured a correction that was very justly called for by the newspaper publishers, who, under the original Act, had been exposed to oppressive penalties (amounting sometimes to blackmail) in connection with the reproduction of photographs and of popular art designs. I have also noted the attempt made under the Hicks bill, of the same year, which was very properly defeated, to undermine the protection given by the Act to European artists.

The most serious and most legitimate criticisms of the law have come from the authors of France, Ger-
many, and Italy, who have found that, under the requirements of American manufacture and of simultaneous publication, the difficulties were almost insuperable in the way of securing American copyright for books which required to be translated before they were available for American readers. In Germany, the disappointment and annoyance at what are held to be the inequitable restrictions of the American statute have been so considerable that steps have been taken, on the part of the authors and publishers, to secure the abrogation of the convention entered into in 1893 between Germany and the United States. The defenders of the convention have thus far succeeded in preventing it from being set aside, but they do not feel at all assured that they will be able to maintain it for an indefinite period unless some indications may come from this side of the Atlantic that we look forward to removing the special difficulties complained of. The disappointment and the criticism on the part of the authors of France are hardly less bitter, and I understand that it is only the fact that certain substantial advantages are secured under the law to foreign artists and designers, and the expectation that our people can not long remain satisfied, while granting literary copyright in form to refuse it in fact, that prevent organized attacks, not only in Paris, but in Rome, upon the present international arrangement. These complaints impress me as well founded, and they give ground for a feeling of mortification on the part of Americans who have at heart the reputation of their country for good faith and for fair dealing.
The several points to be kept in view in connection with future modifications of our copyright Act are in my judgment as follows:

First. The extension of the term of copyright, with a view to securing for the producers of intellectual property the control of their productions during their own lifetime and of preserving for their heirs the enjoyment of the results from these productions during a reasonable term after the death of the producer. Under the present conditions, it is quite possible for an author to be exposed, during his own lifetime, to the competition of unauthorized editions of his earlier works. In connection with such unauthorized editions, he has not only the annoyance of the interference with the sales of the editions issued by his own publishers, but (what may often constitute a more serious grievance) the mortification of seeing reproduced crude youthful productions which he had intended to cancel, or unrevised and incomplete versions of compositions to which in later years he had given a final literary form.

Such an extension of term is required to secure for an author the privilege that is under our laws conceded to all other workers or producers, of being able to labor for the advantage of his children and grandchildren. The justice of such larger measure of protection for literary property and of encouragement for literary workers has been fully recognized by every country in Europe excepting Great Britain, and the British law is much more liberal to the rights of authors than is our own. The British Act will itself also doubtless in the near future be modified
in accordance with the bill now pending, so that the term of copyright will be extended to correspond with that of Germany, which covers the life of the author and thirty years thereafter.

Second. Steps should be taken as promptly as practicable to remove the special grievance now existing on the part of European authors whose works require to be translated. France, Germany, Italy, and Spain have extended to American authors the privileges possessed by their native writers, while the United States has given to the authors of these countries no privileges which are really equivalent. It may not be practicable for a number of years, in connection with the continued approval given by the majority of our citizens to the so-called protective system, to remove from our copyright Act the condition of manufacturing within the United States. It will also probably be necessary to retain in the Act, in connection with the manufacturing provision, the condition of simultaneous publication. The Act should, however, provide that an exception to this requirement for simultaneous publication should be made in the case of a work originally issued in a foreign language. Such a work could be registered for copyright in regular course, with a title-page in English, and with two copies of the original text submitted for purposes of identification as preliminary deposits; with the provision that, within a specific term (say twelve months) after the date of such registration, publication be made of an English version, an edition of which should be printed, according to the manufacturing condition, from "type set
within the United States." If, within that date, no edition should be produced, the producers of which had complied with the conditions of the American Act, the right to reproduce the work in English might then fall into the public domain. A provision to such effect, while by no means sufficient to do full justice to European authors, would secure to such of those authors as really had an American reading public awaiting their books, the substantial advantages of American copyright. I do not see any other way in which foreign authors can obtain the benefits intended by the Act as long as the manufacturing condition and the provision for simultaneous publication are retained. Such a provision would be in line with the arrangements now in force between the European states (under the Berne convention) covering the similar requirements for translated works.

Third. A substantial improvement is called for, in connection with the system for the entry of copyrights and the registration of titles, and for the preservation for use later in the courts if required, of authoritative evidence that the requirements of the law have been complied with.

The Acts of 1870 and 1891 make adequate provision for the registration of articles entered for copyright, the most important of which articles, in connection with the possible necessity of future reference to the registry, being undoubtedly books. It has, however, been found impracticable, with the facilities existing in the office of the Librarian of Congress, as that office is now organized, to give
adequate and prompt attention to the business connected with copyrights. The library business of the Librarian has during the last ten years increased enormously, and the work of supervising effectively the entry of copyrights calls for the establishment of a registry of copyrights which shall not be a division of the Library of Congress, but shall constitute an independent Bureau. The producers of books, works of art, music, designs and other articles entitled to copyright, contribute each year in the form of copyright fees a very considerable sum, estimated at from $35,000 to $40,000. In addition to this money payment, they are called upon to deposit copies of the articles copyrighted. In the case of books, two copies of which must be deposited for the National Library, the value of the volumes (aggregating for 1895 over 10,000) thus delivered by the publishers, constitutes in itself a large annual tax. This tax is paid for the support of an effective system of copyright entry and for the maintenance of a registry for titles which shall always be available for ready reference.

At the present time the producers and owners of literary property are not securing for this payment adequate consideration. It is therefore a ground for satisfaction that the steps have now been taken to institute such a Bureau of copyrights as is required. In December, 1895, a bill was introduced in the House by Mr. Bankhead, and a second bill with nearly identical provisions was introduced in the Senate by Senator Morrill, under the provisions of which the office of Register of Copyrights is insti-
tuted. With this register are to be appointed an assistant register and a clerk. An appropriation of $7500 is to be made to cover the salaries of the three. The register is to be appointed by the President, subject to the approval of the Senate, and the assistant register, under one bill, by the Secretary of the Treasury, and under the other, by the President. The general purpose of these two bills is to be commended. It is my opinion, however, that a larger appropriation should be made for the salaries and also that the register should have placed in his own hands the appointment of the assistant and the clerk.

Fourth. A further consideration will be required for the provisions of the Act having to do with property in the right of productions. The case of Werckmeister vs. Pierce and Bushnell, referred to in another chapter, and one or two other similar issues that have arisen, indicate that the wording of the sections providing regulations for the entry of the copyright of works of art is not sufficiently explicit, and that Transatlantic artists may occasionally fail to secure for their productions the protection which it was the purpose of the Act to provide.

I venture to repeat a suggestion which I have more than once had occasion to put into print, that the framing of a satisfactory copyright Act which shall have for its purpose an equitable and adequate protection for the producers of intellectual property, and which shall be so worded as to carry out that purpose effectively, should be entrusted to a commission of experts. Such a commission should
comprise representatives of the several interests to be considered, producers of works of literature, producers of works of art, publishers of books, and publishers of art works. The commission should also include at least one skilled copyright lawyer, and it may be in order to add some representative of the general public who would have no direct property interest in the results of such a bill as may be framed. All existing copyright systems of the world excepting that of the United States have been the work of such commissions of experts. The members of these commissions have had authority to summon witnesses and to take testimony, and after having devoted sufficient time to the mastery of the details of a subject which is of necessity complex and which certainly calls for expert training and expert experience, they have presented their conclusions in the form of a report containing the specifications of the legislation recommended. The copyright laws of the States of Europe have, without an exception, been based upon such recommendations. The Government of the United States stands alone in having relied for its copyright legislation solely upon the conclusions that could be arrived at by Congressional committees. However intelligent the members of such committees might be, and however conscientious the interest given by these Congressmen, or by some among them, to the subject, experience has shown that it is not practicable to secure wise and trustworthy copyright legislation in this manner. Whenever we may be able to overcome that prejudice which declines to take advantage of
the experience and the example of the States of Europe in connection with the solution of problems and questions similar to our own, we shall doubtless decide to try the experiment of instituting a commission of experts for the reforming of our copyright law.

G. H. P.

New York, February, 1896.
PREFACE TO THE FIRST EDITION.

In connection with the recent enactment by Congress of a Copyright Law securing American Copyright for aliens, the subject of the status of literary property and of the rights of the producers of literature in the United States and throughout the world is attracting at this time special attention. I have judged, therefore, that a volume presenting, in convenient form for reference, a summary of the more important of the Copyright Laws and International Conventions now in force, and indicating the bearing of these laws on the interests of writers and their readers, might prove of some service to the public. With the summary of existing legislation, I have included a brief abstract of certain measures now under consideration in England, some one of which is likely, before long, to replace the present British law.

The compilation lays no claim to completeness, but is planned simply as a selection of the more important and pertinent of the recent enactments and of some of the comments upon them.

I am indebted to the courtesy of Mr. Brander Matthews for the permission to include in the volume his valuable papers on "The Evolution of Copyright," and "Copyright and Prices"—papers which were prepared for use in the copyright cam-
PAIGN and which proved of very practical service. Mr. Bowker, who is an old-time worker in the copyright cause, has also kindly permitted the use of three pertinent articles from his pen, which were first printed in the valuable work on *The Law and Literature of Copyright*, prepared by himself and Mr. Solberg, a volume which contains the most comprehensive bibliography of the subject with which I am acquainted.

I have thought it worth while, also, to reprint several papers of my own, which appeared to have some bearing on the history or on the status of copyright, and which also were, for the most part, written for "campaign" purposes.

The report submitted by Mr. Simonds on behalf of the House Committee on Patents presents a very comprehensive and succinct summary of the grounds on which the demand for an International Copyright Bill was based, and it is probably the most complete and forcible of the many reports presented to Congress on the subject. This report appeared, therefore, to belong very properly in the collection.

In bringing together statements and records from a number of sources, it was impracticable to avoid a few repetitions; but in a volume which lays no claim to literary form, but has been planned simply as a compilation of facts and information, a certain amount of repetition will, I trust, not be considered a very grave defect.

An examination of the copyright legislation of Europe makes clear that the United States, notwithstanding the important step in advance it has,
after such long delays, just taken, is still, in its recognition of the claims of literary workers, very much behind the other nations of the civilized world.

The conditional measure for securing American copyright for aliens (and, under reciprocity, foreign copyright for Americans), a measure which is the result of fifty-three years of effort on the part of individual workers and of successive Copyright Committees and Leagues, brings this country to the point reached by France in 1810, and by Great Britain and the states of Germany in 1836–1837.

Under the International Copyright arrangements which went into effect in Europe in the earlier years of the century, copyright was conceded to works by foreign authors only when such works had been manufactured within the territory of the country granting the copyright. As late as 1831, for instance, Lord St. Leonards stated, in the case of Jeffreys vs. Boosey, that it had never been the intention of the English law to extend a copyright protection over works not manufactured within British territory.

The new American act, which makes American manufacture a first condition of American copyright for aliens, brings us, therefore, to what has usually, in other countries, been the first stage in the development of International Copyright—a stage which was reached in Europe more than half a century ago.

What is probably the final stage was attained in Europe in 1887, when the provisions of the Berne Convention went into effect. Under this conven-
tion, by fulfilling the requirements of their domestic copyright laws, authors can now at once secure, without further conditions or formalities, copyright for their productions in all the states belonging to the International Union.

The states which, in accepting this convention (the report of which will be found printed in this volume), organized themselves into the International Copyright Union, comprised, in addition to nearly all the countries of Europe, Tunis and Liberia as representatives of Africa, together with a single representative of the literary civilization of the western hemisphere, the little republic of Hayti.

It is not probable that another half century of effort will be required to bring public opinion in the American republic up to the standard of international justice already attained by Tunis, Liberia, and Hayti.

Under this standard, it is recognized that literary producers are entitled to the full control of their productions, irrespective of political boundaries and without the limitations of irrelevant conditions.

The annual production of American literature should certainly be not a little furthered, both as to its quantity and its importance, by the stimulus of the new Copyright Act. During the past few years American writers have been securing growing circles of readers in England and on the Continent, and a material increase can now be looked for in the European demand for American books—a demand which, in the absence of restrictions, will be met by the export of plates as well as of editions. The
improvement and the cheapening of American methods of typesetting and electrotyping, and, in fact, of all the processes of book manufacture, will, I anticipate, at no distant date, remove from the minds of the men engaged in this manufacture the fear that they are not in a position to compete to advantage with the book-making trades of Europe, and that an International Copyright, without manufacturing conditions, might bring about a transfer to England and to Germany of a large part of the business of American book-making. It was this apprehension on the part of the American printers, and the trades associated with them, that caused the restrictions in the present act to be inserted. It is my belief, however, that the trades in question will before long recognize that there is no adequate ground for such an apprehension, and that, admitting the importance of preventing any obstacles from being placed in the way of the exporting of American books and American plates, they will themselves take action to secure the elimination of these restrictions.

When this has been brought about, there should be nothing further to prevent the United States from entering the International Copyright Union, and thus completing, so far as the literature-producing and literature-consuming nations of the world are concerned, the abolition of political boundaries for literary property.

While the recognition by our country of the claims of foreign authors has been so tardy, its legislation for domestic copyright has also been based
upon a narrower conception of the property rights of authors than that accepted by the legislators of Europe. The law of 1870 (given in full in this volume), which is in this respect unchanged by the Act of 1891, gives to a literary production a first term of copyright of twenty-eight years, and an extension of such term for fourteen years further only if at the expiration of the first term the author or the author’s widow or children be living. If the author, dying before the expiration of the first term, leave neither widow nor children, the copyright of his work is limited to twenty-eight years. It was for this reason that Washington Irving was unable to insure for his nieces (his adopted children) the provision which they needed, and which a continued copyright in their uncle’s works would have secured for them.

In England, the present law gives a copyright term of forty-two years, or for the life of the author and for seven years thereafter, whichever term may be the longer; and the amended law now proposed extends the term for thirty years after the death of the author.

This latter is the term provided in the law of the German Empire, while in Russia and in France the copyright endures for the life of the author and for fifty years thereafter.

The steady tendency of legislation has been towards an increase of the term of copyright and a recognition of the right of a literary producer to work for his grandchildren as well as for his children; and the desirability of bringing the American term into accord with that in force in Germany and pro-
posed in England, namely, the life of the author and thirty years thereafter, is now a fair subject for consideration.

Since the framing of the American Act of 1870, not a few questions have arisen in connection with new processes of reproduction of works of art, etc., which are not adequately provided for in that act; and the criticism is often heard from American artists that the copyright protection for their designs is inadequate.

The American act of the present year, providing copyright for aliens, can hardly be accepted as final legislation, and some of its provisions will, doubtless, at no distant date, after they have had the practical test of experience, call for further consideration.

It seems to me that in order to secure consistent, enduring, and satisfactory legislation, that will fairly meet all the requirements and will not bring about needless business perplexities necessitating for their solution frequent appeals to the courts, it will be wise to follow the precedent of Germany, France, and England, and to arrange for the appointment of a commission of experts to make a thorough investigation of the whole subject of copyright, literary, musical, and artistic, domestic and international. The report of such a commission should form a much more satisfactory basis for trustworthy legislation than could be secured in any other way. A subject like copyright is evidently not one which can safely be intrusted to the average congressional committees, especially if the bills framed in such committees are to have injected into them after-
wards the "amendments" of eleventh-hour experts of the Senate or the House, men who, having looked into the matter over night, feel assured that they know all about it.

The action of the Senate in February, 1891, on the Platt-Simonds Bill, is a fair example of the kind of amateur and haphazard legislation referred to.

Under the lead of the principal republican and democratic opponents of the Copyright Bill, an amendment was offered and was actually passed by the Senate, which had the effect of abolishing domestic copyright; and it was not until several days later, when this unlooked-for result of senatorial wisdom had been pointed out by outside critics, that the amendment was rescinded.¹

If this volume may serve to direct public attention to the advisability of the appointment of a copyright commission through whose labors the risks of such haphazard copyright legislation may at least be minimized, an important purpose of its publication will have been accomplished.

G. H. P.

New York, March 28, 1891.

¹ The Sherman amendment, as originally framed, authorized the importation, irrespective of the permission of the author, of foreign editions of works, whether by foreign or American authors, which had secured American copyright.

The amendment was passed February 14, 1891, by a vote of 25 to 24, and was rescinded February 17, by a vote of 31 to 29. Its mover was Senator Sherman of Ohio, and he was actively supported by Senators Daniels of Virginia, Hale of Maine, Gorman of Maryland, and other experienced legislators.
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THE QUESTION OF COPYRIGHT
THE

QUESTION OF COPYRIGHT.

I.

THE LAW OF COPYRIGHT IN THE UNITED STATES.

Text of the Statutes in force July 1, 1895.¹

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; and the Librarian of Congress shall have the immediate care and supervision thereof, and, under the supervision of the Joint Committee of Congress on the Library, shall perform all acts and duties required by law touching copyrights.

Sec. 4949. The seal provided for the office of the Librarian of Congress shall be the seal thereof, and

¹From the Revised Statutes of the United States, in force December 1, 1873, as amended by the Acts of June 18, 1874, August 1, 1882, March 3, 1891, and March 2, 1895.
by it all records and papers issued from the office, and to be used in evidence shall be authenticated.

SEC. 4950. The Librarian of Congress shall give a bond, with sureties, to the Treasurer of the United States, in the sum of five thousand dollars, with the condition that he will render to the proper officers of the Treasury a true account of all moneys received by virtue of his office.

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.

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, 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 dramatize or translate any of their works, for which copyright shall have been obtained under the laws of the United States.

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 it 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 equalize the duties on imports and for

1 Note.—These paragraphs of the Tariff act permit free importation of books, etc., more than twenty years old, books in foreign languages, publications imported by the Government, or for societies, colleges, etc., and libraries which have been in use one or more years, brought from abroad by persons or families and not for sale.
other purposes, approved October 1, 1890; and except in the case of persons purchasing for use and not for sale, who import, subject to the duty thereon, not more than two copies of such book at any one time; and, except in the case of newspapers and magazines, not containing in whole or in part matter copyrighted under the provisions of this act, unauthorized by the author, which are hereby exempted from prohibition of importation:

Provided, nevertheless, That in the case of books in foreign languages, of which only translations in English are copyrighted, the prohibition of importation shall apply only to the translation of the same, and the importation of the books in the original language shall be permitted.

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. D., of —— hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be, or description of the article,) the title or description of which is in the following words, to wit: (here insert the title or description,) the right whereof he claims as author, (originator, or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., Library 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.
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. 5. 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.

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 had 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
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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.

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.

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.
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.

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., 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."

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, for which he has not obtained a copyright, shall be liable to a penalty of one hundred dollars, recoverable one-half for the person who shall sue for such penalty, and one-half to the use of the United States.

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 the presence of two or more witnesses, print, publish, dramatize, translate, or import, or, knowing the same to be so printed, published, dramatized, translated, or imported, shall sell or expose to sale any copy of such book, shall forfeit every copy thereof to such proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.

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, dramatize, translate, or import, either in whole or in part, or by varying the main design, with intent to evade the law, or knowing the same to be so printed, published, dramatized, translated, or imported, shall sell or expose to sale any copy of such map or other article, as aforesaid, he shall forfeit to the proprietor all the plates on which the
same shall be copied, and every sheet thereof, either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or by him sold or exposed for sale; one-half thereof to the proprietor and the other half to the use of the United States. 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.¹

§ 4966. Any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent of the proprietor thereof, or his heirs or assigns, shall

¹ This is the provision of the act of March, 1891, as amended by the Covert act of March, 1895.
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.

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.

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.

Sec. 4969. In all actions arising under the laws respecting copyrights the defendant may plead the general issue, and give the special matter in evidence.

Sec. 4970. The circuit courts, and district courts having the jurisdiction of circuit courts, shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by the laws respecting copyrights, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

Sec. —. [Approved June 18, 1874, to take effect August 1, 1874.] 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. — [Approved August 1, 1882.] That manufacturers of designs for molded 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 trade-marks thereon.

Sec. 11. [Approved March 3, 1891, to take effect July 1, 1891.] That for the purpose of this act each volume of a book in two or more volumes, when such volumes are published separately, and the first one shall not have been issued before this act shall take effect, and each number of a periodical shall be considered an independent publication, subject to the form of copyrighting as above.

Sec. 12. That this act shall go into effect on the first day of July, Anno Domini eighteen hundred and ninety-one.
SEC. 13. [Approved March 3, 1891, to take effect July 1, 1891.] 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; 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.

Directions for Securing Copyrights.


1. A printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, photograph, or chromo, or a description of the painting, drawing, statue, statuary, or model or design for a work of the fine arts, for which copyright is desired, must be delivered to the Librarian of Congress or deposited in the mail, within the United States, prepaid, addressed Librarian of Congress, Washington, D. C. This may be done on or before day of publication in this or any foreign country.
THE QUESTION OF COPYRIGHT.

The *printed title* required may be a copy of the title-page of such publications as have title-pages.

What style of

In other cases the title must be printed express for copyright entry, with name of claimant of copyright. The style of type is immaterial, and the print of a typewriter will be accepted. But a separate title is required for each entry, and each title must be printed on paper as large as commercial note. The title of a periodical must include the date and number; and each number of the periodical requires a separate entry of copyright.

Applications.

Blank forms of application furnished to applicants.

2. The legal fee for recording each copyright claim is 50 cents, and for a copy of this record (or certificate of copyright under seal of the office) an additional fee of 50 cents is required, making $1, if certificate is wanted, which will be mailed as soon as reached in the records.

No money is to be placed in any package of books, music, or other publications. A bank check, to order, avoids all risk.

For publications which are the production of persons not citizens or residents of the United States, the fee for recording title is $1, and 50 cents additional for a copy of the record. Certificates covering more than one entry in one certificate are not issued.

Bank checks, money orders, and currency only taken for fees. No postage stamps received.

Two copies required.

3. Not later than the day of publication in this country or abroad, two complete copies of the best edition of each book or