

NOTABLE DATES IN AMERICAN COPYRIGHT 1783-1969

compiled by Benjamin W. Rudd

January 8, 1783. The earliest copyright statute in the United States was passed by the General Court of Connecticut under the title "An Act for the Encouragement of Literature and Genius." Dr. Noah Webster, famed lexicographer and one of Connecticut's most distinguished men, was directly instrumental in securing its enactment.

March 10, 1783. The Continental Congress resolved "that a committee be appointed to consider the most proper means of cherishing genius and useful arts through the United States by securing to the authors or publishers of new books their property in such works." The committee chosen consisted of Hugh Williamson, Ralph Izard, and James Madison.

March 17, 1783. Massachusetts enacted a copyright law. It provided for a deposit of two copies in the Harvard University Library.

April 21, 1783. Maryland enacted a copyright law.

May 2, 1783. In response to a favorable committee report, the Congress adopted a resolution recommending to the several States the adoption of copyright laws to protect "new books, not hitherto printed" for a period of not less than 14 years from the first publication, with a renewal term of not less than 14 years.

May 27, 1783. New Jersey enacted a copyright law.

November 7, 1783. New Hampshire enacted a copyright law.

December 1783. Rhode Island enacted a copyright law.

March 15, 1784. Pennsylvania enacted a copyright law.

March 26, 1784. South Carolina enacted a copyright law.

December 29, 1785. North Carolina enacted a copyright law.

January 7, 1786. Virginia enacted a copyright law.

February 3, 1786. Georgia enacted a copyright law.

April 29, 1786. New York enacted a copyright law.

September 28, 1787. The Continental Congress ordered the Constitution to be sent to the State legislatures for ratification. The provision upon which the Copyright Act is founded (Article I,

Benjamin W. Rudd is Attorney Adviser and Librarian in the Copyright Office.

section 8, clause 8) grants Congress the power "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

June 23, 1789. The first Federal copyright bill, H.R. 10, entitled "A bill to promote the progress of science and useful arts by securing to authors and inventors the exclusive right to their respective writings and inventions," was introduced during the first session of the First Congress by Benjamin Huntington of Connecticut. The larger part of the bill was devoted to patents. No action was taken on it.

January 28, 1790. H.R. 39, "A bill for securing the copy-right of books to authors and proprietors," was introduced by Ædanus Burke of South Carolina during the second session of the First Congress. The bill was reported from committee on February 2, ordered to be recommitted, and a substitute bill (H.R. 43) was presented on February 25.

February 25, 1790. H.R. 43, 1st Cong., 2d sess., the bill which was to become the first Federal copyright law, was introduced by Elias Boudinot of New Jersey.

May 31, 1790. The first copyright law of the United States, entitled "An Act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies, during the times therein mentioned," was enacted (1 Stat. 124, chap. 15). The rights were granted only to citizens or residents of the United States. The period of protection was 14 years; renewal for a second term of 14 years could be made by the author if he was living at the end of the first term. The following formalities were required in order to secure copyright: (1) the deposit of a printed title before publication in the clerk's office of the local U.S. district court; (2) the deposit of a copy of the work with the Secretary of State within six months after publication; and (3) the giving of a notice of the copyright by four weekly advertisements in some newspaper.

June 9, 1790. The first copyright entry, *The Philadelphia Spelling Book*, by John Barry, was

registered in the U.S. District Court of Pennsylvania.

April 29, 1802. An amendatory act (2 Stat. 171, chap. 36) extended the protection of the act of 1790 to historical prints, designed, engraved, or etched, and required a copyright notice to be printed on the copies of the work to be protected.

February 15, 1819. A law was enacted (3 Stat. 481, chap. 19) giving original jurisdiction in copyright cases to the circuit courts of the United States.

1822. The first published catalog of works resulting from the operation of the copyright law appeared under the title *A List of Books, &c. Deposited in the Patent Office of the United States, for Securing Copy rights—From Jan. 1796 to Jan. 1822* (13 p.). The catalog was issued as a supplement to the 1822 issue of an anonymously compiled serial, *A List of Patents Granted by the United States*, first brought out in 1820.

February 3, 1831. The first comprehensive revision of the copyright law (4 Stat. 436, chap. 16) expanded the subject matter of copyright to include musical compositions. The term "historical print" was enlarged to "any print or engraving." The requirement of newspaper notice of copyright was deleted except in respect to renewals. The first term of protection was extended to 28 years, but the renewal period remained 14 years. The renewal privilege was granted not only to the author, but also to his widow or children if he himself was no longer living at the end of the original term.

March 19, 1834. The first landmark copyright decision was handed down by the Supreme Court in the case of *Wheaton v. Peters*, 33 U.S. (8 Pet.) 591. The decision, which came from a divided court, held, among other things, that an author has perpetual rights in his unpublished works, but that after publication his rights are limited by the statutory provisions imposed by the Congress, including deposit requirements. The case is to be regarded as laying the groundwork for modern U.S. copyright jurisprudence.

June 30, 1834. An amendatory law (4 Stat. 728, chap. 157) was enacted requiring the recordation of copyright assignments.

February 2, 1837. A strong appeal for copyright protection for foreign authors in the form of a petition, signed by 56 of the foremost British writers, among whom were Edward Bulwer-Lytton, Thomas Carlyle, Benjamin Disraeli, Maria Edgeworth, Harriet Martineau, Robert Southey, and Thomas Moore, was presented to the Senate by Senator Henry Clay, to whom the document had been delivered.

February 16, 1837. A bill, S. 223 (24th Cong., 2d sess.), providing that the benefits of the Copyright Act of February 3, 1831, be extended to any subject or resident of Great Britain, Ireland, and France was submitted by Henry Clay, accompanied by a favorable report, but no further action was taken on the bill. It was the first international copyright bill and the first bill to contain a "manufacturing clause" which made the protection of works of foreign authors dependent upon manufacture in the United States. The bill was reintroduced by Clay in the four succeeding Congresses, but no further action was taken.

January 22, 1842. Charles Dickens landed on American soil and in the ensuing months made a number of speeches stating his belief that it was time for the United States to join the growing movement for the international protection of literary property. He inspired such men as Horace Greeley to espouse his cause.

August 10, 1846. The act establishing the Smithsonian Institution (9 Stat. 102, chap. 178) was approved. Section 10 of this act directed the authors and proprietors of copyrighted works to deposit copies with the Smithsonian Institution and the Library of Congress in addition to the copy required for eventual deposit with the Secretary of State, but it prescribed no penalties for failure to do so.

February 18, 1853. A treaty, negotiated by Edward Everett, Secretary of State, through the American Minister in London, John F. Crampton, which provided simply that authors entitled to copyright in one country should be entitled to it in the other, on the same conditions and for the same term, was laid before the Senate in a message from President Fillmore. The Senate Committee on Foreign Relations reported the

Everett treaty favorably, but it was tabled in the Committee of the Whole.

February 23, 1854. An amendatory article to the Everett treaty, providing that the work should be registered in the United States before publication abroad, be issued here within 30 days after publication abroad, and be wholly manufactured in this country, was laid before the Senate in a message from President Pierce, but no action resulted.

March 3, 1855. An appropriations act for the Post Office Department (10 Stat. 683, chap. 301) approved on this day provided in its section 5 free mailing privileges for all copyright deposits.

August 18, 1856. An act granting to the copyright holder of dramatic compositions the sole right of public performance (11 Stat. 138, chap. 169) was approved.

February 5, 1859. An act providing that the Secretary of the Interior was to receive, keep, and distribute all public documents, with certain exceptions (11 Stat. 379, chap. 22), was approved. Section 8 of this act provided for the removal of all copyright deposits and records from the Department of State to the Department of the Interior.

March 3, 1865. An act extending copyright protection to photographs and photographic negatives (13 Stat. 540, chap. 126) was approved. It also provided for the deposit in the Library of Congress of a printed copy of each copyrighted work within one month of publication and empowered the Librarian to demand such copy, with forfeiture of copyright as a penalty for noncompliance.

February 18, 1867. An act imposing a penalty of \$25 for failure to deposit a copy of a copyrighted work in the Library of Congress and providing for the free transportation by mail of "copyright matter" (14 Stat. 395, chap. 43) was approved.

April 9, 1868. The International Copyright Association was formed, with William Cullen Bryant as president. Its avowed purpose was to promote the enactment of an international copyright law.

July 8, 1870. "An Act to revise, consolidate, and amend the statutes relating to patents and copyrights" (16 Stat. 198, chap. 230) was approved. Of this act, sections 85 to 111 related to copyright and constituted the second general revision of the copyright laws. This revision centralized the copyright business in the Library of Congress, then located in the Capitol Building, and extended copyright protection to paintings, drawings, sculpture, and models or designs for works of the fine arts. The right to dramatize or translate their own works was also reserved to authors. The act contained a recording provision which the Librarian of Congress, Ainsworth Rand Spofford, interpreted as giving him authority to publish a catalog of the works copyrighted.

June 18, 1874. An amendatory law relating to notice of copyright, fees, and prints and labels (18 Stat. 78, chap. 301) was approved. Section 1 made the insertion of a copyright notice on all copies a condition for maintaining an infringement action; section 2 established fees for recording and certifying assignments of copyrights; and section 3, which became known as the "Print and Label Law," gave the Patent Office charge of prints and labels for articles of manufacture.

1879. The first textbook on the U.S. copyright law, *A Treatise on the Law of Property in Intellectual Productions in Great Britain and the United States*, by Eaton S. Drone (Boston, Little, Brown) was published.

January 19, 1880. The Supreme Court held in the case of *Baker v. Selden*, 101 U.S. 99, that although a book describing a bookkeeping system was copyrightable, the copyright did not extend to the exclusive use of the blank accounting forms incorporated in the book.

August 1, 1882. An amendatory law prescribing the position of the copyright notice on designs for molded decorative articles, tiles, plaques, or articles of pottery or metal subject to copyright (22 Stat. 181, chap. 366) was approved.

March 17, 1884. A significant Supreme Court decision was handed down in the case of *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, which upheld the constitutionality of the act of March 3, 1865, in respect to the copyrightability

of photographs by expressly holding that a photograph is a "writing" within the meaning of the copyright clause of the Constitution.

September 9, 1886. The so-called Berne Convention, which created a union of states (International Copyright Union) for the purpose of maintaining a comprehensive, international system of copyright protection for the benefit of their respective nationals, was signed by 10 states at a conference which met at Berne, Switzerland. The United States was represented at the conference but did not sign.

March 3, 1891. The so-called International Copyright Act of 1891 (26 Stat. 1106, chap. 565) was approved. Under its terms protection for works of foreign origin was made possible for the first time. Their eligibility for protection in the United States depended on whether the author of a work was a citizen of a "proclaimed country," i.e., a country which was found by the President of the United States, in a proclamation issued by him, to meet certain conditions.

January 12, 1895. The first of the so-called Printing and Binding Acts (28 Stat. 601, chap. 23) was approved. Section 52 of this act prohibited the copyrighting of any Government publication.

January 6, 1897. An amendatory law providing for damages in case of unauthorized public performance of a copyrighted dramatic or musical composition, and imprisonment if the unlawful performance "be willful and for profit" (29 Stat. 481, chap. 4), was approved.

February 19, 1897. An appropriations act for the Government (29 Stat. 538, chap. 265) approved on this day provided for a separate Copyright Department in the Library of Congress and created the position of Register of Copyrights.

July 22, 1897. The first Register of Copyrights, Thorvald Solberg, was appointed.

February 2, 1903. A Supreme Court decision by Justice Holmes in the case of *Bleistein v. Donaldson Lithographing Co.*, 188 U.S. 239, which upheld copyright in circus posters, was handed down. The decision is largely responsible for the rule which accords copyright protection to certain advertisements and established the principle

that originality is the major test of copyrightability and the artistic quality of a work is not a determinative factor.

February 24, 1908. In a Supreme Court decision in the case of *White-Smith Music Publishing Co. v. Apollo Co.*, 209 U.S. 1, the Court held that a perforated "pianola" music roll was not a "copy" of a musical composition within the meaning of the copyright law because it was not "a written or printed record in intelligible notation."

February 15 (calendar day, February 17), 1909. Frank Currier introduced H.R. 28192, which was the successor to several similar bills for general revision of the copyright laws and which became the Copyright Act of March 4, 1909.

February 22, 1909. Representative Currier submitted the report of the Committee on Patents to accompany H.R. 28192 (H. Rept. 2222, 60th Cong., 2d sess.). This is undoubtedly one of the most significant reports in the history of U.S. copyright legislation and is widely quoted in American copyright literature and jurisprudence, particularly for its statements to the effect that copyright is purely a statutory right and that it is conferred "Not primarily for the benefit of the author, but primarily for the benefit of the public."

March 4, 1909. The third general revision of the copyright laws (35 Stat. 1075, Public Law 349) was signed by President Theodore Roosevelt, one of his last official acts. The act, which came into force on July 1, 1909, is, with some minor amendments, the basic law in force today. Among the notable changes in the 1909 law as compared with the old law are the following: (1) copyright was secured by publication of the work with notice of copyright; (2) copyright was made available for unpublished works designed for exhibition, performance, or oral delivery; (3) works of foreign origin in foreign languages were exempted from the requirement of American manufacture; (4) the renewal term of protection was extended by 14 years to bring the maximum term of protection up to 56 years and the requirement of newspaper copyright notice for renewals, the last category for which the requirement remained, was deleted; and (5) proprietors

of musical compositions were granted initial mechanical recording rights, subject to a compulsory licensing provision.

August 24, 1912. An amendatory act which expressly included motion picture films in the subject matter of copyright (37 Stat. 488, Public Law 303) was approved. Before that they had been registered as photographs.

February 13, 1914. The American Society of Composers, Authors and Publishers (ASCAP) was organized by Victor Herbert and eight other outstanding writers and publishers of musical compositions for the purpose of assisting its members in licensing performances of their works and policing and protecting against unlicensed performances. Nathan Burkan, a prominent young attorney, was one of the founders and became its first general counsel.

July 13, 1914. The Convention on Literary and Artistic Copyright, signed at Buenos Aires on August 11, 1910, by the United States and 19 Central and South American States, was proclaimed by President Woodrow Wilson. It is the first general international copyright treaty agreed to by the United States.

January 22, 1917. Justice Holmes handed down a landmark decision in a suit instituted by Victor Herbert (*Herbert v. Shanley Co.*, 242 U.S. 591), which upheld the copyright owner's right to compensation for the performance of his musical composition in a restaurant as a public performance for profit, even though there was no direct charge for admission to hear it.

May 14, 1917. The first definitive textbook on the act of 1909, *American Copyright Law*, by Arthur W. Weil (New York, Callaghan & Co.), was published.

December 18, 1919. An amendatory law providing for retrospective protection in the United States for books by foreign authors published during World War I but not protected in the United States because of conditions growing out of the war (41 Stat. 368, Public Law 102) was approved.

June 4, 1934. William Lincoln Brown, the second Register of Copyrights, was appointed.

August 1, 1936. Clement Lincoln Bouvé, the third Register of Copyrights, was appointed.

January 30, 1939. A Supreme Court decision was handed down in the landmark case of the *Washingtonian Publishing Co. v. Pearson*, 306 U.S. 30, to the effect that once the copyright has been secured by publication with proper copyright notice, the right to bring suit was not impaired by the delay in making registration (14 months had elapsed in this case), even though the infringement occurred before the date of registration.

July 31, 1939. An act transferring registration of commercial prints and labels from the Patent Office to the Copyright Office, effective July 1, 1940 (53 Stat. 1142, Public Law 244), was approved.

September 25, 1941. An amendatory law enabling the President by proclamation to extend the time for making copyright registrations for works published abroad (55 Stat. 732, Public Law 258) was approved. Its purpose was to prevent authors or copyright proprietors, whether citizens of the United States or nationals of other countries, from losing the opportunity to acquire or preserve protection for their works because of the disruption of communications by World War II.

February 1, 1945. Sam Bass Warner, the fourth Register of Copyrights, was appointed.

July 30, 1947. The copyright law was codified into positive law as Title 17 of the United States Code (61 Stat. 652, Public Law 281).

September 12, 1951. Arthur Fisher, the fifth Register of Copyrights, was appointed.

July 17, 1952. An amendatory law extending recording and performance rights to nondramatic literary works (66 Stat. 752, Public Law 575) was approved.

March 8, 1954. The Supreme Court handed down a decision in the landmark case of *Mazer v. Stein*, 347 U.S. 201, to the effect that works of art embodied in useful articles may be copyrighted.

August 31, 1954. Implementing legislation, making it possible for the United States to ratify the Universal Copyright Convention, was enacted to take effect upon the coming into force of the convention in the United States (68 Stat. 1030, Public Law 743).

September 16, 1955. The Universal Copyright Convention, which had been proclaimed by President Eisenhower on August 5, 1955, together with the implementing legislation (Public Law 743), entered into force.

December 24, 1960. Abraham Louis Kaminstein, the sixth Register of Copyrights, was appointed.

September 19, 1962. The first of a number of stopgap measures to keep copyrights from expiring pending a general revision of the copyright law (76 Stat. 555, Public Law 87-668) was approved.

July 31, 1963. The first definitive textbook on the U.S. copyright law since the publication of the Weil text in 1917 was published under the title *Nimmer on Copyright*, by Prof. Melville B. Nimmer (Albany, M. Bender). Since its publication the work has been widely cited in court decisions.

March 9, 1964. The Supreme Court handed down two decisions, *Sears, Roebuck & Co. v. Stiffel Co.*, 376 U.S. 225, *Compco Corp. v. Day-Brite Lighting, Inc.*, 376 U.S. 234, which have had a fundamental effect on the entire field of intellectual property. In the decisions Justice Black indicated that state law may not forbid the copying of "whatever the federal patent and copyright laws leave in the public domain."

February 4, 1965. The legislative phase of the program for the general revision of the copyright law, authorized by Congress in 1955, began when Representative Emanuel Celler and Senator John L. McClellan introduced the 1965 bill (H.R. 4347, S. 1006, 89th Cong., 1st sess.).

April 11, 1967. The general revision bill which had been reintroduced in revised form in the 90th Congress by Representative Celler (H.R. 2512) and by Senator McClellan (S. 597) was passed by the House of Representatives, with amendments, by a vote of 379 yeas to 29 nays, but there was no further action.

Addenda to "Notable Dates in American Copyright, 1783-1969"

Quarterly Journal of the Library of Congress, April 1971

July 1, 1955. As authorized by Congress, the program for general revision of the copyright law was inaugurated. Five years were devoted to the preparation of 34 studies which were published as Senate Judiciary Committee prints in 1960 and 1961. During the next four years, reports, proposals, and drafts were prepared by the Register and discussions were held with advisory groups; the resulting materials were published in six House Judiciary Committee prints between 1961 and 1965.

Addition to the February 4, 1965, entry. The House Judiciary Subcommittee, under the leadership of Congressmen Robert W. Kastenmier and

Richard H. Poff, devoted 22 days to hearings on H.R. 4347 in 1965 and 51 executive sessions to reviewing the bill in 1966.

Substitute for the December 10, 1969, entry. The Subcommittee on Patents, Trademarks, and Copyrights of the Senate Judiciary Committee, which had held hearings for 17 days between 1965 and 1967, approved for full committee consideration, with a number of important amendments and additions, S. 543, the bill for general revision of the copyright law which had been reintroduced in the 91st Congress by Senator McClellan.

June 17, 1968. A Supreme Court decision in *Fortnightly Corp. v. United Artists Television, Inc.*, one of the most important copyright cases of the 1960's, was handed down. Justice Stewart ruled for the majority, in a six-to-one decision—Justice Fortas wrote a dissenting opinion—that relays by CATV (community antenna television) systems of broadcasts do not constitute a “performance” under the copyright act.

December 10, 1969. The Subcommittee on Patents, Trademarks, and Copyrights of the Senate Judiciary Committee approved for full committee consideration, with a number of important amendments and additions, S. 543, the bill for general revision of the copyright law which had been reintroduced in the 91st Congress by Senator McClellan.

In addition to the Annual Reports of the Registers of Copyright, the following publications served as the principal sources of information for this list:

Richard Rogers Bowker, *Copyright, Its History and Its Law* (Boston, 1912).

Bruce W. Bugbee, *The Genesis of American Patents and Copyright Law* (Washington, 1967).

Richard Crosby De Wolf, *An Outline of Copyright Law* (Boston, 1925).

Joseph W. Rogers, *U.S. National Bibliography and the Copyright Law* (New York, 1960).

U.S. Copyright Office, *Copyright in Congress, 1789–1904*, prepared by Thorvald Solberg, Register of Copyrights. Bulletin No. 8 (Washington, 1905).