

THE LIBRARY OF CONGRESS  
COPYRIGHT OFFICE

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THIRTY-NINTH ANNUAL REPORT  
OF THE  
REGISTER OF COPYRIGHTS

FOR THE FISCAL YEAR  
ENDING JUNE 30

1936



UNITED STATES  
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## PUBLICATIONS OF THE COPYRIGHT OFFICE

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The Copyright Law of the United States of America, being the act of March 4, 1909 (in force July 1, 1909), as amended by the acts of August 24, 1912, March 2, 1913, March 28, 1914, December 18, 1919, July 3, 1926, and May 23, 1928, together with Rules for Practice and Procedure under section 25, by the Supreme Court of the United States. 66 pp. 8°. 1936.

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**DRAMATIC COMPOSITIONS COPYRIGHTED IN THE UNITED STATES, 1870-1916.** [Over 60,000 titles alphabetically arranged, with complete index to authors, proprietors, translators, etc.] 1 p. l., v. 3547 pp. 4°. 1918. 2 vols. Cloth, \$4.

**INFORMATION CIRCULARS.** No. 4.—Text of the Convention creating an International Copyright Union, Berne, 1886, 13 pp. 4°. No. 4 A.—International Copyright Convention. Revised text, Berlin, 1908. 10 pp. 4°. No. 4 B.—Additional protocol to the International Copyright Convention of Berlin, November 13, 1908, signed at Berne, March 20, 1914. 2 pp. 4°. No. 4 C.—International Copyright Convention. New revision, signed at Rome, June 2, 1928. French text, with English translation. 14 pp. 4°.

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# REPORT OF THE REGISTER OF COPYRIGHTS FOR THE FISCAL YEAR 1935-36

WASHINGTON, D. C. *July 9, 1936.*

SIR: The copyright business and the work of the Copyright Office for the fiscal year July 1, 1935, to June 30, 1936, inclusive, are summarized as follows:

## RECEIPTS

The gross receipts during the year were \$293,149.82. A balance of \$22,693.27, representing trust funds and unfinished business, was on hand July 1, 1935, making a total sum of \$315,843.09 to be accounted for. Of this amount the sum of \$7,208.12 was refunded as excess fees or as fees for articles not registrable, leaving a net balance of \$308,634.97. The balance carried over to July 1, 1936, was \$23,428.07 (representing trust funds and total unfinished business), leaving fees applied during the fiscal year 1935-36 and paid into the Treasury, \$285,206.90.

These fees show a distinct gain over the previous year (the fees for last year being \$259,881.70), while the gain in the number of entries, too, is noticeable, the figures being 156,962, as compared with 142,031 for 1934-35. This gain is the most considerable since the recovery from the depression began.

The annual applied fees since July 1, 1897, are shown in exhibit C. (See p. 19.)

## EXPENDITURES

The total expenditure for salaries was \$249,541.97. The expenditure for supplies, including stationery and other articles and postage on foreign mail matter, etc., was \$1,323.53. The total expenditures were, therefore, \$250,865.50. This sum deducted from \$285,206.90 fees received and turned into the Treasury, shows a profit of \$34,341.40 to the credit of the Copyright Office.

The total appropriation made by Congress for salaries in the Copyright Office for the fiscal year 1935-36 as carried in the Appropriation Act was \$249,620.00.

During the period of 39 years (1897-1936) the copyright business, as evidenced by the applied fees, increased over fivefold. During these 39 years since the organization of the present Copyright Office the copyright fees applied and paid into the Treasury have amounted to a grand total of \$5,690,480.70, and the total copyright registrations

have numbered over five millions (5,042,814). The fees earned (\$5,690,480.70) were larger than the total of salaries paid during the same period (\$4,757,425.68) by \$933,055.02, the total profit for 39 years.

In addition to this direct profit the large number of over 8,000,000 books, maps, musical works, periodicals, prints, and other articles deposited during the 39 years were of substantial pecuniary value and of such a character that the accession of most of these to the Library of Congress through the Copyright Office effected a large saving to the purchase fund of the Library equal in amount to their price.

## COPYRIGHT ENTRIES AND FEES

The registrations for the fiscal year numbered 156,962. Of these, 115,396 were registrations for published works at \$2 each; 31,817 were registrations for unpublished works at \$1 each; 1,569 were registrations of photographs without certificates at \$1 each. There were also 8,180 registrations of renewals at \$1 each. The fees for these registrations amounted to a total of \$272,358.00.

## SUMMARY OF COPYRIGHT BUSINESS

Balance on hand July 1, 1935.....		\$22, 693. 27
Gross receipts July 1, 1935, to June 30, 1936.....		293, 149. 82
Total to be accounted for.....		315, 843. 09
Refunded.....		7, 208. 12
Balance to be accounted for.....		308, 634. 97
Applied as earned fees.....	\$285, 206. 90	
Balance carried over to July 1, 1936:		
Trust funds.....	\$19, 529. 10	
Unfinished business.....	3, 898. 97	
		23, 428. 07
		<u>308, 634. 97</u>

## FEES FOR FISCAL YEAR

Fees for registration of published works, at \$2 each.....		230, 792. 00
Fees for registration of unpublished works, at \$1 each.....		31, 817. 00
Fees for registration of photographs without certificates, at \$1 each..		1, 569. 00
Fees for registration of renewals, at \$1 each.....		8, 180. 00
Total fees for registrations recorded.....		272, 358. 00
Fees for certified copies of record, at \$1 each.....	\$1, 772. 00	
Fees for recording assignments.....	9, 906. 00	
Searches made and charged for at the rate of \$1 for each		
hour of time consumed.....	747. 00	
Notice of user recorded (music).....	295. 00	
Indexing transfers of proprietorship.....	128. 90	
		12, 848. 90
Total fees for the fiscal year, 1935-36.....		<u>285, 206. 90</u>

## ENTRIES

Number of registrations.....	148,782
Number of renewals recorded.....	8,180
Total.....	156,962
Number of certified copies of record.....	1,772
Number of assignments recorded or copied.....	2,805

## ACCOUNTS

On July 6, 1936, the books of the Copyright Office were balanced for June, the accounts for the fiscal year were closed, and the financial statements completed for the Treasury Department, showing that all earned fees to June 30 had been paid into the Treasury.

## CORRESPONDENCE

By far the largest part of the business of the Copyright Office is done by correspondence. The total letters and parcels received during the fiscal year numbered 207,335, while the letters, parcels, etc., dispatched numbered 188,041. Both figures show a considerable increase over last year.

## COPYRIGHT DEPOSITS

The total number of separate articles deposited in compliance with the copyright law which have been registered during the fiscal year is 247,663. The number of these articles in each class for the last 5 fiscal years is shown in exhibit E. It is not possible to determine exactly how completely the works which claim copyright are deposited, but in response to inquiries received during the year from the card division, the accessions division, law division, and the reading room in regard to 894 books supposed to have been copyrighted but not discovered in the Library, it was found that 63 of these works had been received and were actually in the Library; 26 books had been deposited and were still in the Copyright Office; 93 works were either not published, did not claim copyright, or for other valid reasons could not be deposited; while in the case of 184 works no answers to our letters of inquiry had been received up to June 30, 1936. Copies were received of 528 works in all in response to requests made by the Copyright Office during the period of 12 months for works published in recent years.

Our copyright laws have required the deposit of copies for the use of the Library of Congress, and the act in force demands a deposit of two copies of American books, and one of foreign books registered. The act provides, however, that of the works deposited for copyright, the Librarian of Congress may determine (1) what books or other articles shall be transferred to the permanent collec-

tions of the Library of Congress, including the law library; (2) what other books or articles shall be placed in the reserve collections of the Library of Congress for sale or exchange; or (3) be transferred to other governmental libraries in the District of Columbia for use therein. The law further provides (4) that articles remaining undisposed of may upon specified conditions be returned to the authors or copyright proprietors.

During the fiscal year a total of 144,804 current articles deposited have been transferred to the Library of Congress. This number included 66,108 books, 62,306 periodical numbers, 11,652 pieces of music, 2,297 maps, and 2,441 photographs and engravings.

Under authority of section 59 of the act of March 4, 1909, there were transferred during the fiscal year to other governmental libraries in the District of Columbia for use therein, 7,216 books. Under this transfer, up to June 30, 1936, the following libraries have received a total number of books as indicated below since 1909:

Department of Agriculture, 4,601; Department of Commerce, 23,069; Navy Department, 1,877; Treasury Department, 1,496; Bureau of Education, 22,591; Federal Trade Commission, 22,973; Bureau of Standards, 2,094; Army Medical Library, 9,594; Walter Reed Hospital, 2,884; Engineer School, Corps of Engineers, 3,153; Soldiers' Home, 1,600; Public Library of the District of Columbia, 58,841. A number of other libraries have received a smaller number of books. In all, 177,591 volumes have been thus distributed during the last 27 years.

The Copyright Act of 1909 authorizes the return to copyright claimants of such deposits as are not needed by the Library of Congress or the Copyright Office, after due notice as required by section 60. In the ordinary routine of business or in response to special requests 2,878 motion-picture films and 41,831 deposits in other classes have been so returned during the fiscal year.

#### INDEX AND CATALOG OF COPYRIGHT ENTRIES

All copyright entries are promptly indexed. The index cards are ultimately inserted into the great card indexes covering all classes of copyright entries from 1897 to date and now numbering approximately 9,000,000 cards. These cards are first used as copy for the printed Catalog of Copyright Entries, the current numbers of which bind up, with annual indexes, to cover for each class all the entries made for the calendar year. The annual volumes for 1935 are all completed.

The subscription price for the complete catalog for the year is \$10, and for the separate parts as follows: Part I, group 1, books proper, \$3; part I, group 2, pamphlets and maps, \$3; part I, group 3, dra-

matic compositions and motion pictures, \$2; part 2, periodicals, \$2; part 3, musical compositions, \$3; part 4, works of art, photographs, prints, and pictorial illustrations, \$2; single numbers (except book leaflets), 50 cents; annual indexes, each, for complete calendar year, \$2; all parts for complete calendar year, \$10.

#### SERVICE

In February 1936 the Office suffered a severe loss in the death of the Chief Clerk, William J. Pitner. Mr. Pitner was stricken with a heart attack and died very suddenly in Emergency Hospital, where he had previously been confined for several weeks, but was thought to have recovered sufficiently to return to his work.

He had served in the Copyright Office continuously for more than 30 years, except for the period of the World War, when he volunteered in the Army and, as captain in the Quartermaster Department, made a record for efficiency which elicited the special commendation of his commanding officer.

In the Copyright Office, his unfailing devotion to duty and his extraordinary capacity for work, his constant watchfulness and un-sparing application of his best efforts for the good of the service, won for him a position of responsibility in the work, and his kindly nature and keen sense of humor a place in the affection of his associates, that make his loss deeply felt.

#### COPYRIGHT OFFICE PUBLICATIONS

The Office has published during the year the fourth volume of "Decisions of the United States Courts involving Copyright", covering the period 1924-35, as Bulletin No. 20.

It contains the official reports of all copyright cases in the courts so far as the Office could discover them and, together with Bulletins Nos. 17, 18, and 19 previously published, completes the compilation of these cases since 1909, when the present law went into effect. The volume is sold by the Superintendent of Documents, Washington, D. C., at \$1.50 in cloth. The earlier volumes may also be obtained so far as any are still available.

It is the intention of the Office to print these cases annually in future, in pamphlet form, as a supplement to the Catalogue of Copyright Entries, which is published periodically at regular intervals, subscriptions for which are received by the Superintendent of Documents.

The copyright law of the United States was reprinted during the year as Bulletin No. 14 of the Copyright Office. This pamphlet of 66 pages, containing not only the text of the law now in force but



also the rules for practice and procedure and a list of the foreign countries with which the United States has established copyright relations, may also be purchased from the Superintendent of Documents.

#### INTERNATIONAL COPYRIGHT

No new copyright proclamations establishing mutual protection with foreign countries have been issued within the year covered by this report. Meantime the treaty providing for entry of the United States into the International Copyright Union has had the attention of the Senate and been argued in committee hearings.

During this period the following states have declared adhesion to the Rome Convention of 1928:

Vatican City, effective September 12, 1935.

Poland, effective November 21, 1935.

The Brussels Conference for Revision of the International Convention for the Protection of Literary and Artistic Works signed at Berne in 1886 and revised at Rome in 1928 was announced to open on September 7, 1936. The Government at Brussels invited the United States Government to delegate an official representative to follow the Conference and, if authorized, to sign the adopted draft, but to have no vote in the deliberations unless and until the United States should become a member country of the Union. Much thought and attention were given to the program among the leading Union countries and a lengthy agenda was published, together with suggestions offered by various countries relating to the questions to be discussed.

Early in June it was officially declared, however, that the Brussels Conference was indefinitely postponed. Notice was published in *Le Droit d'Auteur* that the Bureau of the International Union for the Protection of Literary and Artistic Works had been notified by the Royal Belgium Government that, agreeably to the desire of the committee of experts charged with studying a project of a universal statute of copyright, it had been decided to postpone the diplomatic conference for the revision of the Berne Convention. The new project contemplates a rapprochement of the Berne and Havana Conventions.

An international conference for discussion of methods for protection of sound records and discs, scheduled to be held at Rome in December 1935, was also indefinitely postponed.

The Government of Colombia, on January 14, 1936, ratified the Convention on Literary and Artistic Copyright adopted by the Fourth International Congress of American States signed at Buenos Aires in 1910.

On June 23, 1936, a new amendment to the Canadian Copyright Law was assented to. This amendment entitled "I Edward VIII. Chap. 28. An Act to amend The Copyright Amendment Act, 1931" provides for the regulation of the activities of any society, association, or company engaged in Canada in the business of acquiring copyrights in dramatico-musical or musical works and issuing or granting licenses for the performance of the same. The act requires the filing of a statement by each such society on or before the first day of November of each year setting forth the fees which it proposes to charge during the ensuing year for the performance of works which it controls. The act also establishes a Copyright Appeal Board composed of three persons to consider the statements of proposed fees and any objections which may be made thereto, and to report its findings to the Minister in charge of copyright legislation. The Governor in Council is thereupon authorized to prescribe the fees or other charges which the society or association in question may lawfully collect.

#### COPYRIGHT IN CONGRESS

The long, sustained effort for amendment of our copyright law was continued steadily during the year under review. "In no country in the world", says *Le Droit d'Auteur* (the official organ of the International Union published at Berne, Switzerland) in its issue of November 1935, "has the struggle for a new copyright law been as long or as active as in the United States. Moreover, in all the history of legislative measures, one will find few examples of an undertaking so bristling with difficulties."

The first move was made soon after the opening of the second session of the Seventy-fourth Congress. On January 22, 1936, Mr. McAdoo, from the Senate Committee on Patents, to which was referred the bill (S. 3121)<sup>1</sup> to vest in the Register of Copyrights the registration of copyright in prints and labels, reported it out, changed only by two slight amendments, and submitted a report (No. 1473) thereon.

The bill was passed by the Senate on February 4, 1936, and sent to the House, where it was referred to the Committee on Patents. There it remained when the Seventy-fourth Congress adjourned.

The bill is intended merely to transfer to the Copyright Office the registration of copyright in advertising prints and labels heretofore registered in the Patent Office under the act of 1874. The Patent Law Association of Chicago went on record in a petition favoring the enactment of this bill.

<sup>1</sup>1936 (Feb. 6). An act to vest in the Register of Copyrights the registration of copyright prints and labels. In the House of Representatives. S. 3121, 74th Cong., 2d sess. Referred to the Committee on Patents.

The full text of the bill and the report will be found in the addenda on pages 25-28 of this report.

On January 27, 1936, Mr. Daly introduced in the House a bill to amend the Copyright Act (H. R. 10632).<sup>2</sup> This bill has for its primary purpose the securing of copyright in the "rendition, performance or interpretation" of a dramatic or musical work. It provides for copyright in phonograph records and proposes furthermore to give to the performer, in the case of music, for example, a copyright other than the copyright in the musical composition—a copyright in the performer's particular rendition or interpretation. It eliminates the compulsory license provisions of the Act of 1909 and embodies other new features. It was referred to the Committee on Patents. The full text of the bill will be found on page 29 of this report.

On February 21, 1936, Mr. Sirovich introduced in the House a bill to amend the Copyright Act (H. R. 11374). Due to an error in printing, the bill was cancelled and all copies were destroyed. It was supplemented by a corrected print (H. R. 11420)<sup>3</sup> introduced by Mr. Sirovich on February 24, 1936.

This is virtually a new general revision bill although founded largely on the present law (act of 1909). It follows to some extent the Duffy bill passed by the Senate in the previous session but ignores the International Copyright Union. It requires (like the present law) deposit in the Copyright Office of one copy of a work by a foreign author and thus renders impossible any adhesion by the United States to the Convention of Rome. It retains and makes more drastic the present requirement of American manufacture and the *ad interim* provision, but grants copyright in unpublished works. It retains the minimum damage clause, omits designs and other provisions of the Duffy bill, and contains a number of insertions and changes. The bill was referred to the Committee on Patents. Its text will be found printed on page 39 of this report.

#### HEARINGS

Thus the Committee of the House had before it three bills for amendment of our copyright law, viz (1) the Duffy bill (S. 3047)<sup>4</sup> which had passed the Senate with amendments in the previous session and which provides specifically for the adherence of the United

<sup>2</sup>1936 (Jan. 27). A bill to amend the act entitled "An act to amend and consolidate the acts respecting copyright", approved March 4, 1909, as amended, and for other purposes. Introduced by Mr. Daly. H. R. 10632, 74th Cong., 2d sess. Referred to the Committee on Patents.

<sup>3</sup>1936 (Feb. 24). A bill to amend and consolidate the acts respecting copyright. Introduced by Mr. Sirovich. H. R. 11420, 74th Cong., 2d sess. Referred to the Committee on Patents.

<sup>4</sup>For the full text and an outline of the genesis of this bill and the amendments added by the Senate, see the 38th Annual Report of the Register of Copyrights, 1935.

States to the International Copyright Convention, as revised at Rome in 1928, under a law amended to meet certain requirements of the Convention; (2) the Daly bill (H. R. 10632); and (3) the Sirovich bill (H. R. 11420), the latter two introduced in this session. There was also in hand the Sirovich bill (H. R. 5859)<sup>5</sup> for protection of designs, which had been introduced in the previous session.

Public hearings, 27 in all, were held by the House Committee from February 25 to April 15, 1936, on the first three of these measures, with special reference, however, to the Duffy bill which, it was understood, the committee proposed to amend.

The American Society of Composers, Authors and Publishers ("ASCAP") opposed this bill *in toto* chiefly (they announced) because it did not provide for copyright without formalities (automatic copyright) for American authors. They contended that, in granting automatic copyright to foreign authors while still requiring registration, notice, and deposit of copies for American authors, the bill discriminated unfairly against our own people. The argument that, conversely, some forty foreign countries granted automatic copyright abroad to American authors did not satisfy them. Their secondary objection was directed against the elimination from the Duffy bill of the \$250 minimum damage provision for infringement which is found in the present law. They contended that the threat inherent in this \$250 damages operated as an effective deterrent to those who would otherwise carelessly infringe and that its elimination left the Society without adequate safeguards. On the other hand, many speakers taking the opposite view claimed that the \$250 damages was in many cases unwarrantably excessive, that ASCAP agents often used it as a club to force proprietors of small places of entertainment to pay exorbitant licenses for use of music controlled by ASCAP, as evidenced by innumerable complaints, some of which were presented at the hearings. The controversy over this subject continued throughout the hearings and particularly during the sessions of the first 2 weeks, which were devoted to ASCAP.

The minimum damage provision may indeed be said to have been the chief bone of contention in the hearings.

Numerous speakers presented the ASCAP viewpoints, their arguments being aimed chiefly at securing adequate compensation to the composer for use of his music over the radio. These petitioners favored the Sirovich bill.

The broadcasters, on the other hand, urged passage of the Duffy bill, and, while not actively advocating entry of the United States into the International Copyright Union, were quite reconciled to

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<sup>5</sup> For the full text of H. R. 5859 see the 38th Annual Report of the Register of Copyrights, 1935.

our adherence to the Rome Convention under the safeguards afforded by this bill. Contending against what they considered the exorbitant demands of ASCAP, they pointed out the difficulties which broadcasters experience in determining the copyright status of much of their material with the result that, while quite ready to pay for the privilege of its use, they were sometimes trapped. Moreover, the operator of a receiving set could not foresee what was coming next and shut off his radio to avoid performance of a copyrighted work. Under such circumstances, and in many others, they claimed that the \$250 minimum was unwarranted and believed that the penalty provisions of the Duffy bill gave to the copyright owner every right and remedy that protection requires.

The Authors' League does not like the Duffy bill, its representatives at the hearings testified. They admitted that it is in some respects an improvement over the present law because it grants divisibility of copyright, protection for literary manuscripts and some other things which the authors want. Their outspoken objections were aimed at the freedom granted in the bill to publishers and producers in changing the titles and even the contents of their works, the too liberal efforts to protect the innocent infringer and our entry into the International Copyright Union which they now oppose although they formerly favored it. And they want the \$250 minimum damage provision retained in the law because it operates as a deterrent. Their principal objection, however, was directed against the granting of automatic copyright to foreign authors while withholding it from American authors who will still be required to register and deposit their works with notice of copyright. But, though objecting to the Duffy bill, they were not very concrete and specific in proposals for its amendment, merely referring rather vaguely to the former Vestal bill<sup>6</sup> as being the authors' favorite.

The Dramatists' Guild also opposed the Duffy bill. Their argument followed very closely that of the Authors' League. They, too, opposed entry of the United States into the International Copyright Union—a reversal of their former attitude. The change in their attitude is due largely to the political conditions now prevailing in Europe and to the unfair treatment accorded to American authors.

Other specific points in the Duffy bill which they opposed included the moral rights provisions, which, they said, granted the rights in one paragraph and took them away in the next; the grant that the right to produce a motion picture includes the right to exhibit it, which would interfere with their right of contract with theatrical managers because it would permit the motion picture producers to

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<sup>6</sup>For the text of the Vestal bill as passed by the House in January 1931, see the Annual Report of the Register of Copyrights for 1931.

exhibit a play without waiting for the dramatic rights in the theatre performance to expire; the limitation of liability in depicting current events which (as they believe) weakens the copyright protection of an author. They argued that the bill deprives authors again and again of rights which it is the very purpose of copyright to give. And they wanted the minimum damage provisions of the act of 1909 retained. In short they would prefer to continue under the existing law.

The American Association of Book Publishers, through its representative, Mr. Frederic G. Melcher, endorsed the Duffy bill, in which, however, the association desired certain amendments. There should be some specification of minimum damages; the "editorial custom" in the moral rights clause should be eliminated, leaving the changes required to be adjusted by contract; the United States Government should be required to obtain permission from the copyright owner for use of copyrighted material in Government publications, etc. Being internationally minded the association favors the Berne Convention in principle and the adhesion of the United States, both for the sake of justice and for the promotion of good business relations.

Other interested parties and organizations represented at the hearings expressed the same diversity of views, opinions, and wishes as has already been illustrated. Among them were the Music Publishers' Protective Association, the American Hotel Association, the National Association of Performing Artists, the American Library Association, the National Publishers' Association (of periodical publishers), the Motion Picture Theatre Owners, and the Motion Picture Producers and Distributors.

Some of these supported the Duffy bill, while others opposed it. Some favored entry into the International Union, others rejected it. Some urged retention of the \$250 minimum damages, others proposed to reduce it, others wished it eliminated.

The manufacturers of phonograph records were granted a hearing, at which four companies were represented. These all wanted copyright in phonograph records covering, particularly, the rendition or interpretation. Some of them urged retention of the existing law relating to compulsory licenses and the two-cent royalties. And they wanted some protection against unauthorized use of their records by broadcasting stations. On the other hand, other speakers urged elimination of the two-cent royalty in favor of freedom of bargaining.

Arguments in favor of adherence to the Berne Convention as revised at Rome were presented by Dr. Wallace McClure, Assistant Chief of the Treaty Division in the State Department, and by the former Register of Copyrights, Thorvald Solberg. Mr. Solberg

reviewed the place that international copyright has held in the various copyright bills that have been introduced in Congress during the past ten years. He related the long struggle to get this principle of international comity into our law, and urged passage, now, of the Duffy bill.

Dr. McClure presented the case of the State Department in its wish for ratification of the convention in order more effectively to protect the foreign interests of American producers, and gave his answer in rebuttal, item by item, to all the various objections and criticisms that had been presented.

#### DESIGN COPYRIGHT

The Vandenberg amendment, which was inserted in the Duffy bill during debate in the Senate, providing for copyright in designs for articles of manufacture heretofore protected by patent, came up for considerable discussion at the hearings. It was supported by Mr. Thorvald Solberg, former Register of Copyrights, who has long believed in the protection of industrial designs under the copyright law. Another advocate was Miss Mary E. Bendelari, who made a lengthy argument for its enactment. The National Association of Furniture Manufacturers too favored the amendment. Mr. Henry D. Williams, veteran champion of copyright reform, voiced the opinion that the patent law cannot effectively protect industrial designs. They should be protected under the copyright law.

A spokesman for the National Retail Dry Goods Association, on the other hand, opposed this amendment because it leaves the retailers unprotected in selling textiles which might infringe someone's copyright. He believed that the present method of design patent is more effective and more workable.

Hon. Conway P. Coe, Commissioner of Patents, and Mr. Thomas E. Robertson, ex-Commissioner, both spoke in opposition to the proposed removal of the registration of designs from the Patent Office to the Copyright Office. Mr. Coe explained that a separate design division had been established in the Patent Office in which all designs are examined within a month, and designs for textiles within a few days, so that there is no longer the same ground as formerly for objection to the design patent procedure on account of the too long time required.

In general there prevailed a rather common feeling of insecurity with respect to an attempt to protect designs by a registration in the Copyright Office without any examination to determine originality, and a doubt of the practicability of such a plan under which it was feared that thousands of designs would be registered by irresponsible parties and endless suits for infringements would be threatened.

Finally the opinion was expressed that a matter as complex as this, requiring rather special provisions as to term of copyright, penalties for infringement, etc., should be the subject of special legislation in a bill of its own rather than be incorporated in a brief amendment to the general copyright law, and this view was publicly advocated in the Journal of the Patent Office Society, December 1935.

The hearings were printed and may be obtained from the chairman of the House Committee on Patents.

#### THE TREATY IN THE SENATE

The International Convention of the Copyright Union as revised and signed at Rome in 1928 came up in the Senate for ratification in its regular order on the calendar on January 13, 1936, and was passed over on request of Mr. Pittman. This was the treaty that had been ratified by the Senate in the previous session (on Apr. 19, 1935) but on request of Mr. Duffy and by unanimous consent the vote had been reconsidered and the treaty restored to the Executive Calendar pending action upon the copyright bill.

It came up again on June 8, 1936, and was again passed over. The chairman of the Foreign Relations Committee explained that there had been an agreement that the treaty should be accompanied by legislation defining and providing for the administration of the treaty so far as this country is concerned and that the treaty was not to be brought up for ratification until such a bill had been passed.

The treaty was accordingly again passed over and returned to the calendar. The chairman explained that in the next Congress it may be reported without the agreement and presented then for ratification.

It is understood too that the House Committee would resume consideration of the various copyright proposals after the opening of the new Congress in January 1937, and would introduce in the House an amendatory bill embodying its conclusions. If then Senator Duffy reintroduces his bill, perhaps with some changes, the stage will be set for further and possibly final action.

Such was the situation when the Seventy-fourth Congress adjourned sine die on June 20, 1936.

Respectfully submitted.

WILLIAM L. BROWN,  
*Register of Copyrights.*

HERBERT PUTNAM,  
*Librarian of Congress.*



## EXHIBITS

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**EXHIBIT A**

**STATEMENT OF GROSS RECEIPTS, REFUNDS, NET RECEIPTS, AND FEES APPLIED  
FOR FISCAL YEAR ENDING JUNE 30, 1936**

Month	Gross receipts	Refunds	Net receipts	Fees applied
<b>1935</b>				
July.....	\$20,755.43	\$624.21	\$20,131.22	\$21,752.80
August.....	20,912.54	370.16	20,542.38	20,457.10
September.....	20,049.36	511.08	19,538.28	20,902.00
October.....	25,867.19	430.82	25,436.37	26,281.30
November.....	22,746.57	981.61	21,764.96	21,654.60
December.....	24,628.29	466.43	24,161.86	22,258.40
<b>1936</b>				
January.....	30,538.17	574.93	29,963.24	26,129.40
February.....	23,303.66	470.72	22,832.94	23,404.40
March.....	25,544.47	629.88	24,914.59	26,028.90
April.....	26,173.66	1,114.95	25,058.71	27,284.00
May.....	25,345.00	577.28	24,767.72	23,290.80
June.....	27,265.48	456.05	26,809.43	25,773.70
<b>Total.....</b>	<b>293,149.82</b>	<b>7,208.12</b>	<b>285,941.70</b>	<b>285,206.90</b>
Balance brought forward from June 30, 1935.....				\$22,693.27
Net receipts July 1, 1935 to June 30, 1936:				
Gross receipts.....			\$293,149.82	
Less amount refunded.....			7,208.12	
				<u>285,941.70</u>
Total to be accounted for.....				308,634.97
Copyright fees applied July 1, 1935 to June 30, 1936.....			\$285,206.90	
Balance carried forward to July 1, 1936:				
Trust funds.....			19,529.10	
Unfinished business.....			3,598.97	
				<u>308,634.97</u>

**EXHIBIT B**

**RECORD OF APPLIED FEES**

Month	Registrations of published works, including certificates		Registrations of unpublished works, including certificates		Registrations of published photos, no certificate		Registrations of renewals		Total number of registrations	Total fees for registrations
	Number	Fees at \$2	Number	Fees at \$1	Number	Fees at \$1	Number	Fees at \$1		
<b>1935</b>										
July.....	8,799	\$17,598.00	2,416	\$2,416.00	71	\$71.00	664	\$664.00	11,950	\$20,749.00
August.....	8,497	16,994.00	2,132	2,132.00	78	78.00	366	366.00	11,073	19,570.00
September.....	8,649	17,298.00	2,269	2,269.00	141	141.00	423	423.00	11,482	20,131.00
October.....	10,897	21,794.00	2,488	2,488.00	123	123.00	593	593.00	14,101	24,998.00
November.....	8,910	17,820.00	2,412	2,412.00	106	106.00	469	469.00	11,897	20,807.00
December.....	9,051	18,102.00	2,260	2,260.00	99	99.00	687	687.00	12,097	21,148.00
<b>1936</b>										
January.....	10,353	20,706.00	2,806	2,806.00	122	122.00	1,203	1,203.00	14,484	24,837.00
February.....	9,497	18,994.00	2,827	2,827.00	71	71.00	738	738.00	13,133	22,630.00
March.....	10,369	20,738.00	3,059	3,059.00	145	145.00	927	927.00	14,500	24,866.00
April.....	10,629	21,258.00	3,253	3,253.00	462	462.00	919	919.00	15,263	25,892.00
May.....	9,363	18,726.00	2,821	2,821.00	66	66.00	548	548.00	12,798	22,161.00
June.....	10,382	20,764.00	3,074	3,074.00	85	85.00	643	643.00	14,184	24,566.00
<b>Total.....</b>	<b>115,396</b>	<b>230,792.00</b>	<b>31,817</b>	<b>31,817.00</b>	<b>1,569</b>	<b>1,569.00</b>	<b>8,130</b>	<b>8,130.00</b>	<b>166,962</b>	<b>272,358.00</b>

Month	Copies of record		Assignments and copies		Indexing transfers of proprietorship		Notices of user		Search fees	Total fees applied
	Number	Fees at \$1	Number	Fees	Number	Fees at \$0.10	Number	Fees		
<b>1935</b>										
July.....	78	\$78.00	226	\$322.00	38	\$3.80	24	\$24.00	\$76.00	\$21,752.90
August.....	125	125.00	168	664.00	81	8.10	21	21.00	69.00	20,457.10
September.....	69	69.00	187	632.00	40	4.00	9	9.00	57.00	20,902.00
October.....	167	167.00	237	1,000.00	73	7.30	39	41.00	68.00	26,281.30
November.....	115	115.00	224	660.00	116	11.60	22	22.00	39.00	21,654.60
December.....	164	164.00	260	946.00	64	6.40	25	25.00	69.00	22,258.40
<b>1936</b>										
January.....	240	240.00	253	928.00	94	9.40	35	35.00	80.00	26,129.40
February.....	107	107.00	192	572.00	154	15.40	26	30.00	50.00	23,404.40
March.....	289	289.00	223	766.00	179	17.90	16	16.00	71.00	26,028.90
April.....	192	192.00	292	1,110.00	250	25.00	24	24.00	41.00	27,284.00
May.....	139	139.00	248	906.00	43	4.30	-----	-----	70.00	23,280.30
June.....	87	87.00	295	1,000.00	157	15.70	48	48.00	57.00	25,772.70
<b>Total.....</b>	<b>1,772</b>	<b>1,772.00</b>	<b>2,806</b>	<b>9,906.00</b>	<b>1,289</b>	<b>128.90</b>	<b>289</b>	<b>295.00</b>	<b>747.00</b>	<b>285,206.90</b>

**EXHIBIT C**

**STATEMENT OF GROSS CASH RECEIPTS, YEARLY FEES, NUMBER OF REGISTRATIONS, ETC., FOR 39 FISCAL YEARS**

Year	Gross receipts	Yearly fees applied	Number of registrations	Increase in registrations	Decrease in registrations
1897-98	\$61,099.56	\$55,926.50	75,545		
1898-99	64,185.65	58,267.00	80,968	5,423	
1899-1900	71,072.33	65,206.00	94,798	13,830	
1900-1901	69,525.25	63,687.50	92,351		2,441
1901-2	68,405.08	64,687.00	92,978	627	
1902-3	71,533.91	68,874.50	97,979	5,001	
1903-4	75,302.83	72,629.00	103,130	5,151	
1904-5	80,440.56	78,068.00	113,374	10,244	
1905-6	82,610.92	80,198.00	117,704	4,330	
1906-7	87,384.31	84,685.00	123,829	6,125	
1907-8	85,042.03	82,387.50	119,742		4,087
1908-9	87,085.53	83,816.75	120,131	389	
1909-10	118,662.88	104,644.95	109,074		11,067
1910-11	113,661.52	109,913.95	115,198	6,124	
1911-12	120,149.51	116,685.05	120,931	5,733	
1912-13	118,968.26	114,980.60	119,495		1,436
1913-14	122,636.92	120,219.25	123,154	3,659	
1914-15	115,594.55	111,922.75	115,193		7,961
1915-16	115,663.42	112,986.85	115,967	774	
1916-17	113,808.51	110,077.40	111,438		4,529
1917-18	109,105.87	106,352.40	106,728		4,710
1918-19	117,518.96	113,118.00	113,003	6,275	
1919-20	132,371.37	126,492.25	126,562	13,559	
1920-21	141,199.33	134,516.15	135,290	8,718	
1921-22	145,898.26	138,516.15	138,633	3,353	
1922-23	158,923.62	149,297.00	148,946	10,313	
1923-24	167,705.96	162,544.90	162,694	13,745	
1924-25	173,971.95	166,908.55	165,845	3,154	
1925-26	185,038.29	178,307.20	177,635	11,787	
1926-27	191,875.16	184,727.60	184,000	6,365	
1927-28	201,064.49	195,167.65	193,914	9,914	
1928-29	322,135.82	308,993.80	161,959		31,965
1929-30	336,980.75	327,629.90	172,792	10,833	
1930-31	312,865.41	309,414.30	164,642		8,150
1931-32	284,719.20	280,964.90	151,735		12,907
1932-33	284,754.69	260,986.30	137,424		14,311
1933-34	288,829.53	251,591.50	139,047	1,623	
1934-35	269,343.81	259,881.70	142,031	2,984	
1935-36	293,149.82	285,206.90	156,962	14,931	
<b>Total</b>	<b>5,889,280.79</b>	<b>5,690,480.70</b>	<b>5,042,814</b>		

## EXHIBIT D

### NUMBER OF REGISTRATIONS MADE DURING THE LAST 5 FISCAL YEARS

Class	Subject matter of copyright	1931-32	1932-33	1933-34	1934-35	1935-36
A	Books:					
	(a) Printed in the United States:					
	Books proper.....	13,460	10,820	9,660	11,035	11,748
	Pamphlets, leaflets, etc.....	26,995	24,290	26,236	27,578	30,827
	Contributions to newspapers and periodicals.....	10,489	9,290	7,740	7,875	7,082
	Total.....	50,944	44,400	43,636	46,488	49,657
(b) Printed abroad in a foreign language...	4,784	4,232	3,593	3,283	3,853	
(c) English books registered for ad-interim copyright.....	1,337	1,352	1,169	1,238	1,239	
	Total.....	57,065	49,984	48,398	51,009	54,749
B	Periodicals (numbers).....	39,177	35,464	35,819	36,351	38,418
C	Lectures, sermons, addresses.....	521	388	432	506	617
D	Dramatic or dramatico-musical compositions.....	6,296	6,359	5,945	6,501	6,569
E	Musical compositions.....	29,264	26,846	27,001	27,459	33,250
F	Maps.....	1,774	1,178	1,250	1,343	1,444
G	Works or art, models or designs.....	2,590	2,667	5,447	3,082	2,977
H	Reproductions of works of art.....	0	0	0	0	0
I	Drawings or plastic works of a scientific or technical character.....	1,697	1,495	1,845	2,331	2,606
J	Photographs.....	2,570	1,882	1,574	1,973	2,327
K	Prints and pictorial illustrations.....	3,354	3,143	2,834	3,120	4,117
L	Motion-picture photoplays.....	800	864	821	838	808
M	Motion pictures not photoplays.....	739	743	692	857	900
R	Renewals.....	5,888	6,411	6,989	6,661	8,180
	Total.....	151,735	137,424	139,047	142,031	156,962

## EXHIBIT E

### NUMBER OF ARTICLES DEPOSITED DURING THE LAST 5 FISCAL YEARS

Class	Subject matter of copyright	1931-32	1932-33	1933-34	1934-35	1935-36
A	Books:					
	(a) Printed in the United States:					
	Books proper.....	26,920	21,640	19,309	22,046	23,489
	Pamphlets, leaflets, etc.....	53,922	48,538	52,472	55,157	61,494
	Contributions to newspapers and periodicals.....	10,489	9,290	7,740	7,875	7,082
	Total.....	91,331	79,468	79,521	85,078	92,065
	(b) Printed abroad in a foreign language.....	4,784	4,232	3,596	3,283	3,853
	(c) English works registered for ad interim copyright.....	1,337	1,352	1,166	1,238	1,239
	Total.....	97,452	85,052	84,283	89,599	97,157
	B	Periodicals.....	78,354	70,928	71,638	72,702
C	Lectures, sermons, etc.....	521	388	432	506	617
D	Dramatic or dramatico-musical compositions.....	7,077	7,048	6,731	7,282	7,583
E	Musical compositions.....	36,331	32,886	32,694	33,976	40,522
F	Maps.....	3,535	2,353	2,499	2,673	2,965
G	Works of art, models or designs.....	2,845	2,694	5,505	3,130	3,030
H	Reproductions of works of art.....	0	0	0	0	0
I	Drawings or plastic works of a scientific or technical character.....	2,737	2,366	2,891	3,560	3,702
J	Photographs.....	4,638	3,427	2,848	3,578	4,256
K	Prints and pictorial illustrations.....	6,375	6,027	5,408	5,879	7,766
L	Motion picture photoplays.....	1,602	1,728	1,633	1,663	1,586
M	Motion pictures not photoplays.....	1,440	1,442	1,350	1,654	1,743
	Total.....	242,689	216,339	217,912	226,202	247,663

## ADDENDA

	Page
I An act to vest in the Register of Copyrights the registration of copyright prints and labels. (S. 3121). In the House of Representatives February 6, 1936. By Mr. McAdoo.....	25
II. Report No. 1473, Calendar No. 1536, to accompany S. 3121 January 16 (calendar day, Jan. 22), 1936. By Mr. McAdoo.....	27
III. A bill to amend the act entitled "An act to amend and consolidate the acts respecting copyright", approved March 4, 1909, as amended, and for other purposes. (H. R. 10632). In the House of Representatives January 27, 1936. By Mr. Daly.....	29
IV. A bill to amend and consolidate the acts respecting copyright. (H. R. 11420). In the House of Representatives February 24, 1936. By Mr. Sirovich.....	39

## ADDENDUM I

[S. 3121, 74th Congress, 2d Session]

In the House of Representatives. February 6, 1936. Referred to the Committee on Patents

AN ACT To vest in the Register of Copyrights the registration of copyright prints and labels.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That on and after January 1, 1937, the registration of prints and labels in the Patent Office under section 3 of the Act entitled "An Act to amend the law relating to patents, trade-marks, and copyrights", approved June 18, 1874 (17 U. S. C. 63), shall be discontinued. All such registrations effected prior to January 1, 1937, and unexpired on that date shall be subject to renewal by the Register of Copyrights at the expiration of their term in like manner, on the same terms, and upon payment of the same fee as is provided in the case of renewal of other copyrights. Commencing January 1, 1937, the Register of Copyrights shall register all claims to copyright properly presented in prints and labels used or intended to be used in connection with the sale or advertisement of articles of manufacture. Application for registration of copyright prints and labels pending in the Patent Office at the close of business December 31, 1936, shall be dealt with by the Register of Copyrights with due regard to their actual filing date.

SEC. 2. Section 3 of the Act entitled "An Act to amend the law relating to patents, trade-marks, and copyrights", approved June 18, 1874 (17 U. S. C. 63), is hereby repealed, effective at the close of business December 31, 1936; except that all registrations and renewals effected thereunder shall continue in effect for the balance of the unexpired term as valid registrations of copyright claims subject to all provisions of existing copyright law.

Passed the Senate January 16 (calendar day, February 4), 1936.

Attest:

EDWIN A. HALSEY,  
*Secretary.*



## ADDENDUM II

[Calendar No. 1536]

[Senate, 74th Congress, 2d Session]

[Report No. 1473]

Registration of copyright prints and labels. January 16 (calendar day, January 22), 1936. Ordered to be printed. Mr. McAdoo, from the Committee on Patents, submitted the following:

### REPORT To accompany Senate bill 3121

The Committee on Patents, to whom was referred the bill (S. 3121) to vest in the Register of Copyrights the registration of copyright prints and labels, after consideration thereof, reports the same favorably, with amendments, and recommends that the bill do pass, as amended.

The Register of Copyrights, under date of June 11, 1935, submitted the following explanatory statement:

"The registration of prints advertising articles of manufacture and labels to go on packages containing such articles, has been made in the Patent Office for many years under the specific requirement of section 3 of the act of June 18, 1874. That act has now become somewhat of an anachronism. At the time of its passage commercial art was hardly deemed worthy of copyright protection, which was regarded as appropriate only for serious works of literature and art. A great change has taken place in this respect and commercial art, including many advertisements, is now equal in value to other types of artistic creations, and there seems no reason why there should be any distinction in the procedure for protecting it from that which is required for works of art generally. There is, therefore, no objection in principle to the transfer of registration of prints and labels from the Patent Office to the Copyright Office. In fact, provisions to bring about this transfer have been features of bills for revision of the copyright law introduced in Congress in recent years which had the approval of the Register of Copyrights.

"In practice, however, the matter is not of very large importance because the Copyright Office in fact registers a great many commercial prints, especially those appearing as contributions to periodicals. The practice of the Office on receipt of an application for registration of a print or label is to call the attention of the applicant to the act of 1874 providing for registration in the Patent Office, but if the applicant insists on registration in the Copyright Office the Office does not refuse to register."

Subsequently, under date of July 9, 1935, the Register of Copyrights suggested further:

"As we see it, there seems to be no occasion for requiring the transfer to the Register of Copyrights of all the files, documents, and papers now in the Patent Office relating to the registration of prints and labels. I would therefore propose to amend S. 3121 by inserting a period after 'discontinued' in line 7 of section 1 and striking out the remainder of the sentence through 'Register of Copyrights.'

"I would furthermore propose the requirement that the 'Register of Copyrights shall register' in place of 'Register of Copyrights shall not refuse registration.' The amendment would be to strike out lines 4, 5, 6, 7, and 8 on page 2 and insert instead after 'shall' the statement 'shall register all claims to copyright properly presented in prints and labels used or intended to be used in connection with the sale or advertisement of articles of manufacture'."

The suggested amendments have been adopted by the committee. Other amendments postpone the effective date of the legislation 1 year from January 1, 1936, as proposed in the bill as introduced.

The Commissioner of Patents stated, on June 17, 1935:

"I can see no objections to the proposed plan. The suggested bill is in substance a duplicate of S. 4919 of the Seventy-second Congress, and appears to be in proper form. The dates fixing the time for the transfer to take effect, etc., will, of course, have to be revised.

"The registration of prints and labels by the Patent Office brings in an annual revenue of about \$13,000, which, I should say, exceeds the amount of expense required in looking after the registrations. The transfer would thus deprive this Office of that revenue, but, since it seems desirable to have all copyright matters lodged in the same office, the slight loss in revenue may be offset by the advantage to be gained."

### ADDENDUM III

[H. R. 10632, 74th Congress, 2d Session]

In the House of Representatives. January 27, 1936. Mr. Daly introduced the following bill; which was referred to the Committee on Patents and ordered to be printed

A BILL To amend the Act entitled "An Act to amend and consolidate the Acts respecting copyright", approved March 4, 1909, as amended, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 1 of the Act entitled "An Act to amend and consolidate the Acts respecting copyright", approved March 4, 1909, as amended, is hereby amended by striking out the first five words and inserting in lieu thereof the following: "That the author and/or interpreter, and/or performer of any work made the subject of copyright by this Act, or his executors or administrators, or any assignee claiming under a written agreement with him or them, or any of them, the right to copyright such work, or its rendition or performance."

(b) Subsections (b), (c), and (d) of section 1 of such Act are hereby amended to read as follows:

"(b) To translate the copyrighted work into other languages or dialects, or to make any other version thereof, if it be a literary work; to dramatize it; to make from it a motion picture with or without sound or with or without dialog; to convert it into a novel or other nondramatic work, if it be a drama or a motion picture; to arrange or adapt it, if it be a musical or dramatico-musical work; to complete, execute, and finish it, if it be a model or design for a work of art or for a work of architecture: *Provided*, That copyright in a work of architecture shall extend only to artistic character and design and not to processes or methods of construction;

"(c) To deliver the copyrighted work in public for profit;

"(d) To exhibit the copyrighted work publicly if it be a motion picture, to perform or represent it publicly if it be a drama or a choreographic work or pantomime or, if it be a dramatic or dramatico-musical work or a motion picture and not reproduced in copies for sale, to vend any manuscript or any record (subject as hereinafter provided) whatsoever thereof; to make or to procure the making of any transcription or record thereof, by or from which, in whole or in part, it may in any manner or by any method be exhibited, performed, represented, produced, or reproduced (subject as hereinafter provided); and to exhibit, perform, represent, produce, or reproduce it in any manner or by any method whatsoever;"

(e) Subsection (e) of section 1 of such Act is hereby amended by striking out the last paragraph thereof, by inserting after "(a) hereof," the words "to synchronize it for use in motion pictures," and by striking out the second proviso and by amending the first proviso to read as follows: "*Provided*, That the provisions of this Act, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically a musical work shall include only compositions published and copyrighted after July 1, 1909; and

such provisions shall not, except as respects the works of nationals of countries which are parties to the Convention for the Protection of Literary and Artistic Works, or works first published therein, include the works of a foreign author or composer unless the foreign country of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law to citizens of the United States similar rights: *Provided further*, That such rights granted in accordance with the Convention for the Protection of Literary and Artistic Works shall not apply to works which have been lawfully adapted to mechanical instruments before this subsection, as amended, takes effect."

(d) Section 1 of such Act is further amended by adding after subsection (4) the following new subsections:

"(f) To communicate the copyrighted work to the public by radio broadcasting, radio facsimile, wired radio, telephone, television, or other means of transmission; subject to the rights of the interpreter or performer of such work, hereby established.

"(g) That the author of any artistic model or design intended to be applied to or embodied in any manufactured product, except products intended to be applied to or embodied in motors, motor cars, motor-car accessories, and products employed in the design and manufacture of motors, motor cars, and motor-car accessories, may obtain copyright for such model or design under the provisions of the Copyright Act approved March 4, 1909 (U. S. C., title 17), as amended by this Act, and that upon compliance with the requirements of the said Act and of this Act shall thereby secure the rights and remedies of the said Act of 1909, and shall, in addition thereto, after the date on which this Act shall go into effect, secure the exclusive right to apply to or embody in any manufactured product, excluding the products hereinbefore excepted, the said copyrighted model or design: *Provided*, That when the said author or his legal representative, or assignee, shall have caused the said model or design to be applied to or embodied in a manufactured product which shall have been sold or offered for sale, the author or other owner of the copyrighted model or design shall have the right to exclude others from selling or distributing such manufactured products which embody or contain copies of the said copyrighted model or design, or imitations thereof, or the imitation of any characteristic original feature thereof."

Amend section 1 by adding:

"(h) To perform or have performed for public performance and/or for profit, any rendition or interpretation of a work by any mechanical means, same to include recording or recapturing of and by any mechanical production or rendition or interpretation by any process, means, or method. These rights are not intended to interfere or curtail the right of the authors of any composition or work used for such rendition or interpretation, and are created to be in addition to same, and to protect such persons who render or interpret them."

SEC. 2. The last sentence of section 3 of such Act is hereby amended to read as follows: "The copyright upon composite works or periodicals shall give to the author, performer and/or interpreter, or other owner of each part or contribution therein all the rights which he would have if such part or contribution were individually copyrighted in his name, and to the performer and/or interpreter the rights to the rendition, performance, or interpretation thereof."

SEC. 3. Section 4 of such Act is hereby amended to read as follows:

"SEC. 4. That the works for which copyright may be secured under this Act shall include all the writings of an author, whatever the mode or form of their expression, and all renditions and interpretations of a performer and/or in-

terpreter of any musical, literary, dramatic work, or other compositions, whatever the mode or form of such renditions, performances, or interpretations."

SEC. 4. (a) Subsections (f) and (g) of section 5 of such Act are hereby amended to read as follows:

"(f) Maps and geographical charts;

"(g) Works of art; models or designs for works of art, and artistic models or designs intended to be applied to or embodied in manufactured products."

(b) Subsection (l) of such section, as amended, is hereby amended to read as follows:

"(l) Motion pictures;".

(c) Subsection (m) of such section is hereby amended to read as follows:

"(m) Choreographic works and pantomimes, the scenic arrangement or acting form of which is fixed in writing or otherwise;".

(d) There are hereby inserted after subsection (m), as amended, of such section two new subsections as follows:

"(n) Works of architecture, or models or designs for architectural works;

"(o) Works prepared expressly for radio broadcasting, or for recording by means of electrical or mechanical transcription, including programs and continuities insofar as they embody original work of authorship;".

SEC. 5. Amend section 5 by adding:

"(n) The interpretations, renditions, readings, and performances of any work, when mechanically reproduced by phonograph records, disks, sound-track tapes, or any and all other substances and means, containing thereon or conveying a reproduction of such interpretations, renditions, readings, and performances."

SEC. 6. Section 6 of such Act is hereby amended by adding thereto the following:

"Except that the renditions and interpretations of any work, whether in the public domain or not, by any interpreter or performer, are included in the provisions of this title."

SEC. 7. Section 7 of such Act is hereby amended to read as follows:

"SEC. 7. No copyright shall subsist in any publication of the United States Government, or any reprint, in whole or in part, thereof: *Provided, however,* That the publication or republication by the Government, either separately or in a public document, of any material in which copyright is subsisting shall not effect any abridgment or annulment of the copyright or authorize any use or appropriation of such copyright material without the consent of the copyright proprietor."

SEC. 8. Section 8 of such Act is hereby amended to read as follows:

"SEC. 8. (a) That the copyright secured by this Act shall extend to the work of an author or proprietor or the rendition, performance, or interpretation of a performer or interpreter, who is a citizen or subject of a foreign country not a party to the Convention for the Protection of Literary and Artistic Works, only:

"(1) When such alien author or proprietor, or interpreter or performer, shall be domiciled within the United States at the time of the creation or first publication of his work or interpretation; or

"(2) When the foreign country of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author or interpreter under this Act or by treaty; or when such foreign country is a party to an international agreement which provides for reciprocity in the granting of copyright, by the term of which agreement the United States may, at its pleasure, become a party thereto.

"(b) The existence of the reciprocal 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.

"(c) Authors and performers and interpreters, within the jurisdiction of any foreign country that is now or may hereafter be a party to the Convention for the Protection of Literary and Artistic Works, whether their works are unpublished or published for the first time in one of the countries parties to said convention, shall have all the rights now accorded or which may hereafter be accorded by law to nationals of the United States; and the enjoyment and the exercise of such rights shall not be subject to any formality: *Provided*, That as to copyrights in works not previously copyrighted in the United States no right or remedy given pursuant to this Act shall prejudice lawful acts done or rights in or in connection with copies lawfully made, the making of additional copies, or any other continuance of business undertakings or enterprises lawfully undertaken within the United States prior to the date on which the adherence of the United States to said Convention for the Protection of Literary and Artistic Works becomes effective; and the author or other owner of such copyright or persons claiming under him shall not be entitled to any remedy against any person who has, prior to such date, taken any action in connection with the exploitation, production, reproduction, circulation, or performance (in a manner which at the time was not unlawful) of any such work whereby he has incurred expenditure or liability; nor shall rights in respect of the further use of copies or other forms of reproduction be in any manner impaired."

SEC. 9. Section 9 of such Act is hereby amended to read as follows:

"SEC. 9. That the author, performer and/or interpreter, or other persons entitled thereto by this Act may secure copyright for their work by publication thereof with the notice of copyright required by this Act; and such notice shall be affixed to each copy thereof published in the United States by authority of the copyright proprietor; and in the case of renditions and interpretations by radio broadcast seeking ad-interim protection as provided for under section 21 of this title."

SEC. 10. Section 10 of such Act is hereby amended by adding the following: "Registration of composite works or periodicals by the proprietor thereof shall inure also to the benefit of the author or other owner of each independent part or contribution therein to the same extent as though such part or contribution were separately registered."

SEC. 11. Section 11 of such Act is hereby amended to read as follows:

"SEC. 11. That copyright may also be had of the works of an author or the renditions or interpretations of a performer, which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production, or a dramatic, musical, or dramatico-musical composition; by a title and description; if it be an intended rendition or performance or interpretation of any work heretofore mentioned; of a title and description with not less than five prints taken from different sections of the film, if the work be a motion-picture photoplay; by a photographic print, if the work be a photograph; by a title and description, with not less than two prints taken from different sections of a complete motion picture, if the work be a motion picture other than a photoplay; or of a photograph or other identifying reproduction thereof, if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt copyright proprietors from the deposit of copies under sections 12 and 13, and 21 of this Act, where the work is later published."

SEC. 12. Section 12 of such Act is hereby amended by striking out the words "reproduced in copies for sale" and inserting in lieu thereof the word "pub-

lished" and by inserting at the end of that sentence: ": *Provided*, That in the case of an artistic model or design intended to be applied to or embodied in any manufactured product, there shall be deposited, promptly after such manufacture has taken place, five copies of photographs or other identifying representations of said manufactured produce together with an application for the registration of a claim of copyright containing a statement of the date upon which the said manufactured product was sold or offered for sale; from which recorded date the term of copyright in the manufactured product shall begin to run and this special protection shall terminate twenty years after said date, and in the case of renditions and interpretations for broadcasting, as provided for under section 21" and by amending the last sentence to read as follows: "With the exception of actions or proceedings for infringement of works entitled to copyright without formality, for ad-interim copyright, no action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this Act with respect to the deposit of copies and registration of such work shall have been complied with."

SEC. 13. Section 15 of such Act, as amended, is hereby amended to read as follows: "That all copies of any copyright material in the English language which shall be distributed in the United States in book, pamphlet, map, or sheet form shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, and/or from plates made within the limits of the United States; or, if the text be produced by lithographic, photogravure, or photoengraving, or any kindred process or any other process of reproduction now or hereafter devised, then by a process wholly performed within the limits of the United States; and the printing or other reproduction of the text, and the binding of the said book or pamphlet, shall be performed within the limits of the United States. Said requirements shall extend also to any copyright illustrations, maps, or charts within any book or pamphlet, or in sheet form, and shall further be required of the manufacture of all records, disks, sound tracks, or other mechanical means of the reproduction of renditions and interpretations. Said requirements shall not apply to works in raised characters for the use of the blind."

SEC. 14. Amend section 16 by adding: "In the case of records, disks, sound tracks, or other means of carrying the renditions and interpretations of performances, the affidavit shall set forth the name, place, and time of manufacture, and in the case of those performed by radio broadcasting, the date, hour, and place of such broadcast."

SEC. 15. (a) Section 18 of such Act is hereby amended to read as follows:

"SEC. 18. That the notice of copyright required by this Act, as amended, shall consist of (1) the word 'copyright', or the abbreviation 'copr.', or the letter 'C' enclosed within a circle; (2) the name of the copyright owner, or his initials, monogram, mark, or symbol, provided his name appears in reasonable proximity thereto; (3) the year when the copyright began. In the case of any work in book form, the notice shall be placed upon the title page, or the page immediately following. In the case of a newspaper, magazine, or periodical, such notice may also be placed in the editorial and publishing statement or table of contents: *Provided*, That one notice of copyright in each volume or in each number of a newspaper, magazine, or periodical published shall suffice: *Provided further*, That the notice of copyright in a newspaper, magazine, periodical, or other composite work shall be deemed sufficient to constitute due notice of copyright on behalf of each individual author entitled to copyright in any of the individual parts or contributions therein, notwithstanding any variance between the date in such notice and the date when copyright in any such part or contribution began: *Provided further*, That in the

case of anonymous or pseudonymous works a notice with the name of the publisher shall be sufficient to protect the author or other owner of the copyright, and in the case of disks, records, sound tracks, and so forth, carrying reproduction of renditions and interpretations, upon the labels of such disks, records, and sound tracks."

(b) Section 19 of such Act is hereby repealed.

SEC. 18. Section 20 of such Act is hereby amended to read as follows:

"SEC. 20. That where the author or other owner of a copyright has sought to comply with the provisions of this Act with respect to notice, the omission by accident or mistake of the prescribed notice, or any error as to the name of the copyright owner of the date of copyright or the position of the notice, shall not invalidate the copyright or deprive the author or other owner thereof of any of his rights under this Act, or, except as otherwise provided in this Act, as amended, prevent recovery for infringement against any person who, after actual notice of the copyright, begins an undertaking to infringe it, but shall prevent the recovery of damages against an innocent infringer who has been misled by the omission of or error in the notice; and in a suit for infringement no permanent injunction shall be had unless the copyright owner shall reimburse to the innocent infringer his reasonable outlay innocently incurred, or such proportion thereof, as the court, in its discretion, shall direct."

SEC. 17. Section 21 is hereby amended to read as follows:

"SEC. 21. In the case of a radio broadcast of any rendition or performance, the deposit in the Copyright Office, prior to such performance, of a description of the title and the work intended to be rendered or performed with a request for the reservation of the copyright and a statement of the name of the performer and the date of the proposed broadcast shall secure to the performer an ad-interim copyright in such rendition, interpretation, and performance, which shall have all the force and effect given to copyright by this title and shall endure until the expiration of sixty days after such deposit in the Copyright Office and continue for the full copyright term and renewals thereof, under this title, if two copies of a reproduction of such broadcast rendition, interpretation or performance be deposited in the Copyright Office."

SEC. 18. Section 22 of such Act is hereby repealed.

SEC. 19. Section 23 of such Act is hereby amended to read as follows:

"SEC. 23. That the term for which copyright is secured by this Act shall endure for fifty-six years from the date of first publication; or, in case of unpublished works, from the date of the creation of the work as shown in the records of the Copyright Office and as indicated by the copyright notice affixed to such work if and when published, or, in the absence of such notice and record, as otherwise proved; at the expiration of which time it shall terminate: *Provided*, That for works registered under section 11 of this Act prior to the date when this section, as amended, takes effect, the copyright shall endure for fifty-six years from the date of deposit of the copy or other material specified in said section 11: *Provided further*, That (1) the term shall not in any case exceed fifty-six years; (2) the term shall not, except as to works copyrighted in the United States at the time when this Act, as amended, takes effect, exceed the term granted in the country of origin of the work; and (3) no copyright shall subsist in any work which is in the public domain (except in renditions and interpretations as provided for by section of this title) because of the expiration of the term of protection in the United States, or, if it has not been copyrighted in the United States, because of the expiration of the term of protection in the country of origin: *And provided further*, That the works of any author entitled to copyright without formality under section 8 of this Act, as amended,



may be registered in the Copyright Office upon the filing of a suitable application, under rules of the Register of Copyrights, stating the date of first publication or creation of the work and upon deposit of one copy of the work if published, or of suitable identifying material if unpublished, and the payment of the fee specified in section 61, as amended: *And provided further*, That no assignment of the copyright and no grant of any interest therein made by the author 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-eight years from the date of copyright, and the reversionary interest in the copyright expectant at the termination of that period shall, notwithstanding any agreement to the contrary, devolve on the author of such work if living, or the widow, widower or children of the author if the author be not living, or if such author, widow, widower, or children be not living, then on the author's executors, or in the absence of a will, his next of kin, and any agreement entered into by the author as to the disposition of such reversionary interest shall be null and void."

SEC. 20. Section 24 of such Act is hereby amended to read as follows:

"SEC. 24. That the copyright subsisting in any work when this section, as amended, takes effect shall be continued until the expiration of fifty-six years from the date of the beginning of the term of the original copyright in the work. If, on the date when this section, as amended, takes effect, less than twenty-eight years have elapsed since the copyright began, then the copyright for the period of such continuation beyond twenty-eight years shall vest, on the date when this section, as amended, takes effect, in the person or persons living on said date, or the proprietor in cases specified in sections 23 and 24 of this Act, prior to the date when this section, as amended, takes effect, who would have been entitled to the renewal term under this Act prior to the date when this section, as amended, takes effect, subject to any agreement, valid in law or equity, which may have been made for the disposal of the renewal term prior to the date when this section, as amended, takes effect: *Provided*, That in the case of a periodical or other composite work the continued term shall inure to the benefit of the proprietor with respect only to the work as a whole, and to each contribution or part as to which he would have been entitled to the renewal term under this Act, prior to the date when this section, as amended, takes effect, by virtue of any contract or agreement with the author."

SEC. 21. Section 25 of such Act is hereby amended by adding:

"(f) In the case of the infringement of any rendition, interpretation, or performance by any means whatsoever, shall not exceed the sum of \$5,000, nor be less than \$250."

SEC. 22. Section 30 of such Act is hereby amended to read as follows:

"SEC. 30. That the importation into the United States of any article bearing a false notice of copyright when there is no existing copyright therein in the United States, or of any piratical copies of any work copyrighted in the United States, as well as adaptations of musical compositions to instruments serving to reproduce them electrically or mechanically, if they would be unlawful in the United States, is prohibited."

SEC. 23. (a) The first paragraph of section 31 of such Act is hereby amended to read as follows:

"SEC. 31. That during the existence of copyright under this Act in any book in the English language, when an authorized edition thereof shall have been produced, or shall be in process of production, in accordance with the provisions of section 15 of this Act, as amended, irrespective of whether compliance with those provisions was essential to obtain copyright for the work under this Act, the importation into the United States of any copies of such book not so pro-

duced (although authorized by the author or proprietor) or any plates of the same not made from type set within the limits of the United States shall be, and is hereby, prohibited: *Provided, however,* That such prohibition shall not apply:".

(b) Subsection (d) of such section is hereby amended by striking out the semicolon at the end of the paragraph marked "First" and inserting in lieu thereof a comma and the following: "except that said author may import not more than five copies, for individual use and not for sale;".

SEC. 24. Section 41 of such Act is hereby amended to read as follows:

"SEC. 41. (a) That the copyright is distinct from the property in the material object copyrighted, and the sale or conveyance, by gift or otherwise, of the material object shall not of itself constitute a transfer of the copyright, nor shall the assignment of the copyright constitute a transfer of the title to the material object; but nothing in this Act shall be deemed to forbid, prevent, or restrict the transfer of any copy of a copyrighted work the possession of which has been lawfully obtained.

"(b) Independently of the copyright in any work secured under this Act, as amended, and even after assignment thereof, the author retains the right to claim the authorship of the work as well as the right to object to every deformation, mutilation, or other modification of the said work which may be prejudicial to his honor or to his reputation: *Provided, however,* That nothing in this paragraph shall limit or otherwise affect the right of full freedom of contract between the author of a work and an assignee or licensee thereof, or invalidate any express waiver or release by the author of any such rights or of any remedies or relief to which he might be entitled in consequence of a violation thereof, and the assignee or licensee of the author's moral right may, with the author's permission, make any change in the work which the author himself would have had a right to make prior to such assignment.

"In the absence of special contract, or notice by the author at the time he consented to the use of his work, the necessary editing, arranging, or adaptation of such work for publication in book form or for use in a newspaper, magazine, or periodical, in broadcasting, in motion pictures, or in mechanical or electrical reproduction, in accordance with customary standards and reasonable requirements, shall not be deemed to contravene the right of authors reserved in this section: *Provided,* That nothing in this section shall be deemed to alter or in any manner impair any right or remedy of an author at common law or in equity."

SEC. 25. Section 42 of such Act is hereby amended to read as follows:

"SEC. 42. That the author or other owner of any copyright secured under this Act as amended, or of any copyright heretofore secured under any previous Act, may to the extent of his interest therein, by written instrument signed by him or his duly authorized agent, executed after this Act, as amended, takes effect, assign, mortgage, license, or otherwise dispose of the entire copyright or any right or rights comprised therein, either wholly or separately, either generally or subject to limitations, for a period not exceeding twenty-eight years from the date of the copyright, or for a specified territory or territories, and may bequeath the same by will. But no assignment, mortgage, license, or other disposition of said copyright, or any right or rights comprised therein, shall be valid except as between the parties thereto, unless it is in writing signed by the owner of the right in respect of which such instrument is made, or (except in the case of a will) by his duly authorized agent. The author, or other owner of any copyright, or any person or persons deriving any right, title, or interest from any author or other owner as aforesaid, may each,

separately, for himself, in his own name as party to a suit, action, or proceeding, protect and enforce such rights as he may hold, and, to the extent of his right, title, and interest, is entitled to the remedies provided by this Act, as amended. The provisions of this Act as to the acknowledgement of assignments and recording them in the Copyright Office are applicable to the instruments referred to in this paragraph.

"In the absence of any agreement to the contrary, license to publish a work in book form, or in a newspaper, magazine, periodical, or other composite work, shall not be deemed to convey any other right than the right of publication as a book, or in a newspaper, magazine, periodical, or other composite work, respectively; nor shall license for any specified use of a work be deemed to convey a right to use it in any other manner."

SEC. 26. Section 54 of such Act is hereby amended by striking out the period at the end of such section and inserting in lieu thereof a colon and the following: "*Provided*, That any incorrect entry may be corrected by the filing of a new and correct application accompanied by the required copy, or identifying material, and the fee as in the case of an original entry. The application for such corrected entry shall also be accompanied by an affidavit sworn to by the owner of the copyright setting forth the facts upon which the request for the new entry is based. In case of a dispute as to the ownership of copyright, the Supreme Court of the District of Columbia may, upon due cause shown, order the cancelation or correction of any entry. No liability shall be incurred, however, on the part of any person who, in reliance upon an erroneous entry, shall have printed, performed, or otherwise used, the copyrighted work contrary to the rights of the actual owner."

SEC. 27. Section 60 of such Act is hereby amended by inserting after the words "to be destroyed" the words "or returned to the copyright owner:".

SEC. 28. Section 61 of such Act is hereby amended by striking out the following: "For recording the renewal of copyright provided for in sections twenty-three and twenty-four, \$1."

SEC. 29. Section 62 of such Act is hereby amended to read as follows:

"SEC. 62. (a) That in the interpretation and construction of this Act 'the date of publication' shall in the case of a work of which copies are reproduced for sale or distribution be held to be the earliest date when copies of the first authorized edition were placed on sale, sold, or publicly distributed or made available for renting or licensing, by the proprietor of the copyright or under his authority.

"(b) In the absence of agreement to the contrary, where any work is created by an employee within the scope of his employment, his employer shall be regarded as the assignee, even without a written assignment, and shall be the owner of the copyright in such work; but this provision shall not apply to works created under special commission where there is no relation of employer and employee, unless the parties agree otherwise.

"(c) Copyright in the photograph of a single individual shall not be had except with the written consent of the person photographed."

SEC. 30. That nothing in this Act shall be construed as in contravention of any obligation of the United States existing by virtue of any treaty to which the United States is a party.

SEC. 31. That the President is hereby authorized and requested to take all steps and perform all acts necessary to make the United States a member of the Union for the Protection of Literary and Artistic Works.

SEC. 32. Interpreters and performers under this Act shall include interpreters, performers, actors, lecturers, and conductors, and the rights afforded them

for their renditions, interpretations, and performances shall not be construed to interfere with the rights accorded authors and composers, and said rights are free and independent of each other, and the establishing or maintenance of the rights of the one shall not include those of the other class.

SEC. 33. That this Act shall take effect on August 1, 1936, except as to section 30, which shall take effect on the date of enactment of this Act. All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed, but nothing in this Act shall affect causes of action for infringement of copyright heretofore committed now pending in courts of the United States, or which may hereafter be instituted; but such causes shall be prosecuted to a conclusion in the manner heretofore provided by law.

#### ADDENDUM IV

[H. R. 11420, 74th Congress, 2d Session]

In the House of Representatives. February 24, 1936. Mr. Sirovich introduced the following bill; which was referred to the Committee on Patents and ordered to be printed

A BILL To amend and consolidate the Acts respecting copyright

*Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled,* That the author of any work made the subject of copyright by this Act, or his executors or administrators, or any assignee claiming under a written agreement with him or them the right to copyright such work, shall upon complying with the provisions of this Act have the exclusive right—

- (a) To print, reprint, publish, copy, and vend the copyrighted work;
- (b) To translate the copyrighted work into other languages or dialects or to make any other version, adaptation, arrangement, or setting thereof; to transform the same from one of its various forms into any other form; to dramatize it; to make from it a motion picture with or without sound or with or without dialog; to convert it into a novel or other nondramatic work; to arrange or adapt it, if it be a musical composition or dramatico-musical work; to complete, execute, and finish it, if it be a plan, model, or design for a work of art or for a work of architecture: *Provided*, That copyright in a work of architecture shall extend only to artistic character and design and not to processes or methods of construction;
- (c) To present or deliver the copyrighted work in public;
- (d) To exhibit the copyrighted work if it be a motion picture, to perform or represent it if it be a drama, dramatico-musical, or a choreographic work or pantomime or, if it be a dramatic or dramatico-musical work or a motion picture and not reproduced in copies for sale, to vend any manuscript or any record whatsoever thereof; to make or to procure the making of any transcription or record thereof, by or from which, in whole or in part, it may in any manner or by any method now known or hereafter invented be exhibited, performed, represented, produced, or reproduced; and to exhibit, perform, represent, produce, or reproduce it in any manner or by any method whatsoever;
- (e) To perform the copyrighted work publicly for profit if it be a musical composition; to synchronize it for use in motion pictures; to make any arrangement or setting of it or of the melody of it in any system of notation or any form of record in which the thought of an author may be recorded and from which it may be read or reproduced: *Provided*, That the provisions of this Act, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically a musical composition, shall include only compositions published and copyrighted after July 1, 1909; and such provisions shall not include the musical compositions of a foreign author or composer unless the foreign country of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights: *Provided further*, That such rights shall not apply to musical compositions which have been lawfully adapted to mechanical instruments before this Act takes effect;

(f) To communicate the copyrighted work by radio broadcasting, rebroadcasting, radio facsimile, wired radio, telephony, telegraphy, television, or by other means or methods for transmitting or delivering sounds, words, images, or pictures, whether now known or hereafter invented; and

(g) To perform publicly for profit the particular rendition or interpretation of a musical composition by the performer or interpreter thereof by any mechanical means, including recording or recapturing of it by any mechanical reproduction by any process, means, or method.

#### COMMON-LAW RIGHTS PRESERVED

SEC. 2. Nothing in this Act shall be construed to annul or limit the right of the author or proprietor of an unpublished work at common law or in equity.

#### COMPONENT PARTS AND COMPOSITE WORKS

SEC. 3. The copyright provided by this Act shall protect all the copyrightable component parts of the work copyrighted, and all matter therein in which copyright is already subsisting, but without extending the duration or scope of such copyright. The copyright upon composite works or periodicals shall give to the proprietor thereof all the rights in respect thereto which he would have if each part were individually copyrighted under this Act.

#### ALL WRITINGS PROTECTED

SEC. 4. The works for which copyright may be secured under this Act shall include all the writings of an author, whatever the mode or form of their expression.

#### CLASSIFICATION OF COPYRIGHT WORKS

SEC. 5. The application for registration shall specify to which of the following classes the work in which copyright is claimed belongs:

(a) Books, pamphlets, and contributions to periodicals in manuscript, or typed script as well as prints.

(b) Newspapers, magazines, and other periodicals.

(c) Lectures, sermons, addresses, and other works prepared for oral delivery.

(d) Dramatic and dramatico-musical compositions; dramatizations; scenarios and continuities.

(e) Musical compositions.

(f) Maps and geographical charts.

(g) Works of art and reproductions of a work of art.

(h) Literary scripts not included in other classes enumerated in this section.

(i) Plans, drawings, models, and plastic works of a scientific or technical character; and plans, models, and designs for architectural works.

(j) Photographs.

(k) Prints and pictorial illustrations.

(l) Motion pictures and motion-picture photoplays, with or without sound and/or dialog.

(m) Choreographic works and pantomimes, the scenic arrangement or acting form which is fixed in writing, or otherwise.

(n) Works prepared expressly for radio broadcasting, or for recording by means of electrical or mechanical transcription, including programs and continuities insofar as they embody original work of authorship.

(o) Miscellaneous writings, including works mentioned in section 6 not enumerated above:

*Provided, however,* That the above specifications shall not be held to limit the subject matter of copyright as defined in section 4 of this Act, nor shall any error in classification invalidate or impair the copyright protection secured under this Act.

#### OTHER WORKS

SEC. 6. Copyright shall subsist in compilations, abridgements, translations, dramatizations, adaptations, picturizations, novelizations, and arrangements, notwithstanding such works are based in whole or in part upon works in the public domain and/or copyright works, provided the consent of the copyright owner has been secured; but the copyright secured by this section shall not affect the force or validity of any subsisting copyright upon the matter employed or any part thereof or be construed to imply an exclusive right to such use of the original works or to secure or extend copyright in such original works.

#### WORKS NOT COPYRIGHTABLE

SEC. 7. In no event shall copyright under this Act extend to—

- (a) Works in the public domain;
- (b) Publications of the United States Government; but the use by the Government of a copyright work shall not in any manner affect or impair the copyright; and the Government shall not use any such copyright work without the consent of the owner;
- (c) Designs capable of being patented, or designs, or textiles, or patterns for wearing apparel, or pictorial representations of such designs or patterns;
- (d) Renditions, interpretations, mechanical and electrical recordings and transcriptions, in respect of any work the author of which shall not have consented in writing to the securing of copyright in such renditions, interpretations, recordings, and transcriptions by another; but the consent of the copyright owner to use his work for renditions, interpretations, mechanical and electrical transcriptions, or recordings and the securing of copyright therein by another shall not deprive, diminish, restrict, or in any wise prejudice any right or remedy secured to an author by this Act in any work used for such rendition, interpretation, electrical transcription, or recording;
- (e) The photograph of a single individual except with the written consent of the person photographed or;
- (f) Works of an alien author, except where (1) such author is residing within the United States at the time of the creation of his work, or (2) such author is a citizen of a foreign country which, at the time of the creation of his work (A) by treaty, convention, agreement, or law grants to citizens of the United States the benefit of copyright on substantially the same basis as the United States grants copyright protection to its own citizens, or (B) is an adhering party to a general copyright convention to which the United States is, at the same time, an adhering party: *Provided,* That whenever the President of the United States shall find that any country places any prohibitions, restrictions, conditions, or limitations upon the importation, publication, distribution, dissemination, circulation, performance, exhibition, broadcasting, or other use of any copyrighted work of United States origin or subjects such work to any system of quotas, contingents, licenses, permits, censorship, taxation, or to tariff duties, sanctions, bans, or other regulations which he shall determine to be discriminatory, unreasonable, or injurious to the commercial interests of the United States and its citizens, he shall by proclamation apply to the works of the nationals of such country substantially similar and in his discretion such additional measures as he may deem appropriate. The President may, from

time to time, modify or revoke in whole or in part any proclamation issued under this section, and he may in any proclamation specify the terms and conditions under which the nationals of such country may secure copyright in their works in the United States and exercise and enjoy the rights and remedies granted under this Act. Whenever in the judgment of the President the conditions which have caused him to issue a proclamation have ceased to exist, he shall revoke the same. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out and enforce the provisions and accomplish the purposes of this section; and he may exercise any power or authority conferred on him by this section through such officer or officers, agency or agencies, as he shall direct. If the President shall find that any of the provisions of this section, if applied, would contravene treaty provisions in force between the United States and any foreign country, he shall enter into negotiations with the government of such country for the purpose of effecting such modification of the treaty provisions as may be necessary, and, if he shall be unable to bring about the necessary modifications, he may in his discretion give notice of termination of the treaty.

#### COPYRIGHT DISTINGUISHED FROM MATERIAL OBJECT COPYRIGHTED

SEC. 8. The copyright is distinct from the property in the material object copyrighted, and the sale or conveyance, by gift or otherwise, of the material object shall not of itself constitute a transfer of the copyright, nor shall the assignment of the copyright constitute a transfer of the title to the material object; but nothing in this Act shall be deemed to forbid, prevent, or restrict the transfer of any copy of a copyright work the title to which has been lawfully obtained.

#### PUBLICATION WITH NOTICE

SEC. 9. Any person entitled thereto by this Act may secure copyright for his work by publication thereof with the notice of copyright required by this Act; and such notice shall be affixed to each copy thereof published or offered for sale in the United States by authority of the copyright proprietor, except in the case of books seeking ad-interim protection under section 20 of this Act.

#### REGISTRATION OF COPYRIGHT

SEC. 10. Such person may obtain registration of his claim to copyright by complying with the provisions of this Act, including the deposit of copies of the work upon which copyright is claimed, and upon such compliance the Register of Copyrights shall issue to him the certificate provided for in section 58 of this Act. Registration of composite works or periodicals by the proprietor thereof shall inure also to the benefit of the author or other owner of each independent part or contribution therein to the same extent as though such part or contribution were separately registered.

#### COPYRIGHT PROTECTION OF UNPUBLISHED WORKS

SEC. 11. Copyright may also be had of the works of an author or the renditions or interpretations of a performer, which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete typed or holographic copy of such work if it be a lecture or similar production, or a dramatic, musical, or dramatico-musical composition; by a title and description, if it be an intended rendition or performance or interpretation of any work heretofore mentioned; of a title and description with not less than two prints of at least



twenty frames each taken from different sections of the film, if the work be a motion-picture photoplay; by a photographic print, if the work be a photograph; by a title and description, with not less than two prints of at least twenty frames each taken from different sections of a complete motion picture, if the work be a motion picture other than a photoplay; or of a photograph or other identifying reproduction thereof, if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt copyright proprietors from the deposit of copies under sections 12 and 13, and 20 of this Act, where the work is later published.

#### DEPOSIT OF COPIES

SEC. 12. After copyright has been secured by publication of the work with the notice of copyright as provided in section 9 of this Act, there shall be promptly deposited in the Copyright Office or in the mail addressed to the Register of Copyrights, Washington, District of Columbia, two complete copies of the best edition of such work then published, or if the work is by an author who is a citizen or subject of a foreign state or nation, and has been published in a foreign country, one complete copy of the best edition then published in such foreign country, which copies or copy, if the work be a book, periodical, pamphlet, or map, shall have been produced in accordance with the manufacturing provisions specified in section 15 of this Act; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution; or if the work is not published, there shall be deposited the copy, print, photograph, or other identifying reproduction provided by section 11 of this Act, such copies or copy, print, photographs, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this Act with respect to the deposit of copies and registration of such work shall have been complied with.

#### FAILURE TO DEPOSIT COPIES

SEC. 13. Should the copies called for by section 12 of this Act not be promptly deposited as herein provided, the Register of Copyrights may at any time after the publication of the work, upon actual notice, require the proprietor of the copyright to deposit them, and after the said demand shall have been made, in default of the deposit of copies of the work within three months from any part of the United States, except an outlying territorial possession of the United States, or within six months from any outlying territorial possession of the United States, or from any foreign country, the proprietor of the copyright shall be liable to a fine of \$100 and to pay to the Library of Congress twice the amount of the retail price of the best edition of the work, and the copyright shall become void.

#### POSTMASTER'S RECEIPT

SEC. 14. The postmaster to whom are delivered the articles deposited as provided in section 12 of this Act shall, if requested, give a receipt therefor and shall mail them to their destination without cost to the copyright claimant.

#### MANUFACTURE

SEC. 15. All copies of any copyright material which shall be distributed in the United States in book, pamphlet, map, or sheet form shall be printed from

type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, and/or from plates made within the limits of the United States; or, if the text be produced by lithographic, photogravure, or photoengraving, or any kindred process or any other process of reproduction now or hereafter devised, then by a process wholly performed within the limits of the United States; and the printing or other reproduction of the text, and the binding of the said book, pamphlet, or map, shall be performed within the limits of the United States. Said requirements shall extend also to any copyright illustrations, maps, or charts within any book or pamphlet, or in sheet form. Said requirements shall not apply to works in raised characters for the use of the blind.

The violation of any of the provisions of this and the next succeeding section shall be a complete defense and bar to any action or proceeding, whether criminal or civil, for the infringement of the copyright in a work specified in this section.

#### AFFIDAVIT OF MANUFACTURE

Sec. 16. Whenever manufacture is required in the United States under the preceding section, an affidavit under the official seal of any officer authorized to administer oaths within the United States, duly made by the author himself; or by the owner of any right to print or publish such work in the United States in book, pamphlet, map, or printed sheet form; or by any agent of such author or owner duly authorized for that purpose residing in the United States, shall be filed in the Copyright Office within sixty days after such publication, setting forth the manner in which compliance has been had with all requirements of the preceding section. Such affidavit shall state also the place where, and the establishment or establishments in which, such type was set and/or plates were made or where lithograph, photogravure, photo-engraving, or reproduction of any kindred process or any other process of reproduction now or hereafter devised, and/or printing and binding, were performed, and the date of completion of printing of the work or the date of publication. At any time or times when compliance with such preceding section is requisite, unless said affidavit shall be filed or the court shall find the failure to file said affidavit was due to excusable neglect, no action in respect of an infringement of copyright in said work or any right or rights therein shall be instituted or maintained by any person who, under the provisions of this section, might have filed this affidavit. Any person who shall knowingly make a false affidavit as to his having complied with the above conditions shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000, and all of his rights and privileges under said copyright shall thereafter be forfeited. But nothing herein contained shall limit or suspend the right of the assignee or licensee of the author of any right under such copyright other than those in this section specified to bring any action or proceeding for the infringement of the rights which such assignee or licensee may own.

#### PENALTY FOR FALSE AFFIDAVIT

Sec. 17. Any person who, for the purpose of obtaining registration of a claim to copyright, shall knowingly make a false affidavit as to his having complied with the above conditions shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000, and all of his rights and privileges under said copyright shall thereafter be forfeited.

## NOTICE OF COPYRIGHT

SEC. 18. That the notice of copyright required by this Act shall consist of (1) the word "copyright", or the abbreviation "copr.", or the letter "C" enclosed within a circle; (2) the name of the copyright owner, or his initials, monogram, mark, or symbol, provided his name appears in reasonable proximity thereto; (3) the year when the copyright began. Such notice of copyright shall be affixed to each copy of the work published in the United States by authority of the copyright proprietor. In the case of any work in book form, the notice shall be placed upon the title page or the page immediately following. In the case of a newspaper, magazine, or periodical, such notice may also be placed in the editorial and publishing statement or table of contents: *Provided*, That one notice of copyright in each volume or in each number of a newspaper, magazine, or periodical published shall suffice: *Provided further*, That the notice of copyright in a newspaper, magazine, periodical, or other composite work shall be deemed sufficient to constitute due notice of copyright on behalf of each individual author entitled to copyright in any of the individual parts or contributions therein, notwithstanding any variance between the date in such notice and the date when copyright in any such part or contribution began: *Provided further*, That in the case of anonymous or pseudonymous works a notice with the name of the publisher shall be sufficient to protect the author or other owner of the copyright.

## EFFECT OF FAILURE TO AFFIX NOTICE OF COPYRIGHT

SEC. 19. Where the author or other owner of a copyright has sought to comply with the provisions of this Act with respect to notice, the omission by accident or mistake of the prescribed notice or any error as to the name of the copyright owner or the date of copyright or the position of the notice shall not invalidate the copyright or deprive the author or other owner thereof of any of his rights under this Act, or, except as otherwise provided in this Act, prevent recovery for infringement against any person who, after actual notice of the copyright, begins an undertaking to infringe it, but shall prevent the recovery of damages against an innocent infringer who has been misled by the omission of or error in the notice; and in a suit for infringement no permanent injunction shall be had unless the copyright owner shall reimburse to the innocent infringer his reasonable outlay innocently incurred, or such proportion thereof, as the court, in its discretion, shall direct.

## AD-INTERIM COPYRIGHT

SEC. 20. In the case of a book first published abroad in the English language the deposit in the Copyright Office, not later than sixty days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the copyright proprietor and of the date of publication of the said book, shall secure to the author or proprietor an ad-interim copyright, which shall have all the force and effect given to copyright by this Act, and shall endure until the expiration of four months after such deposit in the Copyright Office.

## EXTENSION OF AD-INTERIM COPYRIGHT

SEC. 21. Whenever within the period of such ad-interim protection an authorized edition of such book shall be published within the United States, in

accordance with the manufacturing provisions specified in section 15 of this Act, and whenever the provisions of this Act as to deposit of copies, registration, filing of affidavit, and the printing of the copyright notice shall have been duly complied with, the copyright shall be extended to endure in such book for the full term elsewhere provided in this Act.

#### TERM OF COPYRIGHT

SEC. 22. The copyright secured by this Act shall endure for fifty-six years from the date of publication or the date of the registration of such work in the Copyright Office, whichever is the earlier date, whether the copyrighted work bears the author's true name or is published anonymously or under an assumed name.

#### EXTENSION OF SUBSISTING COPYRIGHTS

SEC. 23. The copyright subsisting in any work when this Act takes effect shall be continued until the expiration of fifty-six years from the date of the beginning of the term of the original copyright in the work. If on the date when this Act takes effect less than twenty-eight years have elapsed since the copyright began, then the copyright for the period of such continuation beyond twenty-eight years shall vest on the date when this Act takes effect in the person or persons who would have been entitled to the renewal of the copyright under existing law.

#### REMEDIES OF COPYRIGHT OWNER

SEC. 24. Subject to the limitations provided in sections 25 and 26, the author or other owner of any right secured by this Act is entitled to the following remedies against any infringer of such right:

(a) Injunctive relief restraining any such infringement, according to the principles and rules of courts of equity, including the impounding during the pendency of the action of all infringing articles as well as plates, molds, matrices, and other similar means for making such infringing articles; but no temporary restraining order or impounding order shall be issued which would prevent or delay the publication of a newspaper, magazine, or other similar periodical; and in the case of a newspaper, magazine, or other similar periodical reproduction of a photograph, no injunction shall issue.

(b) The recovery of (1) such damages as the owner of the right infringed has suffered from the infringement, and in the determination of such damages the court may receive opinion or expert testimony, including testimony as to the prices currently paid for similar rights in copyright works of the same or like character, but such damages shall not be limited to the prices so paid, and shall be sufficient to prevent their operation as a license to infringe; and (2) the part of the profits of the defendant to which such owner may be justly entitled, to be accounted for by the defendant, and the defendant shall be required to prove every element of cost which he claims; but where the defendant establishes that he was an innocent infringer recovery under this subdivision (b) shall be limited to an amount which shall justly compensate the owner of the right infringed for the use made of the copyright or any right therein, and in determining the amounts of such just compensation similar testimony may be received.

(c) In lieu of the remedies provided under subsection (b) the plaintiff may at any stage of the trial claim the statutory damages which he shall be awarded in an amount not in excess of \$20,000, nor less than \$250, except that in the case of an infringement of a musical composition which is not a component part of a copyrighted motion picture or dramatico-musical composition, the

minimum statutory damage shall be \$125, and such statutory damages shall not be regarded as a penalty, provided the limitation as to the maximum amount of recovery as statutory damages shall not apply to a willful infringement.

(d) Upon the conclusion of the action resulting in a judgment in favor of the owner of the right infringed, the infringer shall deliver upon oath for destruction or such other disposition as the court may order all infringing articles, copies, or devices, as well as plates, molds, matrices, and other means for making such infringing articles, copies, or devices.

#### LIMITATIONS ON REMEDIES

SEC. 25. Notwithstanding any other provision of this Act, the remedies given to the owner of the right infringed shall be limited as follows:

(a) Where an infringer is engaged solely in the business of printing the copyright work for others, and establishes that he was an innocent infringer, the owner of the right infringed shall be entitled, as against such infringer, only to an injunction against future printing.

(b) Where the infringement complained of is contained in or is part of paid advertising matter in a newspaper, magazine, or other similar periodical, the remedies of the owner of the right infringed shall be (1) available only against the advertiser and advertising agency, and (2) in the case of any other infringer, confined to an injunction, subject to the provisions of subsection (c) hereof, against the future public presentation of such advertising matter:

*Provided*, That these limitations shall apply only to innocent infringers.

(c) Injunctive relief shall not be available to the owner of the right infringed in respect of an issue of a newspaper, magazine, or other similar periodical containing infringing matter after the commencement and/or preparation of the engraving and/or composition work either (1) for the issue containing such infringing matter, or (2) for any issue containing a previous installment or portion of the serial or other work in which such infringing matter appears.

#### EXEMPTIONS

SEC. 26. None of the remedies given by this Act to the author or other owner of the right infringed shall be deemed to apply to—

(a) The performance of a copyright musical composition by a recognized bona-fide charitable, religious, or educational organization where the entire proceeds thereof, after deducting the actual reasonable cost of presenting the same, are devoted exclusively to charitable, religious, or educational purposes: *Provided*, That no part of the proceeds of such performance shall be for the private gain of any sponsor, promoter, or other participant in the enterprise;

(b) The fair use of quotations from copyright matter, provided credit is given to the copyright owner or the work quoted; or

(c) The publication of a photograph as an item of public or general interest in the dissemination of news.

#### JUDGMENT OR DECREE

SEC. 27. Any court given jurisdiction under section 35 of this Act may proceed in any action, suit, or proceeding instituted for violation of any provision hereof to enter a judgment or decree enforcing the remedies herein provided.

#### JOINDER OF PROCEEDINGS

SEC. 28. The proceedings for an injunction, damages, and profits, and those for the seizure of infringing articles, copies, plates, molds, matrices, and so forth, aforementioned, may be united in one action.

## PENALTY FOR WILLFUL INFRINGEMENT

SEC. 29. Any person who willfully and for profit shall infringe any copyright secured by this Act, or who shall knowingly and willfully aid or abet such infringement, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not exceeding one year or by a fine of not less than \$100 nor more than \$1,000, or both, in the discretion of the court.

## FALSE NOTICE OF COPYRIGHT

SEC. 30. Any person who, with fraudulent intent, shall insert or impress any notice of copyright required by this Act, or words of the same purport, in or upon any uncopyrighted article, or with fraudulent intent shall remove or alter the copyright notice upon any article duly copyrighted, shall be guilty of a misdemeanor, punishable by a fine of not less than \$100 and not more than \$1,000. Any person who shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country, or who shall knowingly import any article bearing such notice or words of the same purport, which has not been copyrighted in this country, shall be liable to a fine of \$100.

## PROHIBITION OF IMPORTATION

SEC. 31. The importation into the United States of any article bearing a false notice of copyright when there is no existing copyright therein in the United States, or of any piratical copies of any work copyrighted in the United States, is prohibited.

## FURTHER PROHIBITION ON IMPORTATION

SEC. 32. During the existence of copyright under this Act in any book, pamphlet, map, or sheet, when an authorized edition thereof shall have been produced or shall be in process of production, in accordance with the provisions of section 15 of this Act, the importation into the United States of any copies of such work not so produced (although authorized by the author or proprietor) or any plates of the same not made from type set or other means for reproducing the work not made within the limits of the United States shall be, and is hereby, prohibited: *Provided, however,* That such prohibition shall not apply—

- (a) To works in raised characters for the use of the blind;
- (b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization;
- (c) To the authorized edition of a book in a foreign language or languages of which only a translation into English has been copyrighted in this country; or
- (d) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four subdivisions following (except that said author may import not more than five copies for individual use and not for sale), that is to say:

First. When imported, not more than one copy at one time, for individual use and not for sale; but such privilege of importation shall not extend to a foreign reprint of a book by an American author copyrighted in the United States;

Second. When imported by the authority or for the use of the United States;

Third. When imported, for use and not for sale, not more than five copies of any such book in any one invoice, in good faith, by or for any society or institution incorporated for educational, literary, philosophical, scientific, or religious purposes, or for the encouragement of the fine arts, or for any college, academy, school, or seminary of learning, or for any State, school, college, university, or free public library in the United States; or

Fourth. When such books form parts of libraries, or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph, or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale:

*Provided*, That copies imported as above may not lawfully be used in any way to violate the rights of the proprietor of the American copyright or annul or limit the copyright protection secured by the Act, and such unlawful use shall be deemed an infringement of copyright.

#### SEIZURE OF COPIES

Sec. 33. Any and all articles prohibited importation by this Act which are brought into the United States from any foreign country (except in the mails) shall be seized and forfeited by like proceedings as those provided by law for the seizure and condemnation of property imported into the United States in violation of the customs revenue laws. Such articles when forfeited shall be destroyed in such manner as the Secretary of the Treasury or the court, as the case may be, shall direct: *Provided, however*, That all copies of authorized editions of copyright books imported in the mails or otherwise in violation of the provisions of this Act may be exported and returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury, in a written application, that such importation does not involve willful negligence or fraud.

#### RULES TO PREVENT UNLAWFUL IMPORTATION

Sec. 34. The Secretary of the Treasury and the Postmaster General are hereby empowered and required to make and enforce such joint rules and regulations as shall prevent the importation into the United States in the mails of articles prohibited importation by this Act, and may require notice to be given to the Treasury Department or Post Office Department, as the case may be, by copyright proprietors or injured parties, of the actual or contemplated importation of articles prohibited importation by this Act, and which infringe the rights of such copyright proprietors or injured parties.

#### JURISDICTION OF COURTS

Sec. 35. (a) All actions, suits, or proceedings arising under the copyright laws of the United States shall be originally cognizable by the District Courts of the United States, including the District Courts of Alaska, Hawaii, the Canal Zone, Puerto Rico, and the Virgin Islands, and the Supreme Court of the District of Columbia.

(b) Orders, judgments, or decrees of any court having jurisdiction arising under the copyright laws of the United States may be reviewed on appeal in the manner and to the extent provided by law for the review of cases determined in said court. On such appeal, the appellate court shall have jurisdiction to

reverse, modify, or affirm the proceedings in the court below, including the amount and nature of any recovery or award under section 24 of this Act.

#### VENUE

Sec. 36. Civil actions, suits, or proceedings arising under this Act may be instituted in the district of which the defendant or his agent is an inhabitant or in which he may be found.

#### INJUNCTIONS

Sec. 37. Any such court or judge thereof shall have power, upon bill in equity filed by any party aggrieved, to grant injunctions to prevent and restrain the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as said court or judge may deem reasonable. Any injunction that may be granted restraining and enjoining the doing of anything forbidden by this Act may be served on the parties against whom such injunction may be granted anywhere in the United States, and shall be operative throughout the United States and be enforceable by proceedings in contempt or otherwise by any other court or judge possessing jurisdiction of the defendants.

#### CERTIFIED COPY OF PAPERS FILED

Sec. 38. The clerk of the court, or judge granting the injunction, shall, when required so to do by the court hearing the application to enforce said injunction, transmit without delay to said court a certified copy of all the papers in said cause that are on file in his office.

#### LIMITATION OF ACTIONS

Sec. 39. No civil or criminal proceeding shall be maintained under the provisions of this Act unless the same is commenced within three years after the cause of action arose.

#### COSTS AND ATTORNEY'S FEE

Sec. 40. In all actions, suits, or proceedings under this Act, except when brought by or against the United States or any officer thereof, full costs shall be allowed, and the court may award to the prevailing party a reasonable attorney's fee as part of the costs.

#### RULES OF PRACTICE

Sec. 41. (a) In all actions for infringement of the copyright in any work, the court shall receive and consider expert and other evidence, as to source material in the public domain, the prior art, and on the issue of infringement.

(b) The Supreme Court of the United States shall prescribe such rules and regulations as may be necessary for practice and procedure in any action or other proceeding under this Act.

#### ASSIGNMENTS AND LICENSES

Sec. 42. The author or other owner of any copyright secured under this Act, or of any copyright heretofore secured under any previous Act, may to the extent of his interest therein, by written instrument signed by him or his duly



authorized agent, executed after this Act takes effect, assign, mortgage, license, or otherwise dispose of the entire copyright or any right or rights comprised therein, either wholly or separately, either generally or subject to limitations as to time, place, or territory, or as to mode, form, or medium of expression or reproduction, or as to type of presentation, or as to any other terms, conditions, or circumstances, and may bequeath the same by will. Any license for first publication before public presentation in the same or any other mode, form, or medium of expression shall be given effect according to the terms of such license; but in no event shall any license be deemed to include the right of first publication unless such right is expressly included in the license: *Provided, however,* That, where the owner of a copyright work grants a license for the first publication of a work in newspapers, magazines, or other similar periodical publications, such license shall secure to the licensee an exclusive right to complete the publication of such work prior to its public presentation in any mode, form, or medium of expression by anyone else, including the owner of the copyright work and anyone claiming under him; and licensees of other rights of publication or public presentation take such rights in the absence of express agreement to the contrary, subject to such rights of first publication granted, or to be granted by the author or other owner of the copyright; but in the absence of express agreement to the contrary, such license of the right of first publication (1) automatically expires ninety days after the completion of the publication of any such work, and (2) becomes a nonexclusive license in the event the licensee fails to commence publication within three years from the time the completed work is delivered to such licensee; but such three-year period shall not in any manner limit or affect any right of first publication acquired prior to the effective date of this Act: *Provided,* That no assignment of the copyright hereafter secured and no grant of any right or interest therein made by the author otherwise than by will 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-eight years from the date of copyright, and the reversionary interest in the copyright expectant at the termination of that period shall, notwithstanding any agreement to the contrary, devolve on the author of such work if living, or the widow, widower, or children of the author if the author be not living and has not disposed of such reversionary interest by will, or if such author, widow, widower, or children be not living, then on the author's executors or, in the absence of a will, his next of kin, and any agreement entered into by the author as to the disposition of such reversionary interest shall be null and void.

Where the property of a debtor in reorganization, receivership, or insolvency proceedings or a bankrupt comprises the copyright in any work or any right or interest in such copyright, and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee, receiver, or liquidator in such proceedings or bankruptcy shall not be entitled to exercise or authorize the exercise of any of the several rights secured under this Act in such work, except upon the terms of paying to the author such sums by way of royalty or share of the profits as may be due as well as those which would have been payable by the debtor or bankrupt; nor shall he, without the consent of the author, be entitled to assign or otherwise dispose of such rights or any interest therein by license or otherwise, except upon terms which will secure to the author payments by way of royalty or share of profits whether past due or otherwise, at a rate not less than that which the debtor or bankrupt was originally liable to pay.

## ACTIONS BY LICENSEES

SEC. 43. Any license granted by the owner of a copyright work shall be deemed to secure to the licensee, to the extent of his interest, any and all remedies given by this Act to any owner of the copyright. The licensee shall be entitled to proceed in his own name and behalf against any infringer of his rights under the license, without joining in such proceeding the owner of the copyright or any person claiming under him.

## JOINDER OF INTERESTED PARTIES

SEC. 44. In any action or other proceeding pursuant to this Act in which the copyright owner, or his assignee or licensee, seeks profits or damages, statutory or actual, and where any party to the action shows to the satisfaction of the court that some third person may claim to be entitled to said profits or damages or some part thereof by reason of the ownership of rights or licenses involved in the same suit, the court, on the application of such party or on its own motion, may order that notice be given of the pendency of the action to such third persons where their rights or licenses have been recorded or registered in the Copyright Office prior to the commencement of the action. Such notice shall be deemed sufficient if sent by registered mail to the address of the person entitled to such notice appearing in the instruments recorded or registered in the Copyright Office. The court may permit such persons to appear in the action and such provision may be made with reference to profits or damages by way of division or otherwise, the entire controversy and the rights and interests of the several parties to the action adjudicated as justice may require; but this section shall not in any manner prejudice or delay the rights and remedies of the plaintiff, and the plaintiff shall be entitled to prosecute his action to a final determination and secure the remedies provided in this Act despite the absence of such third party. No judgment shall be res adjudicata against the owner or any assignee or licensee who shall not be named and served as a party to such action or proceeding.

## RECORDATION OF FOREIGN ASSIGNMENTS

SEC. 45. Every assignment of copyright executed in a foreign country shall be acknowledged by the assignor before a consular officer or secretary of legation of the United States authorized by law to administer oaths or perform notarial acts. The certificate of such acknowledgment, under the hand and official seal of such consular officer or secretary of legation, shall be prima-facie evidence of the execution of the instrument.

## TIME OF RECORDATION

SEC. 46. Every assignment of copyright shall be recorded in the Copyright Office within three calendar months after its execution in the United States or within six calendar months after its execution without the limits of the United States, in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, whose assignment has been duly recorded.

## CERTIFICATE OF RECORDATION

SEC. 47. The Register of Copyrights shall, upon payment of the prescribed fee, record such assignment, and shall return it to the sender with a certificate of record attached under seal of the Copyright Office, and upon the payment

of the fee prescribed by this Act he shall furnish to any person requesting the same a certified copy thereof under the said seal.

#### SUBSTITUTION OF ASSIGNEE'S NAME

SEC. 48. When an assignment of the copyright in a specified book or other work has been recorded, the assignee may substitute his name for that of the assignor in the statutory notice of copyright prescribed by this Act.

#### FAILURE TO RECORD

SEC. 49. The failure to record an assignment or license shall not impair or limit the rights of the assignee or licensee except as in this Act provided.

#### COPYRIGHT RECORDS

SEC. 50. All records and other things relating to copyrights required by law to be preserved shall be kept and preserved in the Copyright Office, Library of Congress, District of Columbia, and shall be under the control of the Register of Copyrights, who shall, under the direction and supervision of the Librarian of Congress, perform all the duties relating to the registration of copyrights.

#### REGISTER OF COPYRIGHTS

SEC. 51. There shall be appointed by the Librarian of Congress a Register of Copyrights, at a salary of \$5,500 per annum, and one Assistant Register of Copyrights, at a salary of \$4,000 per annum, who shall have authority during the absence of the Register of Copyrights to attach the Copyright Office seal to all papers issued from the said Office and to sign such certificates and other papers as may be necessary. There shall also be appointed by the Librarian such subordinate assistants to the Register as may from time to time be authorized by law.

#### FISCAL DUTIES OF REGISTER

SEC. 52. The Register of Copyrights shall make daily deposits in some bank in the District of Columbia, designated for this purpose by the Secretary of the Treasury as a national depository, of all moneys received to be applied as copyright fees, and shall make weekly deposits with the Secretary of the Treasury, in such manner as the latter shall direct, of all copyright fees actually applied under the provisions of this Act, and annual deposits of sums received which it has not been possible to apply as copyright fees or to return to the remitters, and shall also make monthly reports to the Secretary of the Treasury and to the Librarian of Congress of the applied copyright fees for each calendar month, together with a statement of all remittances received, trust funds on hand, moneys refunded, and unapplied balances.

#### BOND OF REGISTER

SEC. 53. The Register of Copyrights shall give bond to the United States in the sum of \$20,000, in form to be approved by the Solicitor of the Treasury and with sureties satisfactory to the Secretary of the Treasury, for the faithful discharge of his duties.

#### ANNUAL REPORT OF REGISTER

SEC. 54. The Register of Copyrights shall make an annual report to the Librarian of Congress, to be printed in the Annual Report on the Library of

Congress, of all copyright business for the previous year, including the number and kind of works which have been deposited in the Copyright Office during the fiscal year under the provisions of this Act.

#### SEAL OF COPYRIGHT OFFICE

SEC. 55. The seal provided under the Act of July 8, 1870, and at present used in the Copyright Office, shall continue to be the seal thereof, and by it all papers issued from the Copyright Office requiring authentication shall be authenticated.

#### RULES FOR REGISTRATION OF COPYRIGHT

SEC. 56. Subject to the approval of the Librarian of Congress, the Register of Copyrights shall be authorized to make rules and regulations for the registration of claims to copyright as provided by this Act.

#### RECORD BOOKS AND ENTRIES

SEC. 57. The Register of Copyrights shall provide and keep such record books in the Copyright Office as are required to carry out the provisions of this Act, and whenever deposit has been made in the Copyright Office of a copy of any work under the provisions of this Act he shall make entry thereof: *Provided*, That any incorrect entry may be corrected by the filing of a new and correct application accompanied by the required copy, or identifying material, and the fee as in the case of an original entry. The application for such corrected entry shall also be accompanied by an affidavit sworn to by the owner of the copyright setting forth the facts upon which the request for the new entry is based. In case of a dispute as to the ownership of copyright, the Supreme Court of the District of Columbia may, upon due cause shown, order the cancellation or correction of any entry.

#### CERTIFICATE OF REGISTRATION

SEC. 58. In the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the Copyright Office, to contain the name and address of said claimant, the name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the Copyright Office shall show the same), the title of the work which is registered for which copyright is claimed, the date of the deposit of the copies of such work, the date of publication if the work has been reproduced in copies for sale or publicly distributed, and such marks as to class designation and entry number shall fully identify the entry. In the case of a book, pamphlet, or map, the certificate shall also state the receipt of the affidavit, as provided by section 13 of this Act, and the date of the completion of the manufacturing, or the date of the publication of the work, as stated in the said affidavit. The Register of Copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for in the case of all registrations made after this Act goes into effect, and in the case of all previous registrations so far as the Copyright Office record books shall show such facts, which certificate, sealed with the seal of the Copyright Office, shall, upon payment of the prescribed fee, be

given to any person making application for the same. Said certificate shall be admitted in any court as prima-facie evidence of the facts stated therein. In addition to such certificate the Register of Copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration.

#### INDEX TO COPYRIGHT REGISTRATIONS

SEC. 59. The Register of Copyrights shall fully index all copyright registrations and assignments and shall print at periodic intervals a catalog of the titles of articles deposited and registered for copyright, together with suitable indexes, and at stated intervals shall print complete and indexed catalogs for each class of copyright entries, and may thereupon, if expedient, destroy the original manuscript catalog cards containing the titles included in such printed volumes and representing the entries made during such intervals. The current catalogs of copyright entries and the index volumes herein provided for shall be admitted in any court as prima-facie evidence of the facts stated therein as regards any copyright registration.

#### DISTRIBUTION OF CATALOGS

SEC. 60. The said printed current catalogs as they are issued shall be promptly distributed by the Copyright Office to the collectors of customs of the United States and to the postmasters of all exchange offices of receipt of foreign mails, in accordance with revised lists of such collectors of customs and postmasters prepared by the Secretary of the Treasury and the Postmaster General, and they shall also be furnished in whole or in part to all parties desiring them at a price to be determined by the Register of Copyrights for each part of the catalog not exceeding \$10 for the complete yearly catalog of copyright entries. The consolidated catalogs and indexes shall also be supplied to all persons ordering them at such prices as may be determined to be reasonable, and all subscriptions for the catalogs shall be received by the Superintendent of Public Documents, who shall forward the said publications; and the moneys thus received shall be paid into the Treasury of the United States and accounted for under such laws and Treasury regulations as shall be in force at the time.

#### PUBLIC INSPECTION OF RECORDS

SEC. 61. The record books of the Copyright Office, together with the indexes to such record books, and all works deposited and retained in the Copyright Office, shall be open to public inspection; and copies may be taken of the copyright entries actually made in such record books, subject to such safeguards and regulations as shall be prescribed by the Register of Copyrights and approved by the Librarian of Congress.

#### DISPOSAL OF COPIES

SEC. 62. Of the articles deposited in the Copyright Office under the provisions of the copyright laws of the United States or of this Act, the Librarian of Congress shall determine what books and other articles shall be transferred to the permanent collections of the Library of Congress, including the law library, and what other books or articles shall be placed in the reserve collections of the Library of Congress for sale or exchange, or be transferred to other governmental libraries in the District of Columbia for use therein.

## DISPOSAL OF COPYRIGHT DEPOSITS

SEC. 63. Of any articles undisposed of as above provided, together with all titles and correspondence relating thereto, the Librarian of Congress and the Register of Copyrights jointly shall, at suitable intervals, determine what of these received during any period of years it is desirable or useful to preserve in the permanent files of the Copyright Office, and, after due notice as hereinafter provided, may within their discretion cause the remaining articles and other things to be destroyed: *Provided*, That there shall be printed in the Catalog of Copyright Entries from February to November, inclusive, a statement of the years of receipt of such articles and a notice to permit any author, copyright proprietor, or other lawful claimant to claim and remove before the expiration of the month of December of that year anything found which relates to any of his productions deposited or registered for copyright within the period of years stated, not reserved or disposed of as provided for in this Act: *Provided further*, That no manuscript of an unpublished work shall be destroyed or returned to the copyright owner during its term of copyright.

## FEES

SEC. 64. The Register of Copyrights shall receive, and the persons to whom the services designated are rendered shall pay, the following fees: For the registration of any work subject to copyright, deposited under the provisions of this Act, \$2, which sum is to include a certificate of registration under seal: *Provided*, That in the case of any unpublished work registered under the provisions of section 11, the fee for registration with certificate shall be \$1, and in the case of a published photograph the fee shall be \$1 where a certificate is not desired. For every additional certificate of registration made, \$1. For recording and certifying any instrument of writing for the assignment of copyright, or any such license specified in section 1, subsection (e), or for any copy of such assignment or license, duly certified, \$2 for each Copyright Office record-book page or additional fraction thereof over one-half page. For comparing any copy of an assignment with the record of such document in the Copyright Office and certifying the same under seal, \$2. For recording the transfer of the proprietorship of copyrighted articles, 10 cents for each title of a book or other article, in addition to the fee prescribed for recording the instrument of assignment. For any requested search of Copyright Office records, indexes, or deposits, \$1 for each full hour of time consumed in making such search: *Provided*, That only one registration at one fee shall be required in the case of several volumes of the same book deposited at the same time.

## DEFINITIONS

SEC. 65. (a) "United States" means the United States of America and includes the dependencies of the United States;

(b) "Publication" means the publishing, for public sale, of books, newspapers, magazines, periodicals, or pamphlets, and contributions thereto, and of any other writings appearing in any such forms or sheet form, including the works specified in subsections (c), (d), (e), (f), (h), (j), (k), and (n) of section 5;

(c) "Date of publication", in the case of a work of which copies are reproduced for sale or distribution means the earliest date when copies of the first authorized addition were placed on sale, sold, or publicly distributed by the owner of the copyright or under his authority;

(d) Works in the "public domain" include (1) works in the public domain at the date this Act goes into effect, (2) works which are not copyrightable, and (3) works of which the term of copyright protection has expired;

(e) "Innocent infringer", as used in this Act, shall be deemed one who shall establish to the satisfaction of the court that he acted in good faith, was unaware of, and had no intent to infringe in respect of the material charged to infringe, and that he used all reasonable and appropriate precautions to prevent and guard against such infringement;

(f) The words "printed" or "printing" include photoengraving, electrotyping, stereotyping, photogravure, gravure, lithography, or other processes used in reproductive manufacture in printed form, as well as all forms and methods of typesetting, printing, and binding;

(g) "Printed sheets" and "pamphlets" do not include newspapers, magazines, or other periodicals;

(h) A license or grant of "first serial rights" to a newspaper, magazine, or other periodical shall be deemed to give to the licensee all of the rights herein secured to a licensee of the "right of first publication";

(i) "Author" includes an employer in the case of any work created by an employee within the scope of his employment, and such employer shall be the owner of the copyright in such work in the absence of agreement to the contrary; but this provision shall not apply to works created under special commission where there is no relation of employer and employee, unless the parties agree otherwise;

(j) The "owner" of the right infringed means the author or other owner of the copyright and any assignee or licensee of such right.

#### REPEAL OF FORMER ACTS

SEC. 66. The Act entitled "An Act to amend and consolidate the Acts respecting copyright" approved on March 4, 1909, and all amendments thereof, are hereby repealed, as well as all laws or parts of laws in conflict with the provisions of this Act except that—

(a) Nothing in this Act shall affect causes of action for infringement of copyright heretofore committed and now pending in the courts of the United States or which may hereafter be instituted, but such causes shall be prosecuted to a conclusion in the manner heretofore provided by law; and

(b) Sections 1 (e) and 25 (e) of said Act of March 4, 1909, as amended, relating to the mechanical reproduction of musical works, shall continue in full force and effect in respect of musical works copyrighted prior to July 1, 1936.

#### EFFECTIVE DATE AND SCOPE OF ACT

SEC. 67. This Act shall go into effect on its passage, and shall be in effect throughout the United States, and in all Territories subject to its jurisdiction and including the Canal Zone, the Virgin Islands, and the Territory of Hawaii.