

APPENDIX II

REPORT OF THE REGISTER OF COPYRIGHTS FOR THE
FISCAL YEAR 1925-1926

WASHINGTON, D. C., July 20, 1926.

SIR: The copyright business and the work of the copy-
right office for the fiscal year July 1, 1925, to June 30,
1926, inclusive, are summarized as follows:

RECEIPTS

The gross receipts during the year were \$185,038.29. A *Fees, etc.*
balance of \$15,963.74, representing trust funds and un-
finished business, was on hand July 1, 1925, making a
total sum of \$201,002.03 to be accounted for. Of this
amount, the sum of \$7,161.72, received by the copyright
office, was refunded as excess fees or as fees for articles
not registrable, leaving a net balance of \$193,840.31.
The balance carried over to July 1, 1926, was \$15,533.11
(representing trust funds, \$13,691.99, and total unfinished
business since July 1, 1897—29 years—\$1,841.12), leav-
ing fees applied during the fiscal year 1925-26 and paid
into the Treasury \$178,307.20.

This is the largest year's business in the history of the
office.

The annual applied fees since July 1, 1897, are:

1897-98	\$55,926.50	1913-14	\$120,219.25
1898-99	58,267.00	1914-15	111,922.75
1899-1900	65,206.00	1915-16	112,986.85
1900-1901	63,687.50	1916-17	110,077.40
1901-2	64,687.00	1917-18	106,352.40
1902-3	68,874.50	1918-19	113,118.00
1903-4	72,629.00	1919-20	126,492.25
1904-5	78,058.00	1920-21	134,516.15
1905-6	80,198.00	1921-22	138,516.15
1906-7	84,685.00	1922-23	149,297.00
1907-8	82,387.50	1923-24	162,544.90
1908-9	83,816.75	1924-25	166,909.55
1909-10	104,644.95	1925-26	178,307.20
1910-11	109,913.95		
1911-12	116,685.05	Total	3,035,907.15
1912-13	114,980.60		

EXPENDITURES

- Salaries.* The appropriation made by Congress for salaries in the copyright office for the fiscal year ending June 30, 1926, was \$159,800. The total expenditures for salaries was \$159,764.79, or \$18,542.41 less than the net amount of fees earned and paid into the Treasury during the corresponding year. The expenditures for supplies, including stationery and other articles and postage on foreign mail matter, etc., was \$985.74, leaving a balance for the year of \$17,556.67 to the credit of the office.
- Stationery and sundries.*
- Copyright receipts and fees.* During the 29 fiscal years since the reorganization of the copyright office (from July 1, 1897, to June 30, 1926) the copyright fees applied and paid into the Treasury have amounted to \$3,035,907.15, the articles deposited number 6,003,676, and the total copyright registrations number 3,438,308.
- Excess of fees over salaries.* The fees earned (\$3,035,907.15) were larger than the appropriations for salaries used during the same period (\$2,556,443.24) by \$479,463.91.
- Value of copyright deposits.* In addition to this direct profit the large number of over five and a half million books, maps, musical works, periodicals, prints, and other articles deposited during the 29 years were of substantial pecuniary value and of such a character that their accession 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

Entries and fees. The registrations for the fiscal year numbered 177,635. Of these, 168,839 were registrations at \$1 each, including a certificate, and 4,767 were registrations of photographs without certificates, at 50 cents each. There were also 4,029 registrations of renewals, at 50 cents each. The fees for these registrations amounted to a total of \$173,237.

The number of registrations in each class from July 1, 1920, to June 30, 1926, is shown in Exhibit D. During the period from the date of the reorganization of the

copyright office, on July 1, 1897, to the present time, the copyright business has more than doubled, the copyright registrations increasing from 75,545 in 1897 to 177,635 in 1926.

COPYRIGHT DEPOSITS

The total number of separate articles deposited in compliance with the copyright law which have been registered, stamped, indexed, and catalogued during the fiscal year is 293,166. The number of these articles in each class for the fiscal years July 1, 1922, to June 30, 1926, with the grand total for 1897 to 1926, is shown in Exhibit E.

Articles deposited.

It is not possible to determine exactly how completely the works which claim copyright are deposited; but as title cards are printed and supplied upon request to other libraries for all books received bearing United States notice of copyright, the demand for such cards for works not received furnishes some indication of possible percentage of failure to deposit.

Works claiming copyright.

In response to inquiries received during the year from the card division, the accessions division, law division, and the reading room in regard to 602 books supposed to have been copyrighted but not discovered in the Library, it was found that 76 of these works had been received and were actually in the Library, 8 books had been deposited and were still in the copyright office, 63 works were either not published, did not claim copyright, or for other valid reasons could not be deposited, while in the case of 133 works no answers to our letters of inquiry had been received up to June 30, 1926. Copies were received of 322 works in all in response to requests made by the copyright office during the period of 12 months for works published in recent years.

Requests for copies.

The total copyright deposits for the year included 19,554 printed volumes, 61,048 pamphlets and leaflets, 82,120 newspapers and magazines (separate numbers), 4,653 dramas, 35,662 pieces of music, 5,222 maps, 13,042 photographs, 19,781 prints, 9,567 motion pictures, 28,955 contributions to periodicals, 5,402 works of art and draw-

Articles deposited during year.

ings, and 335 lectures. These were all produced in the United States. The number of deposits received from foreign countries is steadily on the increase. Of foreign books in foreign languages there were received during the year 6,586 separate works. Of English books deposited for ad interim protection the number for this fiscal year has reached 1,239, an increase of more than 25 per cent.

Disposal of deposits.

Our copyright laws have required the deposit of copies for the use of the Library of Congress. The act of 1909, which expressly provided for such deposit in order to secure the registration of the work, still insisted upon a deposit of two copies (except of foreign books) for the benefit of the Library; but to check the useless accumulation of such copies in the copyright office it is provided that the Librarian of Congress shall determine (1) what books or other articles shall be transferred to the permanent collections 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 Government 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.

Transferred to Library.

During the fiscal year a total of 101,893 articles deposited have been transferred to the Library of Congress. This number included 23,818 books, 60,995 periodicals, 10,758 pieces of music, 3,849 maps, and 2,473 photographs and engravings.

Out of the total number of articles deposited in the copyright office during the period from July 1, 1909, to June 30, 1926 (3,849,757), there have been transferred to the Library of Congress a total of 1,574,158 (books, maps, prints, periodicals, etc.).

Transfers to other libraries.

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" 6,315 books. Under this transfer, up to June 30, 1926, the following libraries have received books as indicated below:

Department of Agriculture, 3,420; Department of Commerce, 10,523; Navy Department, 1,826; Treasury Department, 1,496; Bureau of Education, 14,824; Federal Trade Commission, 8,996; Bureau of Standards, 2,094; Surgeon General's library, 5,144; Walter Reed Hospital, 1,008; Engineer School, Corps of Engineers, 3,153; Soldiers' Home, 1,344; Public Library of the District of Columbia, 38,070; John Crerar Library, Chicago, 1,243.

A number of other libraries have received a smaller number of books (under 1,000 volumes), including the Patent Office, 869; the Interstate Commerce Commission, 689; veterans' hospitals, 833. The grand total of books transferred to other libraries amounts to 103,872.

Under the provisions of the act of March 4, 1909, ^{Return of deposits to copyright claimants.} authority is granted also for the return to the claimants of copyright of such copyright deposits as are not needed by the Library of Congress or the copyright office. The notice required by section 60 has been printed for all classes of works deposited and registered during the years July 1, 1909, to June 30, 1919. In response to special requests 8,975 motion-picture films and 63,092 other deposits have been returned to the copyright claimants, making a total of 72,067 articles for the fiscal year. Since the act went into effect (July 1, 1909) to June 30, 1926, a total of 679,647 articles have been returned to the claimants of copyright in them.

Thus since the present copyright act went into effect ^{Total transfers, 1909-1926.} (July 1, 1909) to the close of the last fiscal year (June 30, 1926) the total copyright deposits forwarded from the copyright office files number as follows: (1) To the Library of Congress, 1,574,158; (2) to other libraries, 103,872; (3) to copyright claimants, 679,647; making a grand total for the period of 2,357,677.

INDEX AND CATALOGUE OF COPYRIGHT ENTRIES

The copyright act of March 4, 1909, provides "that ^{Copyright catalogue.} the register of copyrights shall fully index all copyright registrations and assignments," and it further provides that he "shall print at periodic intervals a catalogue of the titles of articles deposited and registered for copyright, together with suitable indexes * * *."

Strenuous efforts are made in the copyright office to carry out fully these provisions of law and to keep the index of copyright entries sharply up to date, in order to promptly and accurately answer the daily inquiries in relation to any copyright entry actually made, received by mail or telegraph, or on personal application. Moreover, this catalogue constitutes the only complete and adequate current record published of the literary, musical, dramatic, and artistic productions of the United States. It includes also a record of similar foreign productions, to the extent to which foreign books, music, dramas, and works of art are deposited and registered in the copyright office.

From year to year the catalogue has been prepared and has been printed with commendable promptness and regularity, but the lack of sufficient printing funds during the last three years caused delay in the publication of all parts (except that for books). The grant of a deficiency appropriation, however, has enabled resumption of current printing and all parts up to July 1, 1926, are now in type.

Summary of copyright business

Balance on hand July 1, 1925.....	\$15,963.74	
Gross receipts July 1, 1925, to June 30, 1926.....	185,038.29	
Total to be accounted for.....	201,002.03	
Refunded.....	7,161.72	
Balance to be accounted for.....	193,840.31	
Applied as earned fees.....	\$178,307.20	
Balance carried over to July 1, 1926:		
Trust funds.....	\$13,691.99	
Unfinished business		
July 1, 1897, to June		
30, 1926 (29 years).....	1,841.12	
	15,533.11	
	193,840.31	
Total fees earned and paid into Treasury during the		
29 years from July 1, 1897, to June 30, 1926.....	3,035,907.15	
Total unfinished business for 29 years.....	1,841.12	

Fees for fiscal year

Fees for registrations, including certificates, at \$1 each.....	\$168,839.00
Fees for registration of photographs without certificates, at 50 cents each.....	2,383.50
Fees for registration of renewals, at 50 cents each..	2,014.50
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Total fees for registrations recorded.....	173,237.00
Fees for certified copies of record, at 50 cents each.....	\$932.50
Fees for recording assignments.....	3,464.00
Searches made and charged for at the rate of 50 cents for each hour of time consumed.....	298.00
Notices of user recorded (music).....	218.00
Indexing transfers of proprietorship.....	157.70
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Total fees for the fiscal year 1925-26.....	178,307.20

Entries

Number of registrations.....	173,606
Number of renewals recorded.....	4,029
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Total.....	177,635
Number of certified copies of record.....	1,865
Number of assignments recorded or copied.....	2,725

The greater part of the business of the copyright office is done by correspondence. The total letters and parcels received during the fiscal year numbered 193,999, while the letters, parcels, etc., dispatched numbered 196,682. During the last 29 fiscal years the money orders received numbered 832,844.

Correspondence.

COPYRIGHT OFFICE PUBLICATIONS

The United States copyright laws in force and the "Rules and regulations for the registration of claims to copyright," Bulletins 14 and 15, respectively, were reprinted during the year as occasion required.

Bulletins.

A volume containing the "Decisions of the United States courts involving copyright, 1918-1924" has been prepared and is now being printed, to be published presently as Bulletin No. 19.

CONDITION OF COPYRIGHT OFFICE WORK

Condition of
current work.

On July 10, 1926, the remittances received up to the third mail of the day had been recorded, the account books of the bookkeeping division were balanced for June, the financial statements were prepared for the Treasury Department, and all earned fees to June 30 had been paid into the Treasury.

EXHIBIT A.—Statement of gross receipts, refunds, net receipts, and fees applied for fiscal year ending June 30, 1926

Month	Gross receipts	Refunds	Net receipts	Fees applied
1925	\$14,435.08	\$644.43	\$13,790.65	\$14,811.30
August.....	13,216.24	402.42	12,813.82	12,839.00
September.....	12,772.64	454.55	12,318.09	13,982.90
October.....	15,332.54	709.75	14,622.79	14,646.10
November.....	15,309.03	706.24	14,602.79	14,505.25
December.....	15,002.22	467.65	14,534.57	14,841.05
1926				
January.....	19,913.24	837.78	19,075.46	15,253.25
February.....	14,967.10	792.80	14,174.30	14,304.95
March.....	16,355.73	637.42	15,718.31	16,365.70
April.....	17,151.24	480.00	16,671.24	15,889.90
May.....	15,109.42	467.23	14,642.19	15,059.65
June.....	15,473.81	561.45	14,912.36	15,718.15
Total.....	185,038.29	7,161.72	177,876.57	178,307.20
Balance brought forward from June 30, 1925.....				\$15,963.74
Net receipts July 1, 1925, to June 30, 1926:				
Gross receipts.....			\$185,038.29	
Less amount refunded.....		7,161.72		
				177,876.57
Total to be accounted for.....				193,840.31
Copyright fees applied July 1, 1925, to June 30, 1926.....			178,307.20	
Balance carried forward to July 1, 1926:				
Trust funds.....			13,691.99	
Unfinished business.....			1,841.12	
				193,840.31

EXHIBIT B

Month	Registrations, including certificates		Registration of photos, no certificate		Registrations of renewals		Total number of registrations	Total fees for registrations
	Number	Fees at \$1	Number	Fees at \$0.50	Number	Fees at \$0.50		
1925								
July.....	14,032	\$14,032.00	487	\$243.50	332	\$166.00	14,851	\$14,441.50
August.....	12,243	12,243.00	336	168.00	196	98.00	12,775	12,509.00
September.....	13,355	13,355.00	344	172.00	195	97.50	13,894	13,624.50
October.....	13,834	13,834.00	393	196.50	356	178.00	14,583	14,208.50
November.....	13,950	13,950.00	353	176.50	125	62.50	14,428	14,189.00
December.....	14,133	14,133.00	399	199.50	282	141.00	14,814	14,473.50
1926								
January.....	14,299	14,299.00	188	94.00	888	444.00	15,375	14,837.00
February.....	13,482	13,482.00	517	258.50	421	210.50	14,420	13,951.00
March.....	15,519	15,519.00	276	138.00	302	151.00	16,097	15,808.00
April.....	14,983	14,983.00	396	198.00	469	234.50	15,848	15,415.50
May.....	13,960	13,960.00	626	313.00	248	124.00	14,384	14,397.00
June.....	15,049	15,049.00	452	226.00	215	107.50	15,716	15,382.50
Total.....	168,839	168,839.00	4,767	2,383.50	4,029	2,014.50	177,635	173,237.00

Month	Copies of record		Assignments and copies		Indexing transfers of proprietorship		Notices of users		Search fees	Total fees applied
	Number	Fees at \$0.50	Number	Fees	Number	Fees at \$0.10	Number	Fees		
1925										
July.....	100	\$50.00	228	\$268.00	128	\$12.80	23	\$8.50	\$30.50	\$14,811.50
August.....	69	34.50	180	228.00	205	20.50	52	18.50	28.50	12,839.00
September.....	171	85.50	179	230.00	54	5.40	36	7.50	30.00	13,982.90
October.....	116	58.00	226	330.00	141	14.10	45	11.00	24.50	14,646.10
November.....	136	68.00	147	194.00	55	5.50	28	16.25	32.50	14,506.25
December.....	206	103.00	193	201.00	128	12.80	63	23.75	27.00	14,841.05
1926										
January.....	250	125.00	201	256.00	55	5.50	54	13.25	16.50	15,263.25
February.....	178	89.00	231	274.00	162	16.20	36	16.25	18.50	14,394.95
March.....	178	89.00	357	420.00	187	18.70	56	11.50	18.50	16,366.70
April.....	175	87.50	232	320.00	149	14.90	32	20.00	32.00	15,889.90
May.....	195	97.50	363	498.00	229	22.90	92	28.75	17.50	15,059.65
June.....	91	45.50	188	245.00	84	8.40	35	14.75	22.00	15,718.15
Total.....	1,865	932.50	2,723	3,464.00	1,577	157.70	552	218.00	296.00	178,907.26

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EXHIBIT C.—Statement of gross cash receipts, yearly fees, number of registrations, etc., for 29 fiscal years

Year	Gross receipts	Yearly fees applied	Number of registrations	Increase in registrations	Decrease in registrations
1897-98	\$61,099.56	\$55,928.50	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		2,447
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	78,058.00	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	113,662.83	104,644.95	109,074		11,057
1910-11	113,661.52	109,913.95	115,196	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	135,280	8,718	
1921-22	145,398.26	138,516.15	138,633	3,353	
1922-23	153,923.62	149,297.00	148,946	10,313	
1923-24	167,705.98	162,544.90	162,694	13,748	
1924-25	173,971.95	166,909.55	165,848	3,154	
1925-26	185,038.29	178,307.20	177,635	11,787	
Total	3,164,067.11	3,035,907.15	3,438,308		

NOTE.—Detailed statement for 18 fiscal years, 1897-98, etc., to 1914-15, by months may be found in Annual Report of Register of Copyrights for year 1914-15 (pp. 177-178, Report of the Librarian of Congress for 1914-15). For subsequent years see the respective annual reports.

EXHIBIT D.—Table of registrations made during fiscal years 1920-21 to 1925-26, inclusive, arranged by classes¹

	1920-21	1921-22	1922-23	1923-24	1924-25	1925-26
Class A. Books (including pamphlets, leaflets, and contributions to periodicals):						
(a) Printed in the United States.....	39,864	44,626	52,034	53,729	61,440	68,779
(b) Printed abroad in a foreign language.....	1,134	1,309	2,886	2,306	3,266	3,430
(c) English books registered for ad interim copyright.....	247	372	641	947	964	1,249
Total.....	41,245	46,307	55,561	61,982	65,670	73,458
Class B. Periodicals (numbers).....	34,074	35,471	37,104	39,806	40,880	41,169
Class C. Lectures, sermons, addresses.....	196	374	276	281	263	337
Class D. Dramatic or dramatico-musical compositions.....	3,217	3,418	3,778	3,409	4,015	4,130
Class E. Musical compositions.....	31,054	27,381	24,900	26,734	26,548	25,484
Class F. Maps.....	1,647	1,930	2,042	2,265	2,222	2,647
Class G. Works of art; models or designs.....	2,762	2,964	2,790	2,873	2,950	3,173
Class H. Reproductions of works of art.....	7	1	0	4	4	0
Class I. Drawings or plastic works of a scientific or technical character.....	739	800	1,254	1,342	1,414	1,422
Class J. Photographs.....	7,048	6,645	6,875	7,922	6,981	6,784
Class K. Prints and pictorial illustrations.....	9,362	9,139	10,400	11,170	10,827	13,382
Class L. Motion-picture photoplays.....	1,391	1,307	1,145	1,181	1,272	1,238
Class M. Motionpictures not photoplays.....	330	180	182	292	493	385
Renewals.....	2,206	2,726	2,689	3,433	3,309	4,029
Total.....	135,280	138,633	148,946	162,694	165,848	177,635

¹ For detailed statement of registrations made for fiscal years from 1901-2 to 1914-15 see Annual Report of Register of Copyrights for 1914-15, pp. 180-182. For subsequent years see the respective annual reports.

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EXHIBIT E.—Table of articles deposited during 1922-23, 1923-24, 1924-25, and 1925-26, with totals of articles deposited for years 1897-98 to 1925-26

	1922-23	1923-24	1924-25	1925-26	Total 1897-1926
1. Books:					
(a) Printed in the United States:					
Volumes.....	20,658	20,120	20,129	19,564
Pamphlets, leaflets, etc....	49,397	55,120	55,820	61,048
Contributions to newspapers and periodicals..	18,827	22,300	24,179	28,955
Total.....	88,882	97,540	100,128	109,557
(b) Printed abroad in a foreign language.....	5,092	4,376	5,572	6,586
English works registered for ad interim copyright.....	641	979	955	1,239
Total.....	94,615	102,895	106,655	117,382	1,715,559
2. Periodicals.....	73,989	78,756	81,297	82,120	1,464,290
3. Lectures, sermons, etc.....	276	280	265	335	3,371
4. Dramatic or dramatico-musical compositions.....	4,074	3,709	4,477	4,653	94,343
5. Musical compositions.....	36,733	37,950	36,862	35,662	1,243,379
6. Maps.....	4,124	4,427	4,408	5,222	104,614
(7. Works of art; models or designs.....	2,792	2,875	2,968	3,177	83,809
8. Reproductions of works of art.....	0	2	6	0	2,094
8a. Chromos and lithographs.....	0	0	0	0	48,712
9. Drawings or plastic works of a scientific or technical character....	2,233	2,147	2,388	2,226	19,200
10. Photographs.....	13,468	14,768	13,436	13,042	607,328
11. Prints and pictorial illustrations....	16,327	17,038	16,202	19,781	501,382
12. Motion-picture photoplays.....	7,360	8,134	8,701	8,975	106,220
13. Motion pictures not photoplays....	248	464	690	592	6,070
14. Miscellaneous (unclassified articles).....					778
15. Foreign books received under act of Mar. 3, 1905.....					2,527
Total.....	256,229	273,445	278,361	293,166	6,003,676

NOTE.—For detailed statement of articles deposited during fiscal years 1897-98 to 1914-15 see Annual Report of Register of Copyrights for 1914-15, pp. 183-186. For subsequent years see the respective annual reports.

The classification "Chromos and lithographs" is not given in the law after July 1, 1909.

COPYRIGHT LAW REVISION

A bill to amend section 15 of the copyright act of ^{Amendatory} March 4, 1909, was presented to the House of Representa- ^{act of July 3,} ^{1908.} tives by the Hon. Albert H. Vestal on March 27, 1926,¹ was favorably reported to the House on May 6,² passed by the House on June 7, presented to the Senate on June 8,³ reported to the Senate without amendment on June 25⁴ by Hon. William M. Butler, chairman of the Committee on Patents, passed by the Senate on July 3, and approved and signed by the President on July 3, on which date it became law.⁵

This act amends section 15 of the copyright act of 1909, which sets out the specific requirements of manu- ^{Requirements} ^{of American man-} ^{ufacture, Act of} ^{1909.} facture within the limits of the United States in the case of books, periodicals, and lithographic or photo-engraved prints. In regard to such requirements of American manufacture the act of 1909 provides, however, that—

They shall not apply to works in raised characters for the ^{Exceptions.} use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under this act—

¹ 1926 (Mar. 27) : A bill to amend sec. 15 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909. Introduced by Mr. Vestal. H. R. 10774, 69th Cong., 1st sess. 2 pp. 4°. Referred to the Committee on Patents.

² 1926 (May 6) : A bill to amend sec. 15 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909. H. R. 10774 (Report No. 1100), 69th Cong., 1st sess. 2 pp. 4°. Referred to the House Calendar.

1926 (May 6) : Amend and consolidate copyright acts. Mr. Vestal, from the Committee on Patents, submitted the following report (to accompany H. R. 10774). H. R. Report No. 1100, 69th Cong., 1st sess. 2 pp. 8°.

³ 1926 (June 8, legislative day June 7) : An act to amend sec. 15 of the act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909. H. R. 10774, 69th Cong., 1st sess. 2 pp. 4°. In the Senate of the United States. Read twice and referred to the Committee on Patents.

⁴ 1926 (June 25, legislative day June 23) : An act to amend sec. 15 of the act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909. H. R. 10774, 69th Cong., 1st sess. 2 pp. 4°. In the Senate of the United States. Reported by Mr. Butler without amendment.

⁵ 1926 (July 3) : An act to amend sec. 15 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909. Public, no. 464, 69th Cong. (H. R. 10774.) 1 p. 8°.

and the amendatory act of July 3 adds—

Amendatory Act of 1926. or to works printed or produced in the United States by any other process than those above specified in this section.

The specific requirement of the copyright act of March 3, 1891, reenacted on March 4, 1909, that a book or periodical must be "printed from type set within the limits of the United States * * * or from plates made within the limits of the United States from type set therein," has prevented the obtaining, since July 1, 1891, when the original act went into effect, of copyright for any book or periodical not so printed. The result has been that a great many books and periodicals

Mimeograph, photostat or other processes.

not printed from type set, but produced by mimeograph, photostat or other similar processes, have not been protected by the copyright law. The difficult situation brought about by the World War in regard to printing made it necessary or convenient in substitution for printing from type set, to resort to other methods for the production of many classes of books and periodicals. The exact number of such works is not known, but it is reasonably safe to believe that they numbered many thousands. University professors and other teachers in the higher schools and similar institutions have suffered seriously by this loss of copyright for their books because they were not printed from "type set."

Relief to university professors and others.

It is certainly a reasonable proposition that the copyright granted to authors by Congress to protect their writings, as authorized by the Constitution, should not be lost to certain authors by reason of the requirements of our present copyright law as to methods of production. This amendatory act allows the author, who alone knows all the facts in relation to the publication and distribution of his book, to select his own method of production, and still be sure of his adequate protection from the time his work is *actually published* in the United States by any process of production. The enactment of this measure of relief from the restrictive type-setting requirements, in behalf of university professors and others, will also prove a considerable relief to the copyright office.

The petitions presented to the House and Senate by various university faculties led to the introduction of several other bills for the purpose of securing the relief desired. These were, in the order of date of their presentation, as follows: On January 21, 1926, in the House by the Hon. Andrew J. Montague, of Virginia (H. R. 8121);⁶ on January 23, in the Senate by the Hon. Walter F. George, of Georgia (S. 2728);⁷ on January 27, in the House by the Hon. M. C. Garber, of Oklahoma (H. R. 8464);⁸ on March 19 Mr. Garber introduced another bill for the same purpose (H. R. 10499).⁹

Petitions to Congress.

Other bills for same purpose.

H. R. 8121.

S. 2728.

H. R. 8464.

H. R. 10499.

GENERAL REVISION OF THE COPYRIGHT LEGISLATION

The movement which originated with the introduction in the House of Representatives of the Dallinger bills, H. R. 8177 and H. R. 9137, in 1924,¹⁰ for a general revision of the copyright acts was continued by the introduction of the Perkins bill on January 2, 1925 (H. R. 11258, 68th Cong., 2d sess.),¹¹ and was carried over into the present session of Congress by the reintroduction of the Perkins bill without change on December 17, 1925 (H. R. 5841).¹²

Dallinger bills, H. R. 8177 and 9137.

Perkins bill H. R. 5841.

On this bill public hearings took place on January 22 and February 3, 10, and 24, 1925. The stenographic report was printed. (548 pp. 8°.) A subcommittee of five members of the House Committee on Patents

Hearings, 1925.

⁶ 1926 (Jan. 21): A bill to amend secs. 15 and 16 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909. Introduced by Mr. Montague. H. R. 8121, 69th Cong., 1st sess. 3 pp. 4°. Referred to the Committee on Patents.

⁷ 1926 (Jan. 23, legislative day Jan. 16): A bill to amend the act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909, as amended. Introduced by Mr. George. S. 2728, 69th Cong., 1st sess. 3 pp. 4°. Referred to the Committee on Patents.

⁸ 1926 (Jan. 27): A bill to amend sec. 15 of the present copyright law of the United States. Introduced by Mr. Garber. H. R. 8464, 69th Cong., 1st sess. 1 p. 4°. Referred to the Committee on Patents.

⁹ 1926 (Mar. 19): A bill to amend secs. 15 and 16 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909. Introduced by Mr. Garber. H. R. 10499, 69th Cong., 1st sess. 3 pp. 4°. Referred to the Committee on Patents.

¹⁰ See Annual Report for 1923-24, pp. 194, 204-236.

¹¹ See Annual Report for 1924-25, pp. 190-191, 198-228.

¹² 1925 (Dec. 17): A bill to amend and consolidate the acts respecting copyright and to permit the United States to enter the International Copyright Union. Introduced by Mr. Perkins. H. R. 5841, 69th Cong., 1st sess. 40 pp. 4°. Referred to the Committee on Patents.

Vestal bill, H. R. 10434. was appointed to consider the bill during the recess. As a result of meetings held in New York under this authorization a new bill was introduced in the House on March 17, 1926. (H. R. 10434, 69th Cong., 1st sess.)¹³

Hearings, 1926. On this new bill public hearings were held on April 15, 16, 29, and 30, 1926, and the stenographic report was printed. (342 pp. 8°.)¹⁴ Congress adjourned before any report was presented from the Committee on Patents.

Radio. The parallel movement for the amendment of the copyright law in its relation to radio, which first had legislative attention by the introduction on February 23, 1924, by Senator Dill of his bill (S. 2600, 68th Cong., 1st sess.)¹⁵ was followed by the introduction on January 11, 1926, by Senator Dill of a new radio bill (S. 2328, 69th Cong., 1st sess.)¹⁶ This last bill was also introduced into the House without change on March 15, 1926, by Mr. Vestal (H. R. 10353).¹⁷ Joint public hearings took place in room 412, Senate Office Building, under the chairmanship of Senator William M. Butler, on April 5-9 and 19-22, 1926.¹⁸ No report was submitted by the committees.

Dill bills, S. 2600, 68th Cong.

S. 2328, 69th Cong.

Vestal bill, H. R. 10353.

Joint hearings.

¹³ 1926 (Mar. 17): A bill to amend and consolidate the acts respecting copyright and to permit the United States to enter the International Copyright Union. Introduced by Mr. Vestal. H. R. 10434, 69th Cong., 1st sess. 46 pp. 4°. Referred to the Committee on Patents.

¹⁴ Copyright: Hearings held before the Committee on Patents, House of Representatives, 69th Cong., 1st sess., on H. R. 10434, a bill to amend and consolidate the acts respecting copyright, and to permit the United States to enter the International Copyright Union. April 15, 16, 29, and 30, 1926. Washington, Government Printing Office, 1926. iv, 342 pp. 8°.

¹⁵ See Annual Report for 1923-24, pp. 191-192.

¹⁶ 1926 (Jan. 11, legislative day Jan. 7): A bill to amend sec. 1 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909, as amended, by adding subsection (f). Introduced by Mr. Dill. S. 2328, 69th Cong., 1st sess. 5 pp. 4°. Referred to the Committee on Patents.

¹⁷ 1926 (Mar. 15): A bill to amend sec. 1 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909, as amended, by adding subsection (f). Introduced by Mr. Vestal. H. R. 10353, 69th Cong., 1st sess. 5 pp. 4°. Referred to the Committee on Patents.

¹⁸ To amend the copyright act: Joint hearings before the Committees on Patents, Congress of the United States, 69th Cong., 1st sess., on S. 2328 and H. R. 10353, bills to amend sec. 1 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909, as amended, by adding subsection (f). April 5-9, 19-22, 1926. Printed for the use of the Committee on Patents. Washington, Government Printing Office, 1926. iii, 462 pp. 8°.

On July 1, in the Senate, during the debate on the House act (H. R. 9971, 69th Cong., 1st sess.) for the regulation of radio communications, the Hon. Kenneth McKellar, of Tennessee, offered the following amendment: *McKellar radio amendment.*

On page 44, line 8, insert the following:

"(d) and in case of the broadcasting of music hereafter copyrighted, each licensee shall have equal rights with all other licensees of similar stations to the use of such music upon the payment of such rates to the copyright owner as may be fixed by the commission after public hearings; and the commission shall have the power to regulate such rates from time to time after public hearings."

After some debate in which Hon. William M. Butler, chairman of the Senate Committee on Patents, participated, the amendment was rejected. (Congressional Record, July 1, 1926, pp. 12518-12520.)

On April 5, 1926, Hon. Albert H. Vestal introduced in the House "A bill to amend the copyright act of 1909 with respect to radio and broadcasting." This bill¹⁹ proposes the following amendments of section 1 (e) of the copyright act of 1909: In provisions defining rights secured in relation to a musical composition adds "to use or authorize the use of said work for radio broadcasting"; and requires that when music is used for radio broadcasting or for any public performance for profit the owner of the copyright shall be obliged to affix in some accessible place on such music or the phonograph roll "a notice of the amount of royalty prescribed for any use of such music for public performance for profit," and thereafter any other person shall be entitled to make similar use of it upon payment of the prescribed royalty. *Public performance of music.*

On April 12, 1926, the Hon. Clarence MacGregor introduced in the House a bill (H. R. 11209)²⁰ which pro-

¹⁹ 1926 (Apr. 5): A bill to amend the copyright act of 1909 with respect to radio and broadcasting. Introduced by Mr. Vestal. H. R. 10987, 69th Cong., 1st sess. 5 pp. 4°. Referred to the Committee on Patents.

²⁰ 1926 (Apr. 12): A bill to amend sec. 1 of the copyright act. Introduced by Mr. MacGregor. H. R. 11209, 69th Cong., 1st sess. 2 pp. 4°. Referred to the Committee on Patents.

vided that the sale of any copyrighted musical composition was to carry with it the implied license to publicly perform the same for profit, unless the said music carried a notice reserving such right to the author or copyright owner.

On May 3 Mr. MacGregor made a speech in the House in support of his bill, which was printed in the Congressional Record of that date (pp. 8574-8575) under the heading "A supermonopoly in music should not be permitted."

COPYRIGHT FOR DESIGNS

*Design copy-
right bills.* In my report last year I made mention of the design copyright bill (H. R. 12306, 68th Cong., 2d sess.) and the favorable report on this bill submitted by the House Committee on Patents (Report No. 1521, 68th Cong., 2d sess.). Both were printed in the librarian's report for 1925 (pp. 223-238).

*New bill, H. R.
6249.* In the Sixty-ninth Congress, first session, Mr. Vestal on December 21, 1925, introduced a new bill (H. R. 6249) "for copyright registration of designs."²¹ On this new bill well-attended public hearings took place on February 18 and 19, and on May 7, 1926.²²

*Revised draft,
H. R. 13117.* On June 28, 1926, Mr. Vestal introduced a new revised bill (H. R. 13117),²³ which was referred to the Committee on Patents, and will doubtless come up for discussion in the next session of Congress.

OTHER COPYRIGHT BILLS

*Minor bills in-
troduced.* Among minor bills introduced in relation to copyright are the following:

²¹ 1925 (Dec. 21). A bill for copyright registration of designs. Introduced by Mr. Vestal. H. R. 6249, 69th Cong., 1st sess. 15 pp. 4°. Referred to the Committee on Patents.

²² Registration of designs: Hearings held before the Committee on Patents, House of Representatives, 69th Cong., 1st sess., on H. R. 6249, a bill providing for copyright registration of designs. [Part 1.] Feb. 18 and 19, 1926. Washington, Government Printing Office, 1926. 1 p. l., 152 pp. 8°.

— Part 2. May 7, 1926. 1 p. l., pp. 153-216.

²³ 1926 (June 28). A bill for copyright registration of designs. Introduced by Mr. Vestal. H. R. 13117, 69th Cong., 1st sess. 16 pp. 4°. Referred to the Committee on Patents.

On January 27, in the Senate, by the Hon. Sam G. Bratton, a bill (S. 2811, 69th Cong., 1st sess.)²⁴ to amend section 1 of the copyright act of 1909 by adding the following words:

Bill S. 2811.

Nor shall the reproduction or rendition of a musical composition during a motion-picture exhibition as a means of entertainment in connection with the presentation of such motion-picture exhibition be deemed a public performance for profit, whether or not a fee is charged for admission to the place where such reproduction or rendition occurs.

Music used at motion-picture exhibitions.

On December 12, 1925, the Hon. Herbert W. Taylor, of New Jersey, introduced in the House a bill (H. R. 5245, 69th Cong., 1st sess.)²⁵ to amend sections 19 and 24 of the copyright act of 1909, to provide for notice of copyright in the case of reproduced designs, and for an appeal from copyright office rulings in case of applications for renewal entry. So far as any of these bills or reports are new, the full text of each is printed in the addenda to this report, pp. 246-309.

Bill H. R. 5245.

Notice of copyright for designs.

REVISED STATUTES

The movement for a revision and consolidation of the United States Statutes which has been noted in my several recent annual reports resulted in the introduction of a new bill in the House (H. R. 10000) on March 4, 1926, which was passed by both Houses of Congress and was signed by the President on July 3, 1926. This act is entitled "An act to consolidate, codify, and set forth the general and permanent laws of the United States in force December 7, 1925." It provides in section 2 that—

U. S. Code: Act of July 3, 1926.

The matter set forth in the code * * * shall establish prima facie the laws of the United States, general and permanent

²⁴1926 (Jan. 27, legislative day Jan. 16). A bill to amend sec. 1 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909, as amended in respect of public performance for profit. Introduced by Mr. Bratton. S. 2811, 69th Cong., 1st sess. 2 pp. 4. Referred to the Committee on Patents.

²⁵1925 (Dec. 12). A bill to amend secs. 19 and 24 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved Mar. 4, 1909. Introduced by Mr. Taylor of New Jersey. H. R. 5245, 69th Cong., 1st sess. 3 pp. 4. Referred to the Committee on Patents.

in their nature, in force on the 7th day of December, 1925; but nothing in this act shall be construed as repealing or amending any such law or as enacting as new law any matter contained in the code. In case of any inconsistency arising through omission or otherwise between the provisions of any section of this code and the corresponding portion of legislation heretofore enacted effect shall be given for all purposes whatsoever to such enactments. * * * The Code may be cited as "U. S. C."

The subject of copyrights is covered in this code as "Title 17: Copyrights," pages 449-456, with the sections numbered 1 to 63, as in the copyright act of March 4, 1909, and as printed in our Copyright Office Bulletin No. 14.

MOTION-PICTURE CENSORSHIP COMMISSION

*Motion - picture
censorship.* In my report for 1923-24, page 195, a résumé is given of the efforts to establish a motion-picture censorship commission whose license would be required before any motion-picture film could be registered for copyright protection. A bill containing the identical provision there quoted was reintroduced by Hon. William D. Upshaw, of Georgia, on December 21, 1925.²⁶ No report has been made on the bill.

INTERNATIONAL COPYRIGHT

*Presidential
proclamation,
Chile, Nov. 18,
1925.* One new copyright proclamation was issued during the fiscal year, under section 1 (e) of the copyright act of 1909, for copyright controlling the mechanical reproduction of music. This proclamation, in behalf of Chile, which was dated November 18, 1925, and became effective on July 1, 1925, is printed on pages 310-312 of this report.

Respectfully submitted.

THORVALD SOLBERG,
Register of Copyrights.

HERBERT PUTNAM,
Librarian of Congress.

²⁶1925 (Dec. 21): A bill to create a commission to be known as the Federal Motion-Picture Commission, and defining its powers and duties. Introduced by Mr. Upshaw. H. R. 6233, 69th Cong., 1st sess. 54 pp. 4°. Referred to the Committee on Education.

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ADDENDUM I

AN ACT To amend section 15 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress

Act July 3, 1926, to amend section 15 of copyright act, 1909. assembled, That section 15 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, be amended to read as follows:

"SEC. 15. That of the printed book or periodical specified in section 5, subsections (a) and (b) of this act, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this act, except as below provided, 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, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photo-engraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photo-engraving process, and also to separate lithographs or photo-engravings, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art: *Pro-*

Exceptions to typesetting requirements. *vided, however,* That said requirements shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under

this act, or to works printed or produced in the United States by any other process than those above specified in this section."

Approved July 3, 1926.

[Public No. 464, 69th Congress. H. R. 10774.]

[69th Cong., 1st sess., House Report No. 1100]

AMEND AND CONSOLIDATE COPYRIGHT ACTS

(May 6, 1926, referred to the House Calendar and ordered to be printed)

Mr. Vestal, from the Committee on Patents, submitted the following report (to accompany H. R. 10774):

*H. R. Report
No. 1100 — Es-
ceptions to type-
setting in United
States.*

The Committee on Patents, to which was referred the bill (H. R. 10774) to amend section 15 of an act entitled "An act to amend and consolidate the acts respecting copyright," amended March 4, 1909, having had the same under consideration, reports the bill to the House without amendment, and recommends that the same be passed.

Section 15 of the copyright act, approved March 4, 1909, requires a book or periodical in the English language to be "printed from type set within the limits of the United States * * * or from plates made within the limits of the United States from type set therein." This requirement of American typesetting has prevented, since 1891, when first enacted, the obtaining of copyright protection for such works as were produced by mimeograph or photostat, or other similar processes, but were not type-set.

This loss of protection has, in the first instance, unfavorably affected university professors and teachers in high schools or other educational institutions who desire to test out the text of their books by first producing them for a limited distribution by some mimeographic or photo-engraving process before preparing a final edition to be printed and published from type set in the ordinary way.

Under existing law the copyright office has not been able to register books and periodicals not printed from type set. This has imposed a considerable hardship on

many persons who do not need to print their works from type, and particularly upon teachers and a large class of authors of limited means who prepare lectures and textbooks for use in schools or in correspondence courses, who find printing from type too expensive for the small editions of their works required.

The university professors have petitioned for this relief, but they are not the only authors who have suffered this loss of copyright for their books because they were not printed from "type set." The World War brought about a difficult situation in regard to printing which made it necessary or convenient in many cases to substitute for printing from type set the production of their books or periodicals and leaflets by other methods.

It is certainly a reasonable proposition that the copyright granted to authors by Congress to protect their writings, as authorized by the Constitution, should not be lost to certain authors by reason of the requirements of our present copyright law as to methods of production. The author, who alone knows all the facts in relation to the publication and distribution of his book, should be allowed to select his own method of production and should be sure of his protection from the time his work is put before the public in any manner.

The bill as presented reenacts the present statutory requirements as to American manufacture, which are restated without change in lines 1 to 10 on page 1, and lines 1 to 20 on page 2 of the bill. Following these provisions the present law enacts that the said requirements—

shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under this act.

To these exceptions the bill adds, as the only proposal for new legislation—

or to works printed or produced in the United States by any other process than those above specified in this section.

No objection is known to exist to this proposed change which has been petitioned for by numerous college pro-

fessors and other persons who feel the need for this relief, and it is recommended as a just and needed amendment of our existing copyright law.

[89th Cong., 1st sess. H. R. 8121. In the House of Representatives, January 21, 1926]

Mr. Montague introduced the following bill; which was referred to the Committee on Patents and ordered to be printed.

*BILL H. R.
8121.—Excep-
tions to typeset-
ting clause.*

A BILL To amend sections 15 and 16 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 15 and 16 of the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, be amended to read as follows:

SEC. 15. That of the printed book or periodical specified in section 5, subsections (a) and (b) of this act, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this act, except as below provided, 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, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, photo-engraving process, or mimeographic process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, photo-engraving process, or mimeographic process, and also to separate lithographs or photo-engravings, except where in either case the sub-

jects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art; but they shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under this act.

SEC. 16. That in the case of the book the copies so deposited shall be accompanied by an affidavit, under the official seal of any officer authorized to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorized agent or representative residing in the United States, or by the printer who has printed the book, setting forth that the copies deposited have been printed from type set within the limits of the United States or from plates made within the limits of the United States from type set therein; or, if the text be produced by lithographic process, photo-engraving process, or mimeographic process, that such process was wholly performed within the limits of the United States, and that the printing of the text and binding of the said book have also been performed within the limits of the United States. Such affidavit shall state also the place where and the establishment or establishments in which such type was set or plates were made or lithographic process, photo-engraving process, or mimeographic process, or printing and binding were performed and the date of the completion of the printing of the book or the date of publication.

[69th Cong., 1st sess. S. 2728. In the Senate of the United States, January 16 (calendar day, January 23), 1926]

Bill S. 2728.— Mr. George introduced the following bill, which was read twice and referred to the Committee on Patents.
Exceptions to type-setting clause.

A BILL To amend the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress

assembled, That sections 15 and 16 of the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, as amended, are amended to read as follows:

"SEC. 15. That of the printed book or periodical specified in section 5, subsections (a) and (b) of this act, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this act, except as below provided, 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, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, photo-engraving process, or mimeograph process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, photo-engraving process, or mimeograph process, and also to separate lithographs, photo-engravings, or mimeographs, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art; but they shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under this act.

"SEC. 16. That in the case of the book the copies so deposited shall be accompanied by an affidavit, under the official seal of any officer authorized to administer oaths within the United States, duly made by the person claiming copyright, or by his duly authorized agent or representative residing in the United States, or by the printer who has printed the book, setting forth that the copies deposited have been printed from type set within the limits of the United States or from plates made within

the limits of the United States from type set therein; or, if the text be produced by lithographic process, photo-engraving process, or mimeograph process, that such process was wholly performed within the limits of the United States, and that the printing of the text and binding of the said book have also been performed within the limits of the United States. Such affidavit shall state also the place where and the establishment or establishments in which such type was set or plates were made or lithographic process, photo-engraving process, or mimeograph process, or printing and binding were performed and the date of the completion of the printing of the book or the date of publication."

SEC. 2. That section 31 of such act, as amended, is amended by adding "or mimeograph" immediately following "photo-engraving."

[69th Cong., 1st sess. H. R. 8464. In the House of Representatives, January 27, 1926]

Bill H. R. 8464. — Exceptions to typesetting clause. Mr. Garber introduced the following bill, which was referred to the Committee on Patents and ordered to be printed.

A BILL To amend section 15 of the present copyright law of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the present copyright law of the United States be, and hereby is, amended by the insertion of the words "or mimeographic process" after the words "or photo-engraving process" in lines 9, 15, 34, and 41 of the said section 15.

[69th Cong., 1st sess. H. R. 10434. In the House of Representatives,
March 17, 1926]

Mr. Vestal introduced the following bill, which was referred to the Committee on Patents and ordered to be printed:

Bill H. R. 10434.—General revision of copyright law.

A BILL To amend and consolidate the acts respecting copyright and to permit the United States to enter the International Copyright Union.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That copyright is secured and granted by this act to authors throughout the United States and its dependencies, without compliance with any conditions or formalities whatever, from and after the creation of their work and for the term hereinafter provided, in all their writings, published or unpublished, in any medium or form or by any method through which the thought of the author may be expressed, and such copyright includes the exclusive right:

Copyright to vest in author upon creation of his work.

Exclusive rights.

To copy, print, reprint, publish, produce, reproduce, perform, render, exhibit, or transmit the copyright work in any form, by any means, and/or transform the same in its various forms into any other form, and to vend or otherwise dispose of such work, and shall further include the exclusive rights—

To copy, print, and vend, etc.

(a) To translate said work into other languages or dialects, or to make any other version thereof;

To translate.

(b) To make, copy, and vend any phonographic record or any perforated roll or other contrivance by means of which, in whole or in part, said work may be mechanically reproduced;

To make phonograph records.

(c) To dramatize or make a motion picture of said work if it be a nondramatic work; or to convert said work into a nondramatic or dramatic work expressed in words or physical action if it be a dramatic work in the form of a motion picture; or into a novel or motion picture if it be a drama expressed in words or physical action;

To dramatize.

- To arrange music.* (d) To arrange or adapt said work if it be a musical work;
- (e) To complete, execute, and finish said work;
- To deliver to public.* (f) To deliver or authorize the delivery of said work in public if it be a lecture, sermon, or address prepared for oral delivery;
- To broadcast.* (g) To communicate said work to the public by radio broadcasting, telephoning, telegraphing, or by any other methods or means for transmitting sounds, words, images, or pictures;
- To perform dramatic works.* (h) To perform, represent, or exhibit said work publicly in whole or in part if it be a dramatic or dramatico-musical work, in any manner or by any method whatsoever, and, if such work is unpublished, to vend any manuscript or record thereof or otherwise dispose of the same; to make or to procure the making of any transcription, roll, or record thereof, in whole or in part, or any other contrivance by or from which it may in any manner or by any method or means be communicated, exhibited, performed, represented, produced, or reproduced; and to communicate, exhibit, perform, represent, produce, or reproduce it in any manner or by any means or method whatsoever;
- To perform music.* (i) To perform said work publicly, if it be a musical composition; and 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.
- United States authors.* Sec. 2. Such copyright shall extend to all published and unpublished work of citizens of the United States,
- Alien authors.* and shall also extend to the work of alien authors in the event that—
- International Copyright Union.* (a) Such work is first, or simultaneously, published in the United States and/or a foreign country adhering to the International Copyright Union; or
- (b) Such work, if unpublished, is created by a citizen or subject of a foreign country adhering to the International Copyright Union;

(c) Such author is a citizen or subject of a foreign country not adhering to the International Copyright Union, which country by treaty or international agreement grants to citizens of the United States copyright on the same basis as to its own citizens. Reciprocal protection.

The existence or cessation 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. President's proclamation.

For the purposes of this act a work shall be deemed to be published simultaneously in two countries if the time between the publication in good faith in one such country and the publication in good faith in the other country does not exceed fourteen days. Simultaneous publication.

SEC. 3. Where any work, except a dramatico-musical or musical work, is created by an employee within the scope of his employment, his employer shall, as author, 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 on special commission where there is no relation of employer and employee. Employer as author.

Where any dramatico-musical or musical work is created by an employee within the scope of his employment under general employment upon regular salary, his employer shall be the first owner of the copyright in such work, in the absence of agreement to the contrary; but this provision shall not apply to works created on special commission where there is no such relation of employer and employee.

SEC. 4. Copyright secured by this act shall extend to any work subject thereto to the extent to which it is original, notwithstanding it is based in part upon or incorporates in whole or in part some previously existing work: *Provided, however,* That the enjoyment and exercise of such copyright shall be subject and without prejudice to the rights of the owner of the copyright, if any, in the previously existing work and/or of anyone deriving or who has derived any right or rights from said owner. This section shall not apply to works referred to in section 5 of this act. Works based on other works.

*Compilations,
arrangements,
etc., of music.*

SEC. 5. Any compilation, abridgement, adaptation, arrangement, or dramatization of a dramatico-musical or musical work, if the same be a work in the public domain, or of a copyright dramatico-musical or musical work when produced with the consent of the proprietor of the copyright in such work, shall be regarded as a new work subject to copyright under the provisions of this act; but the publication of any such new work 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.

Copyright distinct from material reproduction.

SEC. 6. The copyright is distinct from the property in any material reproduction of the work, and the sale or conveyance, by gift or otherwise, of the material reproduction shall not of itself constitute a transfer of the copyright, nor shall the assignment or license of the copyright constitute a transfer of the title to the material reproduction unless expressly stipulated; except in the case of photographic portraits made for hire or on commission, in which case, in the absence of written agreement to the contrary, the copyright shall vest in the person whose portrait is reproduced or his legal representatives. Nothing in this act shall be deemed to forbid, prevent, or restrict the transfer of any copy of a copyright work the possession of which has been lawfully obtained.

Government publications.

SEC. 7. If the United States Government reprints and distributes any copyright work or part thereof with the consent of the owner, such use shall not in any way authorize the use elsewhere of such copyright material or prejudice or limit the rights of the copyright owner. Subject always to the foregoing, no copyright shall subsist in any report or other publication of the United States Government.

Works of architecture.

SEC. 8. The copyright of a work of architecture shall cover only its artistic character and its design and shall not extend to processes or methods of construction, nor shall it prevent the making, exhibiting, or publishing of

photographs, motion pictures, paintings, or other illustrations thereof, which are not in the nature of architectural drawings or plans, and the owner of the copyright shall not be entitled to obtain an injunction restraining the construction, substantially begun, or use, of an infringing building, or an order for its demolition or seizure.

ASSIGNMENT OF COPYRIGHT

SEC. 9. The author, or other owner of any copyright ^{Assignment of} under this act or of any copyright heretofore secured ^{copyright.} under any previous act of the United States, may, by written instrument signed by him or his duly authorized agent, executed after this act goes into 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 the entire term of such copyright or for a limited time, or for a specified territory or territories, and may bequeath the same by will. 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.

All rights comprised in a copyright are several, distinct, and severable. ^{Distinct and} Where, under any assignment of ^{severable rights} less than the entire copyright or under an exclusive license, the assignee or licensee becomes entitled to any right comprised in copyright or to the exercise thereof, the assignee or licensee to the extent of the rights so assigned or conferred shall be treated for all purposes, including the right to sue, as the owner of the several and distinct rights and parts of the copyright so assigned or conferred; and the assignor or licensor to the extent of his rights not so assigned or conferred shall be treated for all purposes as the owner of the several and distinct rights and parts of the copyright not so assigned or conferred.

*Contracts made
prior to this act.*

SEC. 10. In case of any copyright secured before this act goes into effect, by a person other than the author of the work, under a written contract executed before this act goes into effect, by which some of the rights embraced in the copyright were reserved to the author of such work, such author or his assignee, or licensee, or the holder of such reserved rights (if not theretofore disposed of by the copyright proprietor of record before this act takes effect), shall have the right (to the extent of his right, title, or interest) in his own name to protect and enforce such rights, or license therein, and shall be entitled to the remedies provided by this act. In case one or more of the several rights under a copyright secured before this act goes into effect shall have been assigned, granted, or otherwise disposed of by the author or other owner of such copyright, before this act goes into effect, under a written agreement executed before this act goes into effect, then the assignee or licensee mentioned in such agreement shall have the right (to the extent of his right, title, or interest) in his own name to protect and enforce such right or license, and shall be entitled to the remedies provided by this act. This section shall apply only in cases where any such written instrument shall have been recorded in the office of the register of copyrights before the expiration of six months after this act goes into effect. This section shall not, however, affect the rights and liabilities of any of the parties to any such instrument as between themselves.

*Assignments
may be recorded.*

SEC. 11. Assignments, grants, licenses, and mortgages of copyright or of any separate right therein, or any other instrument relating to or affecting a copyright or right therein, may be recorded in the Copyright Office at any time after execution. A failure so to record shall not affect the validity of any such instrument: *Provided*, That no unrecorded assignment, grant, license, mortgage, or other instrument shall be valid or of any effect against any previously recorded assignment, grant, license, mortgage, or instrument to a purchaser, licensee, or other transferee for value without notice, whether such unrecorded instrument be prior in date of execution or not,

and whether subsequently recorded or not. Such proviso, however, shall not apply to unrecorded instruments by which magazine and/or newspaper publication rights are assigned or conveyed; but if, in addition thereto, such instruments also assign or convey other rights, and/or refer or pertain in any way to any other rights, then such instruments to the extent of the provisions or agreements contained therein relating to such other rights shall be subject to such proviso. Instruments executed in a foreign country shall further be subject to the provisions of section 12 of this act.

SEC. 12. In order to be recorded in the Copyright Office, instruments referred to in section 11 executed in a foreign country shall be acknowledged or subscribed and sworn to by the assignor or licensor before a secretary in the Diplomatic Service or consular office of the United States authorized by law to administer oaths or perform notarial acts, or before any notary public, judge, or magistrate of any foreign country authorized to administer oaths or perform notarial acts in such country and whose authority shall be proved by certificate of diplomatic or consular officers of the United States. Such certificate shall be prima facie evidence of the execution of the instrument. Failure to comply with this section shall not, however, affect the rights and liabilities of any of the parties to any such instrument as between themselves. Assignments executed abroad.

TERM OF COPYRIGHT PROTECTION

SEC. 13. The term for which copyright is secured by this act shall be for the life of the author, if living, and for a period of fifty years after his death, except that where the author is not an individual, the term shall be fifty years from the date of completion of the creation of the work; and except that in the case of a work by joint authors the copyright shall terminate at the expiration of fifty years from the date of the death of the last surviving joint author: *Provided*, That where the work is based in whole or in part upon a work in which a longer copyright term may endure, then the copyright Term of copyright protection.

in said former work shall endure for a term equal to that of the latter work, or for the term of fifty years aforesaid, whichever term is longer.

Posthumous work.

SEC. 14. In the case of any posthumous work, such period shall be fifty years from the date of the death of the author.

Subsisting copy-rights.

SEC. 15. The copyright subsisting in any work when this act goes into effect shall be continued at the end of the subsisting term until the expiration of fifty years beyond the author's death, and such continuation of the copyright shall vest in the following order, in the author if living; if the author be not living, then in the widow, widower, or children, of the author; or if such author, widow, widower, or children be not living, then, if the author left a will, the copyright shall vest in the author's executors or testamentary trustees as the case may be under said author's will or in a duly appointed administrator with the will annexed if there be no such executors or trustees, and in the absence of a will, in his admin-

Contracts for renewal of copy-right.

istrator: *Provided*, That where the author has parted with any or all of his rights for the subsisting term under the act heretofore in force, and has agreed to part therewith for the renewal term under said act, on a royalty basis, the owner of such right or rights shall be entitled thereto throughout the full term provided by this act, upon condition that he pay royalties at the agreed rate and in the agreed manner to the author, if living, or if dead, to his representatives in the order as above specified, during the full term provided by this act; this proviso shall not apply unless the said owner shall have substantially fulfilled his contract with said

Outright purchase of rights.

author: *Provided further*, That where there has been an outright purchase of any right or rights (for a lump sum paid and not on royalty) for said subsisting term and the author has agreed to part therewith for said renewal term, the author and/or the owner shall be entitled to the benefit of the remainder of the term provided by this act (after the expiration of the subsisting twenty-eight-year term of the copyright), upon performance of such conditions as may be determined by agree-

ment, or in the absence of an agreement entered into at least six months before the expiration of the subsisting term, by the court, as justice may require: *Provided further*, That in the case of a posthumous work, or of a periodical, cyclopædic or other composite work, or any work the subsisting copyright of which was first secured by an employer for whom such work was made for hire, or by a corporate body (otherwise than as assignee or licensee of the individual author) the copyright shall terminate fifty-six years from the date of first publication.

INFRINGEMENT OF COPYRIGHT AND REMEDIES

SEC. 16. If any person shall infringe the copyright in any work protected under the copyright laws of the United States such person shall be liable— *Infringement.*

(a) To an injunction restraining such infringement; *Injunction and damages.*

(b) To pay such damages to the owner of the right infringed as he may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement; and in proving profits the plaintiff shall be required to prove only sales, rentals, license fees, and/or any other revenue derived from any disposition of an infringing work, and the defendant shall be required to prove every element of cost which he claims;

(c) To pay, at the option of the owner of the right infringed, in lieu of actual damages and profits, such statutory damages as to the court shall appear to be just, and in assessing such damages the court may, in its discretion, allow the amounts hereinafter stated; but such statutory damages shall in no case exceed the sum of \$5,000, nor be less than \$250, and shall not be regarded as a penalty, but this limitation as to the amount of recovery shall not apply to infringements occurring after actual notice to the infringer either by service of process in a suit, action, or proceeding against him, or other written notice served upon him personally or mailed to him by registered mail to his principal place of business or his last known place of residence. *Statutory damages.*

First. In the case of a painting, statue, or sculpture, \$10 for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

Second. In the case of any work enumerated in section 38 [Sic. 37] of this act, except a motion picture, painting, statue, or sculpture, \$1 for every infringing copy made or sold or found in the possession of the infringer or his agents or employees;

Third. In the case of a lecture, sermon, or address, \$50 for every infringing delivery;

Fourth. In the case of a choreographic work or pantomime, or a dramatic or dramatico-musical, or a choral or orchestral composition, or a motion picture, \$100 for the first and \$50 for every subsequent infringing performance or exhibition;

Fifth. In the case of other musical compositions, \$10 for every infringing performance: *Provided, however,* That this subsection (c) shall be expressly subject to the following exceptions:

1. In case of an unauthorized newspaper reproduction of a copyrighted photograph such statutory damages assessed, in lieu of actual damages and profits, shall not exceed the sum of \$200 nor be less than the sum of \$50;

*Innocent
fringements.*

2. In case of the infringement of an undramatized or nondramatic work by means of motion pictures, where the infringer shall show that he was not aware that he was infringing and that such infringement could not have been reasonably foreseen, such statutory damages shall not exceed the sum of \$100; but this subdivision shall not apply to infringements covered by subsection (d) hereof;

3. In case of the infringement of a copyright dramatic work by a maker of motion pictures and his agencies for distribution thereof to exhibitors, where such infringer shows that he was not aware that he was infringing a copyright work and that such infringement could not reasonably have been foreseen, the entire sum of such statutory damages recoverable by the owner of the rights infringed from such infringing maker and his agencies

for the distribution to exhibitors of such infringing motion picture shall not exceed the sum of \$5,000 nor be less than \$250, but this subdivision shall not apply to infringements covered by subsection (d) hereof.

(d) For the purpose of avoiding imposition and so-called literary blackmail, in any action for infringement of copyright in any dramatic work (including continuities, motion pictures and motion-picture photoplays), if defendant prove that he was not aware that he was infringing or has been subjected to fraud or substantial imposition by any third person or persons other than one of said defendant's employees and in either case that such defendant has acted in good faith, the plaintiff shall not be entitled to any remedy against such defendant other than an injunction in respect to future infringement: *Provided, however,* That this section shall not apply, in the event of registration of copyright or of an instrument relating to or affecting the same or any right therein, prior to such defendant's entering into or upon the undertaking which results in such infringement, or if the work alleged to have been infringed be a published work, if notice of copyright shall be affixed (on the reverse of the title page, or at the foot of the first page of the text), to each copy published by the copyright owner or under his authority; or if the work alleged to have been infringed be a dramatic work, if such work has had a first-class public production in the United States of America.

(e) In case of the infringement of any creation of an author (except a dramatico-musical or musical composition) by any person or corporation engaged solely in printing, binding, or manufacturing the same in printed form, where such infringer shall show that he was not aware that he was infringing and that such infringement could not have been reasonably foreseen, the person aggrieved shall be entitled only to an injunction against future printing, binding, and manufacturing the same in printed form, and to the delivery up of all such printed, bound, and manufactured material, and shall not be entitled to any profit made by such infringer from his

Innocent infringement of dramatic works.

Infringement by printer.

contract or employment to print, bind, or manufacture in printed form, nor to damages, actual or statutory against such infringer: *Provided*, That in case such printer is also the publisher, distributor, or seller of such creation, or in partnership or regularly engaged in business with such publisher, distributor, or seller, or is in anywise directly or indirectly interested in the publication, distribution, sale, or exploitation of such creation (other than as derived solely from his contract or employment merely to print, bind, or manufacture the same in printed form) or in any profits to be derived from such publication, distribution, sale, or exploitation, then this subsection (e) shall not apply.

Infringing articles.

SEC. 17. The infringer shall further be liable:

(a) To deliver up, on oath, to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all articles alleged to infringe a copyright or any right comprised therein;

(b) To deliver up, on oath, for destruction, as the court may order, all the infringing copies or devices, as well as all plates, molds, matrices, or other means for making such infringing copies.

Jurisdiction.

SEC. 18. 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, the district court of any Territory, the Supreme Court of the District of Columbia, the district courts of Alaska, Hawaii, Panama Canal Zone, and Porto Rico, and the courts of first instance of the Philippine Islands, and any court given jurisdiction under this section may proceed in any action, suit, or proceeding instituted for violation of any provision of said laws to enter a judgment or decree enforcing the remedies provided by this act.

Court may grant injunctions.

SEC. 19. Any such court or judge thereof shall have power, upon bill in equity filed by any party aggrieved, including (but not by way of limitation) any person referred to in sections 9 and 10 of this act, whether such person's rights were acquired heretofore or hereafter, to grant injunctions to prevent and restrain the violation

of any right secured by this act, according to the course and principles of courts of equity, on such terms as said court or judge may deem reasonable. Any such injunction may be served upon the parties against whom it may be granted anywhere in the United States and its dependencies, and shall be operative throughout the United States and its dependencies and be enforceable by proceedings in contempt or otherwise by any court or judge possessing jurisdiction of the defendants.

SEC. 20. 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. *Certified copies.*

SEC. 21. The proceedings for an injunction, damages, and profits, and those for the seizure of infringing copies, plates, molds, matrices, and so forth, aforementioned, may be united in one action. *Proceedings in one action.*

SEC. 22. 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. *Full costs allowed.*

SEC. 23. In any action for infringement, where the plaintiff seeks an accounting of profits, or statutory damages, where any party shows that some third person or persons may claim to be entitled to said profits or statutory damages or some part thereof, by reason of alleged infringement of the same copyright or some right thereunder, the court on application of such party or on its own motion or on petition of such third person or persons, may order such person or persons brought in as a party or parties to the action on such terms as the court may deem just, and may make such provision with reference to such profits or statutory damages by way of division or otherwise as justice may require. The court may require that notice of pendency of the action be given in such manner as the court shall direct to any and all persons of record in the copyright office who may claim to be assignees or licensees or the owners or holders *Actions, third parties.*

of any rights in or under the copyright in connection with which action may be brought, if the instruments under which such persons claim are registered, or if a claim to the copyright be registered. The failure of any party directed to be brought in, to appear in the action or suit, or to participate therein, shall not delay the judgment to which the plaintiff is entitled nor debar the plaintiff from prosecuting his suit to a final determination or to recover profits or damages to which he may be entitled: *Provided*, That nothing herein contained shall in any way prejudice or delay the rights, if any, of the plaintiff to injunctive relief or any other remedy given under this act, other than for profits or statutory damages as aforesaid.

District of the defendant. SEC. 24. 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.

Appeal, writ of error. SEC. 25. The orders, judgments, or decrees of any court mentioned in section 18 of this act arising under the copyright laws of the United States may be reviewed on appeal or writ of error in the manner and to the extent now provided by law for the review of cases determined in said courts, respectively.

Willful infringement. SEC. 26. Any person who willfully and for profit shall infringe the copyright in any work protected under the copyright laws of the United States, 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 fine of not less than \$100 nor more than \$1,000, or both, in the discretion of the court:

Limitation of actions. *Provided*, That no criminal proceeding shall be maintained under the provisions of this act unless the same is commenced within three years after the misdemeanor was committed and no civil proceeding unless the same is commenced within six years after the cause of action arose.

Supreme Court rules. SEC. 27. The Supreme Court of the United States shall prescribe such rules and regulations as may be necessary

for practice and procedure in any action, suit, or proceeding instituted for infringement under the provisions of this act.

MANUFACTURE AND IMPORTATION

SEC. 28. Of the printed books and periodicals specified in section 37, subsections (a) and (b) of this act, the text of all copies shall be printed from type set within the limits of the United States or its dependencies, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States or its dependencies from type set therein; or, if the text be produced by lithographic, mimeographic, photogravure, or photo-engraving or any kindred process or any process of manufacture hereafter devised, then by a process wholly performed within the limits of the United States or its dependencies, and the printing or other reproduction of the text; and the binding of said book or periodical shall be performed within the limits of the United States or its dependencies. Said requirements shall extend also to the illustrations within a book or periodical consisting of printed text and illustrations produced by the printing press by means of lithographic, photogravure, or photo-engraving or any kindred process or any process of manufacture hereafter devised, and also to reproductions by the printing press of separate lithographs, photogravures, photo-engravings, or reproductions by the printing press by any kindred process or any process of manufacture hereafter devised, except, where in any case, the subjects represented are located in a foreign country or illustrate any scientific or technical work or reproduce a work of art. Said requirements shall not apply to works in raised characters for the use of the blind or to works by foreign authors.

SEC. 29. That in the case of a book, lithograph, photogravure, photo-engraving, or reproduction by any kindred process or any process of manufacture hereafter devised, manufacture of which is required in the United States or its dependencies under the preceding section, an affidavit under the official seal of any officer authorized to administer oaths within the United States or its dependencies,

duly made by the person claiming copyright, or by his duly authorized agent or representative residing in the United States or its dependencies, or by the printer who printed the book, lithograph, photogravure, photoengraving, or reproduction, shall be filed in the copyright office within thirty days after such publication, setting forth the manner in which compliance has been had with the requirements of the preceding section. Such affidavit shall state also the place where, and the establishment or establishments in which, such type was set or plates were made or lithograph, photogravure, photo-engraving, or reproduction by any kindred process or any process of manufacture hereafter devised, or printing and binding, were performed, and the date of completion of printing of the work or the date of publication; and no action shall be maintained for infringement of the right to publish, print, or vend the said work in any form produced by any of the printing press processes mentioned in the preceding section, at any time or times when compliance with such preceding section is requisite, or because of any act or thing done or undertaken during said time or times, unless said affidavit shall be filed within said time or the court shall find that the failure to file said affidavit was due to excusable neglect. The provisions of this section shall not apply to periodicals issued regularly at least four times a year or more frequently.

Importation.

SEC. 30. During the existence of the copyright in any work the author of which is an American citizen and to which protection is accorded under this act, and in any work by a foreign author when such work has been published and manufactured within the limits of the United States or its dependencies, under an assignment covering stated rights for the United States, registered in the copyright office; then, during the period in which any edition of American manufacture is published and copies of such American edition sufficient to supply customers are in the possession of the publisher, the importation into the United States of any copies thereof printed or produced by any of the processes mentioned in sections 28 and 29 of this act, or of plates or mediums

of any kind for making copies thereof (although authorized by the author or proprietor of any foreign copyright), except used copies, shall be, and is hereby, prohibited after a registration of a claim to copyright or rights under section 36 of this act and deposit of two copies of the American edition: *Provided, however,* That such prohibition shall not apply—

(a) To any work published in the country of origin with the authorization of the copyright proprietor, when imported not more than one copy at a time for use and not for sale or hire for profit, in good faith, by or for any person, library or branch thereof, school, college, society or institution incorporated for educational, literary, philosophical, scientific, or religious purposes, or for the encouragement of the fine arts; provided the proprietor of the United States copyright of such work has, within ten days after written demand, declined or neglected to agree to supply the copy demanded at a price equivalent to the foreign price thereof and transportation charges, plus customs duties when subject thereto, or provided that at the date of the order of such copy for importation no registration and deposit of copies of the American edition have been made as aforesaid;

(b) To any work published in the country of origin with the authorization of the copyright proprietor when imported by the proprietor of the United States copyright for the purpose of filling demands for copies thereof made pursuant to the preceding subdivision (a);

(c) To works which form parts of libraries or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph (a), or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale;

(d) 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;

(e) To motion pictures and motion-picture photo plays;

(f) To the authorized edition of a book in a foreign language or languages;

(g) To works in raised characters for the use of the blind;

(h) To works imported by the authority or for the use of the United States:

Provided further, 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 this act, and such unlawful use shall be deemed an infringement of copyright.

*Importation of
infringing copies
prohibited.*

SEC. 31. The importation of any copies or substantial reproductions in whole or in part, of any work in which copyright exists, into the United States which if made, published, distributed, exhibited, or performed in the United States would infringe such copyright is hereby prohibited.

*Seizure of in-
fringing copies.*

SEC. 32. Any and all copies of works 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 works imported in the mails or otherwise in violation of the provisions of this act may be reexported 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 for im-
portation.*

SEC. 33. 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 owners or injured parties, of the actual or contemplated importation of articles prohibited importation by this act which infringe the rights of such copyright owners or injured parties.

COPYRIGHT NOTICE, REGISTRATION OF CLAIMS TO COPYRIGHT, AND
DEPOSIT OF COPIES

SEC. 34. No notice of copyright shall be required on any work subject to copyright under this or previous acts and the omission of such notice from any work shall not be taken as evidence that no copyright is claimed therein; but if desired a notice of copyright or of any right included in the copyright in any work may be placed on copies of the work by the owner of the copyright or an assignee or licensee; but any person who, with fraudulent intent, shall insert or impress any notice of copyright or words of the same purport in or upon any article in which copyright for the United States does not subsist shall be guilty of a misdemeanor, punishable by a fine of not less than \$100 nor more than \$1,000, and any person who shall knowingly issue or sell any article bearing such notice or words of the same purport when copyright in such article does not subsist in the United States shall be liable to a fine of \$100. ^{Copyright notice.}

SEC. 35. In the event that prior to the passage of this act notices of copyright were placed upon any works which were defective in form or did not contain the name of the person or persons actually entitled to copyright or contained an incorrect name or date or in which the date was lacking or in the event that the registration of any copyright works prior to the passage of this act were in any way defective, such notices and/or registrations are hereby legalized, confirmed, made valid and effectual as fully as if none of the various errors, omissions, matters, and conditions hereinabove enumerated had occurred or existed: *Provided, however,* That where any person prior to the passage of this act has taken any action whereby he has incurred any expenditure or ^{Informalities in prior copy-rights.}

liability which but for the enactment of this section would be lawful, nothing contained in this section shall diminish or prejudice any such action or the continuance of any enterprise lawfully undertaken pursuant to the foregoing prior to the passage of this act: *And provided further*, That if this section be held invalid for any reason that such holding shall not affect any other provisions of this act.

Registration.

SEC. 36. The author or other owner of the copyright in any work or any right, title, or interest therein, may, if he so desires, obtain registration of a claim to copyright in such work or in any of the rights comprised therein, as the case may be, respectively, upon the deposit in the Copyright Office at Washington of an application accompanied by the registration fee provided by this act, and one copy of the work in which, or in connection with which, copyright is claimed, or the identifying matter prescribed in section 38 of this act.

Only one registration shall be necessary in the case of any work which, if made, shall inure to the benefit of the author as well as all persons claiming under him.

The Copyright Office shall have no discretion to refuse to receive such application or to refuse to register such work upon such application being made.

If any person other than the author of any work shall apply for registration under this section, he shall register at the time of making said application all instruments under which he claims ownership of such copyright or right or rights thereunder.

Classification of works.

SEC. 37. The form of application for registration shall state to which of the following classes the work to be registered belongs. The classes of works enumerated below are expressly recognized as subject matter of copyright, but the following specifications shall not be held to limit the subject matter of copyright:

(a) Books, including composite and cyclopedic works, directories, gazetteers, and other compilations, abridgments, adaptations, and translations;

(b) Periodicals, including newspapers;

- (c) Lectures, sermons, addresses (prepared for oral delivery);
- (d) Dramatic compositions, dramatizations, and dramatico-musical compositions;
- (e) Musical compositions;
- (f) Maps;
- (g) Works of art;
- (h) Reproductions of a work of art, including engravings, lithographs, photo-engravings, photogravures, casts, plastic works, or copies by any other methods of reproduction;
- (i) Drawings and plastic works of a scientific or technical character;
- (j) Photographs;
- (k) Prints and pictorial illustrations, including prints or labels for articles of manufacture;
- (l) Motion-picture photoplays;
- (m) Motion pictures other than photoplays;
- (n) Scenarios (so-called continuities) for motion pictures;
- (o) Work of architecture, models, or designs for architectural works;
- (p) Choreographic works and pantomimes, the scenic arrangement or acting form of which is fixed in writing or otherwise;
- (q) Phonographic records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced;
- (r) Works not specifically hereinabove enumerated.

SEC. 38. The copy deposited for registration may either be printed, typewritten, or be in legible handwriting if the work be a book, or a dramatic, musical, or dramatico-musical composition; a scenario of a motion picture; a lecture, sermon, or address, or the acting form of a choreographic work or a pantomime. For a photograph, there shall be deposited one print from the negative; for any work of art, or for a model or design for a work of art, or a drawing or plastic work of a scientific or technical character, or any work not particularly specified in this section, a photograph or other identify-

Deposit of copies for registration.

ing reproduction; for a motion picture, the title, and a description or synopsis or prints sufficient for identification; for an architectural work, a photographic or other identifying representation of such work and such drawings as are necessary to identify it. For a record, roll, or other contrivance by means of which sound may be mechanically reproduced, a description or copy of the music which has been recorded thereon, which shall differentiate and identify the particular rendition so recorded and its performer.

Copyright to be recorded.

SEC. 39. The register of copyrights upon receipt of such application, and such copy or identifying matter and fee, shall make a full and complete record of the copyright claim and send a certificate of registration under the seal of the Copyright Office to the person indicated in the application.

Bulky or fragile articles.

SEC. 40. In the case of any work in connection with which application for registration of copyright is filed, where a copy thereof otherwise required or permitted which by reason of its character, bulk, fragility, or because of its dangerous ingredients, can not expediently be kept on file, the register of copyrights may determine that there shall be deposited with the application for registration, or on subsequent notice by registered mail, in lieu of a copy of such work, such identifying photographs or prints, together with such written, typewritten, or printed description of the work as shall be sufficient to identify it.

Deposits for Library of Congress.

SEC. 41. Whenever any literary, dramatic, dramatico-musical, musical, or artistic work has been published in book form, it shall be obligatory upon the publisher, except as below provided, to make a deposit in the Copyright Office or in the mail addressed to the register of copyrights, Washington, District of Columbia, within thirty days after the date of publication, of two complete copies of the best edition thereof then published, for the use of the Library of Congress. Registration for such work may be secured if such copies are accompanied by the application and remittance prescribed in section 36 of this act: *Provided, however,* That the deposit of copies required in this and the following two sections shall not

be obligatory in case of any work whose author is a citizen or subject of a foreign country which is a member of the International Copyright Union or any work which is protected by copyright in the United States under this act by reason of first publication in any country which is a member of the said union, unless and until such work, if it be a book, shall have been republished in the United States under an assignment of the copyright for the United States or under a license to print and sell such book in the United States.

SEC. 42. That in the case of newspapers or other ^{Newspapers and periodicals.} periodicals one copy of each issue shall be deposited within thirty days after the date of publication for the use of the Library of Congress, which may be registered if accompanied by an application and remittance as provided in section 36: *Provided*, That if several editions of said newspapers are published on one day a deposit of any one of said editions shall be compliance with this section.

SEC. 43. Should the copies called for by sections 42 ^{Default in de-} and 43 of this act not be deposited as herein provided, ^{posit.} the Librarian of Congress may at any time after the date of the default in depositing the work require the publisher of said work to make such deposit, and after the said demand shall have been made, in default of the deposit of a copy or copies of the work in the Library of Congress within three months from any part of the United States, except an outlying territorial possession or dependency of the United States, or within six months from any outlying territorial possession or dependency of the United States, the publisher of said work 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, but failure to make such deposit shall not in any way affect the validity of the copyright in the said work.

SEC. 44. The United States postmaster to whom are ^{Postmaster's} delivered the articles to be deposited as provided in this ^{receipt.} act shall, if requested, give a receipt therefor and shall mail them, together with any application for registration

of copyright and remittances and any accompanying papers, to the Copyright Office without cost to the copyright claimant.

*Registration
constructive no-
tice.*

SEC. 45. Registrations and recordations under this act shall be constructive notice, as of the date of registration or record, to all persons of the rights claimed therein.

*Certificate
of
registration.*

SEC. 46. In the case of each work registered for copyright the person recorded as the claimant of the copyright or of any right or rights comprised therein shall be entitled to a certificate of registration under the seal of the Copyright Office, to contain the name and address of said claimant, the name of the author, the country of which the author of the work is a citizen or subject, and when an alien author domiciled or residing in the United States at the time of the making or first publication or first public performance of his work, a statement of that fact, including his place of domicile or residence, or that of his duly authorized representative; the title of the work for which registration is claimed; the date of the deposit of the copy or copies of such work; the date of publication or performance if the work has been reproduced in copies for sale or publicly distributed or performed; and such marks as to class designation and entry number as shall fully identify the entry. The register of copyrights shall prepare a printed form for the said certificate, to be filled out as above provided for in the case of all registrations made after this act goes into effect, 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, and a similar certificate shall be supplied on request in the case of all previous registrations so far as the Copyright Office record books shall show such facts. In addition to such certificate the register of copyrights shall furnish upon request, without additional fee, a receipt for the copy or copies of any work deposited under this or previous acts of the United States. Said certificate and receipt shall be admitted in any court as prima facie evidence of the facts stated therein.

SEC. 47. Subject to this act, the Supreme Court of the District of Columbia or a judge thereof, may on the application of any person aggrieved, by writ of mandamus upon due cause shown, order that any registration or record made under this act may be canceled, annulled, and expunged or similarly order the correction of any omission, error, or any defect in any registration or attempted registration. An appeal shall lie to the Court of Appeals of the District of Columbia from any final order made under this section.

SEC. 48. The register of copyrights shall fully index all registrations of claims to copyright or rights therein and all assignments, grants, licenses, mortgages, or other instruments recorded, and shall print at periodic intervals a catalogue of the names of the authors, where known, and of the titles of works deposited and registered, together with suitable indices, and at stated intervals shall print complete and indexed catalogues for each class of copyright entries. Both the current catalogues and the complete and indexed catalogues for each class of copyright entries shall be furnished to all persons desiring them at reasonable prices.

SEC. 49. The record books of the Copyright Office, together with the indices 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 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.

SEC. 50. That of the articles deposited in the Copyright Office under the provisions of the previous 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.

Deposits, final disposal. SEC. 51. That 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 Catalogue of Copyright Entries from January to November, inclusive, a statement of the year of receipt of such articles and a notice to permit any author, copyright owner, 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 not reserved or disposed of as provided for in this act: *And provided further*, That no manuscript of an unpublished work shall be destroyed during its term of copyright without specific notice to the copyright owner of record, permitting him to claim and remove it.

COPYRIGHT OFFICE

Copyright Office. SEC. 52. 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, Washington, District of Columbia, and shall be under the control of the register of copyrights, who shall, under the supervision and approval of the Librarian of Congress, perform all the duties relating to the optional registration of copyrights and shall be authorized to make rules and regulations for the registration of claims to copyright as provided by this act and to prescribe the form of application for such registration.

Register of copyrights and assistant register. SEC. 53. There shall be appointed by the Librarian of Congress a register of copyrights, at a salary of \$ _____ per annum, and one assistant register of copyrights, at a salary of \$ _____ 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.

SEC. 54. The register of copyrights shall make daily deposits with the Treasurer of the United States of all moneys received to be applied as copyright fees, and shall make weekly transfers to the Treasurer of the United States, 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 he shall make monthly reports to the Comptroller General of the United States 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.

Accounting for fees.

SEC. 55. 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.

Bond of register.

SEC. 56. The register of copyrights shall make an annual report to the Librarian of Congress of all copyright business for the previous fiscal year, which report shall be printed promptly after the close of the fiscal year and also be printed in the annual report on the Library of Congress.

Annual report to Librarian of Congress.

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.

Register to keep records.

SEC. 58. The register of copyrights shall, upon payment of the prescribed fee, record any assignment of copyright, or any grant, license, or mortgage of any right pertaining to the copyright in any work protected under this act or any previous acts of the United States, and shall return it after recordation to the sender with a certificate of record attached under seal of the Copyright

Register to record assignments.

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 said seal. The register of copyrights shall have no discretion to refuse to record any instrument presented to him for record as aforesaid.

Fees.

SEC. 59. 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 a claim to copyright or rights therein under the provisions of this act, \$1, which sum is to include a certificate of registration under seal: *Provided*, That in the case of photographs the fee shall be 50 cents where a certificate is not demanded, and only one registration at one fee shall be required in the case of several volumes of the same book deposited at the same time. For every additional certificate of registration made, 50 cents. For recording and certifying any written instrument provided for in sections 10 or 11 of this act, or for any copy of such assignment, grant, mortgage, or license, duly certified, if not over three hundred words in length, \$1; if more than three hundred and less than one thousand words in length, \$2; if more than one thousand words in length, \$1 additional for each additional one thousand words or fraction thereof over three hundred words. For comparing any copy of an assignment with the record of such document in the Copyright Office and certifying the same under seal, \$1. For indexing the transfer of the ownership of copyrighted works or of any right therein, 10 cents for each title of a book or other article, in addition to the fee prescribed for recording the instrument evidencing the same. For any requested search of Copyright Office records, indices, or deposits, 50 cents for each full hour of time consumed in making such search.

Seal of Copyright Office.

SEC. 60. A seal shall be provided and used in the Copyright Office and be the seal thereof, and by it all papers issued from the Copyright Office requiring authentication shall be authenticated.

ENTRY OF THE UNITED STATES INTO THE INTERNATIONAL COPYRIGHT UNION

SEC. 61. The President of the United States be, and is hereby, authorized to effect and proclaim the adhesion of the United States to the convention creating an international union for the protection of literary and artistic works, known also as the International Copyright Union, signed at Berne, Switzerland, September 9, 1886, and revised at Berlin, Germany, November 13, 1908, and to the "Additional protocol" to the said convention executed at Berne, Switzerland, March 20, 1914.

*International
Copyright Union.*

SEC. 62. It is hereby declared that the United States desires to be placed in the first class of the International Copyright Union, as provided in article 20 [sic 23] of the said convention of 1908.

*United States
in class 1.*

SEC. 63. Copyright shall subsist in the work of foreign authors as provided by this act. On and after the date of the President's proclamation, as provided in section 62 of this act: *Provided, however,* That the duration of copyright in the United States shall not in the case of any foreign work extend beyond the date at which such work has fallen into the public domain in the country of origin: *Provided further,* 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 copies lawfully made or the continuance of enterprises lawfully undertaken within the United States prior to the date of said proclamation, and the author or other owner of such copyrights or persons claiming under him shall not be entitled to bring action against any person who has, prior to such date, taken any action in connection with the reproduction or performance (in a manner which at the time was not unlawful) of any such work whereby he has incurred any substantial expenditure or liability.

*Copyright in
foreign works.*

SEC. 64. In the interpretation and construction of this act, date of "publication" shall in the case of a work of which copies are reproduced for sale or public distribution be held to be the earliest date when copies of the first authorized edition were placed on sale, sold, or pub-

Definitions.

lily distributed by the owner of the copyright or under his authority, and the performance of a dramatic, musical, or dramatico-musical work, the delivery of a lecture, sermon, or address, the exhibition of a motion picture or of a work of art, and the construction of an architectural work or the issue of photographs or other reproductions of such work shall not be held to be publication.

Designs.

SEC. 65. This act shall not apply to designs capable of being patented, except designs which though capable of being so patented are not used or intended to be used as models or patterns to be multiplied by any industrial process other than the printing-press processes referred to in section 28 of this act.

Repeal of prior acts.

SEC. 66. The provisions of this act apply to existing copyrights save as expressly indicated in this act. All other acts or parts of acts relating to copyrights are hereby repealed, as well as all other laws or parts of laws in conflict with the provisions of this act, but nothing in this act shall affect suits, actions, or proceedings for infringement of copyright heretofore committed now pending in the courts of the United States; but such suits, actions, or proceedings shall be prosecuted to a conclusion in the manner heretofore provided by law.

Act takes effect Jan. 1, 1927.

SEC. 67. That this act shall go into effect on the 1st day of January, 1927.

[69th Cong., 1st sess. S. 2328. In the Senate of the United States. January 7 (calendar day, January 11), 1926]

Bill S. 2328: Radio.

Mr. Dill introduced the following bill, which was read twice and referred to the Committee on Patents.

A BILL To amend section 1 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, as amended, by adding subsection (f).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, be amended by adding subsection (f), to read as follows:

“(f) To perform, transmit, or reproduce the copyrighted work publicly for profit, if it be a musical composition, by broadcasting by radio or other means of electrical transmission: *Provided*, That the provisions of this subsection (f) of section 1 of this act, so far as they secure copyright controlling broadcasting by radio, or other means of electrical transmission, shall include only compositions published and copyrighted after this subsection (f) goes into effect, and shall not include the works of a foreign author or composer unless the foreign state or nation 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: *And provided further*, That as a condition of extending the copyright control to broadcasting by radio, and other means of electrical transmission, wherever the owner of a musical copyright has used, or permitted or knowingly acquiesced in the broadcasting of the copyrighted musical work, by radio, or other means of electrical transmission, any other person may make similar use of the copyrighted musical work upon the payment to the copyright proprietor of a royalty for each broadcasting by a radio station of not more than five hundred watts cents, of not more than one thousand watts cents, of not more than two thousand five hundred watts cents, of not more than five thousand watts cents, and of more than five thousand watts cents, and the continued broadcasting of any copyrighted musical work for a period of more than minutes, shall be considered an additional broadcasting, to be paid for by the person broadcasting the said copyrighted musical work, at the royalty rates as hereinbefore fixed for each broadcasting; and the copyright proprietor may require, and if so the person broadcasting the copyrighted musical work, shall furnish, a report under oath on the twentieth day of each month, on the number of times the said copyrighted musical work has been broadcast during the previous month, and royalties shall be due on said musical copyrighted work during any month on the twentieth day of the next

succeeding month, and every person who engages in broadcasting copyrighted musical compositions by radio, or other means of electrical transmission, shall keep a written daily record of all copyrighted musical compositions broadcast and said written record shall be open to inspection by any proprietor of any copyrighted musical composition or his authorized representative, for a period of one year.

“And any copyright owner desiring to prohibit the use of any copyrighted musical composition from being broadcast by radio, or other means of electrical transmission, shall file notice thereof accompanied by recording fee in the copyright office, and any failure to file such notice shall be a complete defense to any suit, action, or proceeding for any infringement of such copyright.

“And whenever any person intends to broadcast a copyrighted musical composition by radio or other means of electrical transmission, relying upon the provision of section 1, subsection (f), he shall serve notice of such intention by registered mail upon the copyright proprietor at the address disclosed by the records of the copyright office, sending to the copyright office duplicate of such notice; and in case of his failure so to do the court may, in its discretion, in addition to the sums mentioned in this act, award the complainant a further sum, not to exceed three times the amount provided by section 1, subsection (f), by way of damages, and not as a penalty, and also a temporary injunction until the full award is paid, and in such cases the court may require the person so failing to notify the copyright proprietor to file a bond of such amount as the court may fix to insure payment of the license fees hereinbefore provided.

“In case of the failure of such broadcaster to pay to the copyright proprietor within thirty days after demand in writing the full sum of royalties due at said rate at the date of such demand, the court may award taxable costs to the plaintiff and a reasonable counsel fee, and the court may, in its discretion, enter judgment therein for any sum in addition over the amount found

to be due as royalty in accordance with the terms of this act, not exceeding three times such amount, and in such cases the court may require the filing of a bond as in the case of the failure to notify the copyright proprietor as hereinbefore stated.

"All other sections or parts of sections of this act in conflict with the terms of subsection (f) of section 1 are hereby declared not to apply to the broadcasting of copyrighted musical works by radio or other means of electrical transmission."

[69th Cong., 1st sess. H. R. 10987. In the House of Representatives,
April 5, 1926]

Mr. Vestal introduced the following bill, which was referred to the Committee on Patents and ordered to be printed. BILL H. R.
10987: Radio.

A BILL To amend the copyright act of 1909 with respect to radio and broadcasting.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 (e) of the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, be, and the same is hereby, amended to read as follows:

(e) To perform the copyrighted work publicly for profit, if it be a musical composition, and to use or authorize the use of said work for radio broadcasting. And for the purpose of public performance for profit, and for the purposes set forth in subsection (a) hereof, 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 the musical work, shall include only compositions published and copyrighted after July 1, 1909, and so far as concerns public

performance for profit or the use of such music for broadcasting, shall include only compositions published and copyrighted after this act goes into effect; except as hereinafter provided, and shall not include the works of a foreign author or composer unless the foreign state or nation 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: *And provided further*, And as a condition of extending the copyright control to such mechanical reproductions, and such use of the music in radio broadcasting, or public performance for profit, that whenever the owner of a musical copyright has used or permitted or knowingly acquiesced in the use of the copyrighted work upon the parts of instruments serving to reproduce mechanically the musical work or has permitted the use of such music for radio broadcasting or for any public performance for profit, he shall affix in some accessible place on such music and upon the phonograph disk, cylinder, roll, or other contrivance for the mechanical reproduction thereof, a notice of the amount of royalty prescribed for any use of such music for public performance for profit, and thereafter any other person may make similar use of the copyrighted work, and the sale or other distribution of any musical composition, or disk, cylinder, roll, or other contrivance for reproducing said composition which has the rate of royalty for use so affixed, shall carry with it an implied license to the purchaser or other lawful holder to perform the same publicly for profit; to broadcast it, or to use it for the manufacture of mechanical instruments, as the case may be, from and after payment of the prescribed royalty, in the absence of special agreement, at the rate stated to the person named in the said notice.

Any person placing a false notice on any work referred to in this section, or who shall accept, exact, or attempt to exact, any royalty, fee, or other compensation, other than the amount stated in the said notice, from anyone for the public performance, radio broadcasting, or manufacture of contrivances for mechanical reproduction of

the said work, shall be guilty of a misdemeanor punishable as prescribed in the act of March 4, 1909.

Any person who shall publicly perform or broadcast any such composition or manufacture records, rolls, or other contrivances for mechanical reproduction of such composition without the consent of the copyright proprietor, except under special agreement or under said implied license and payment of the royalty stated for such public use of the said music, shall be liable as provided in this act for infringement of copyright: *Provided*, That the requirement as to notice and payment of royalty prescribed by this act shall apply to compositions in which copyright is subsisting or to mechanical contrivances made therefrom only so far as such compositions or such mechanical contrivances have been published or distributed with the required statement of royalty rates after this act goes into effect: *And provided further*, That the provisions of this act shall not affect licenses for public performance, broadcasting, or the manufacture of mechanical instruments already entered into at the date when this act goes into effect.

SEC. 2. That section 25, paragraph (e) of the said act, be, and the same is hereby, amended to read as follows:

(e) That whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, or to perform publically, or broadcast it, relying upon the implied license provision of section 1 (e) of this act, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at the address stated in the prescribed royalty notice, sending to the Copyright Office a duplicate of such notice; and in case of his failure so to do, the court may, in its discretion, in addition to sums hereinabove mentioned, award the complainant a further sum, not to exceed three times the amount of the royalties fixed by the copyright owner in the notice on the copies, as provided by section 1, subsection (e), of this act, by way of damages and not as

a penalty, and also a temporary injunction until the full award is paid.

Rules and regulations for practice and procedure under this section shall be prescribed by the Supreme Court of the United States.

[60th Cong., 1st sess. H. R. 11209. In the House of Representatives.
April 12, 1926]

Bill H.
11209: Radio.

R. Mr. MacGregor introduced the following bill; which was referred to the Committee on Patents and ordered to be printed.

A BILL To amend section 1 of the copyright act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the copyright act be amended by inserting after the word "reproduced" in subsection (e) the following:

"*Provided, however,* That the sale of any copyrighted musical composition shall carry with it the implied license to the purchaser, or other lawful holder, to publicly perform the same for profit, or otherwise, unless there shall be printed on the title-page, or otherwise conspicuously displayed thereon, a notice that the rights of such public performance are reserved to such author or owner, and in the event of any publication thereof for public performance there shall be imprinted on the said composition a statement of the amount of royalty prescribed therefor. Any person who shall publicly perform any such composition without the consent of the copyright proprietor, or who shall fail to pay the amount of royalty reserved and so indicated thereon, shall be liable to the penalties elsewhere provided in this act for infringement of copyright."

[60th Cong., 1st sess. H. R. 6249. In the House of Representatives.
December 21, 1925]

Bill H. R. 6249. Mr. VESTAL introduced the following bill; which was referred to the Committee on Patents and ordered to be printed.

A BILL For copyright registration of designs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who is a citizen of or domiciled in the United States or who is a citizen or subject of a foreign state or nation with which the United States shall have established reciprocal copyright relations, and who is the author of any design as hereinafter defined, or the legal representative or assignee of such author, may secure copyright therein upon the registration of such design in the copyright office of the United States: *Provided, however,* That the said design shall not have been in public use or on sale in this country by or with the consent of the author or proprietor for more than four months prior to the filing of the application for such registration.

Copyright in designs.

SEC. 2. The term "design" as used in this act means any conception in relation to a manufactured product, either as to pattern, shape, or form which is original in its application to or embodiment in such manufactured product and is for the purpose of ornamentation, or surface or other decoration; or any such conception in dies, molds, or devices for adapting a manufactured product for use in producing an artistic or ornamental effect; but shall not extend to any shape or form which has merely a functional or mechanical purpose.

Definition of design.

SEC. 3. An application for registration under this act by any author, or his legal representative or assignee, entitled thereto, who has previously regularly filed an application for registration of a design in a foreign country shall secure registration for such design, provided such application is filed in the Copyright Office at Washington within four months from the earliest date on which such foreign application was filed, and no person otherwise entitled thereto shall be debarred from registering his design, nor shall any registration of a design under this act be declared invalid by reason of its having been first registered by the author or proprietor in a foreign country, unless the application for the registration in such foreign country was filed more than four

Application for registration.

months prior to the filing of the application in this country, in which case no registration shall be made in this country.

Exclusive rights. SEC. 4. Any person entitled thereto, upon complying with the provisions of this act, shall have, within all territory which is under the jurisdiction and control of the United States, the exclusive right to reproduce the said copyrighted design and sell and use reproductions thereof embodied in or applied to the manufactured product described in the application registered or products of similar character substantially as specified in the certificate of registration: *Provided, however,* That nothing in this act shall be construed to affect or lessen the present legal right of anyone to make, use, or sell manufactured articles protected under this act, or parts thereof, when such articles or parts are made, used, or sold as repair parts: *And provided further,* That no registration under this act shall be construed to deprive any person of any otherwise lawful right to illustrate fashions by pictorial reproductions, or to make or sell patterns for dress-making.

Repair parts.

Fashions.

Assignment. SEC. 5. Every copyright for a design registered under the provisions of this act, or any interest therein, shall be assignable in law by an instrument in writing; and the copyright claimant of record or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under such copyright for the whole or any part of the United States. Such assignment, grant, or conveyance 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, grant, or conveyance has been duly recorded and who purchased prior to the recording of the prior assignment, grant, or conveyance. If any such assignment, grant, or conveyance be acknowledged before any notary public of the several States or Territories, or the District of Columbia, or any clerk or commissioner of any United States district

court, or before a secretary in the Diplomatic Service or consular officer of the United States authorized by law to administer oaths or perform notarial acts, or before any notary public, judge, or magistrate of any foreign country authorized to administer oaths or perform notarial acts in such country whose authority shall be proved by the certificate of a secretary in the Diplomatic Service or consular officer of the United States, the certificate of such acknowledgment, or the record thereof in the Copyright Office, when made, shall be prima facie evidence of the execution of such assignment, grant, or conveyance.

SEC. 6. During the term of protection for which any certificate of registration shall be issued hereunder it shall be unlawful for any person other than the owner of the copyright, without license from such owner, to copy the registered design or any characteristic original feature thereof, or to make any obvious or fraudulent imitation of said design or of any characteristic original feature thereof in the class of manufactured product named in the certificate or any product of similar character for the purpose of sale or public distribution or to sell or expose for sale or publicly distribute any manufactured product of similar character to which such design or such copy or imitation shall, without the license of the owner, have been applied: *Provided, however,* That such sale or public distribution or exposure for sale and public distribution by other than the manufacturer shall be unlawful only as to goods sold or publicly distributed after notice or knowledge of the registration of the design.

Unlawful acts.

SEC. 7. The rights secured under the registration provided in section 1 of this act shall endure for a term of two years from the date when such registration shall have been completed. At any time before the expiration of the two-year term an extension of the copyright may be registered for a further period of eighteen years to secure a total period of protection of twenty years upon filing an application for such extension and paying the fees prescribed in section 11 of this act.

Duration of protection.

Classes of products. SEC. 8. The register of copyrights shall be authorized to determine and designate the different classes of manufactured products under which registrations may be made, and subject to approval by the Librarian of Congress, to make rules and regulations for such registrations and for the form and contents of the required certificate.

Certificate of registration. SEC. 9. In the case of each entry of a claim for copyright in any design made subject matter of copyright by this act the person recorded as the claimant of copyright shall be entitled to a certificate of registration under the seal of the Copyright Office, which shall be admitted in any court as prima facie evidence of the facts stated therein. A duplicate certificate under the seal of the Copyright Office shall be supplied to any person requesting the same upon payment of the fee prescribed.

Single application sufficient. SEC. 10. When a design actually embodied in or applied to one manufactured product is in substantially the same form to be embodied in or applied to a set of articles of the same general character ordinarily on sale together or intended to be used together, a single application for registration and one certificate of registration shall be sufficient to secure protection.

Fees for registration. SEC. 11. The register of copyrights shall receive, and the persons to whom the services designated in this act are rendered shall pay, the following fees:

(1) For the registration of any design deposited under the provisions of this act for the first term of two years, \$2.

(2) For the registration of the extension of the period of protection to twenty years, as provided herein, \$20, and the payment of the said fees shall include, in each case, the certificate provided for in this act.

(3) For a duplicate certificate of any registration made, \$1.

(4) For recording any document in the Copyright Office, as provided in section 4 of this act, or for furnishing certified copies of any such document, \$1 for the first three hundred words or fraction thereof, and \$1 additional for each subsequent five hundred words or fraction thereof.

(5) For copies of any registration made, or of drawings or photographs, or other identifying reproductions filed in relation to any design registered, and for comparing such copies with the originals before certification, a reasonable fee, and 50 cents additional for certification of each such copy under seal of the Copyright Office.

SEC. 12. All designs registered for the first term of two years shall be listed in the Catalogue of Copyright Entries, prepared and printed under the provisions of the act of March 4, 1909, and each extension registration shall be described in said catalogue and shall be further identified by a reproduction of the design. The periodic issues of said catalogue may be subscribed for as provided in said act. The Catalogue of Copyright Entries for designs shall be admitted in any court as prima facie evidence of the facts therein stated as regards any copyright registration for a design made under the provisions of this act.

*Catalogue of
Copyright En-
tries.*

SEC. 13. When registration has been made in the Copyright Office for any design as provided in this act, written, printed, or photographic copies of any papers, drawings, or photographs relating to such design preserved in the Copyright Office shall be given to any person making application therefor and paying the fees required by this act, and such copies when authenticated by the seal of the Copyright Office shall be evidence in all cases where the originals could be evidence and of the same force and effect.

*Copies of Copy-
right Office rec-
ords.*

SEC. 14. It shall be the duty of the author or proprietor of a design registered under this act, and all persons making or vending the manufactured product bearing the design, to give notice to the public that the design is registered by affixing to the manufactured product the mark "Design registered U. S." with or without the number of the registration entry. When the nature of the product will not permit the affixing of this mark in full it shall be sufficient to use the abbreviation "D, Rgd.," or the symbol ©., with or without the number of the registration. When the product itself will not permit the affixing of any of these marks it shall be

*Notice of regis-
tration required.*

sufficient to attach a label or tag to the product or to the package or cover containing the product in which the design is embodied or to which it is applied. In any action or suit for infringement by a party failing so to mark the manufactured product no recovery shall be adjudged the plaintiff except on proof that the defendant was notified of the registration and of his infringement thereof and that he continued after such notice to make or vend the product bearing the registered design, or that failure to mark was merely occasional and inadvertent, in no wise affecting the general notice intended by the accused marking. Any person who, with fraudulent intent, falsely marks such a manufactured product for the purpose of deceiving the public shall be liable for every such offense to a penalty of \$100 with costs.

Jurisdiction of courts.

SEC. 15. The district and territorial courts of the United States and its insular possessions, including the courts of first instance of the Philippine Islands and the Supreme Court of the District of Columbia, shall have original jurisdiction, and the circuit courts of appeals of the United States, the Court of Appeals of the District of Columbia, and the Supreme Court of the Philippine Islands shall have appellate jurisdiction of all suits at law or in equity respecting designs registered in accordance with the provisions of this act.

Writs.

SEC. 16. Writs of certiorari may be granted by the Supreme Court of the United States for the review of cases arising under this act in the same manner as provided in the Judicial Code as amended by the act of September 6, 1916.

Injunctions.

SEC. 17. The several courts vested with jurisdiction of cases arising under this act shall have power to grant injunctions, according to the course and principles of equity, to prevent the infringement of rights secured by registration under this act, on such terms as the court may deem reasonable, and upon a decree being rendered in any such case for wrongful use of a design, the complainant shall be entitled to recover the profits to be accounted for by the defendant and the damages to be assessed by the court or under the direction of the court. The courts shall have power within their discretion to

increase the damages to treble the amount assessed, and in cases where the plaintiff may so request, or where from the record it is apparent to the court that an accounting would not find damages or profits to exceed \$100, the court may dispense with an accounting and may hold the defendant liable to pay to the plaintiff not less than \$100 nor more than \$250, or if upon proof the copying complained of be shown to be without knowledge or notice of the copyright the courts may dispense with any recovery of profits and damages. In any suit or action brought for the infringement of any copyright registered hereunder there shall be no recovery of profits or damages or other relief granted for any infringement committed more than six years before the filing of the bill of complaint or the issuing of the writ in such suit or action.

Damages.

SEC. 18. In any action or suit for infringement of copyright in a design registered under this act, upon judgment for complainant, the court may order all infringing articles, products, or parts disposed of in a manner which shall be just as between the parties, and all dies, models, and devices useful only in producing the infringing article or product, and all labels, prints, or advertising matter relating to the infringing article or product, to be delivered up and destroyed or otherwise disposed of.

Disposal of infringing articles.

SEC. 19. After adjudication and the entry of a final decree by any court in any action brought under this act any of the parties thereto may upon payment of the legal fees, have the clerk of the court prepare a certified copy or copies of such decree, or of the record, of any part thereof, and forward the same to any of the designated courts of the United States, and any such court to which such copy or copies may be forwarded under the provisions of this section shall forthwith make the same a part of its record; and any such record, judgment, or decree may thereafter be made, as far as applicable, the basis of an application to that court for injunction or other relief by any court in which such copies shall have been recorded; and in the preparation of such copies the printed copies of the record of either party on file

Certified copies of decrees.

with the clerk may be used without charge other than for the certificate. When the necessary printed copies are not on file with the clerk either party may file copies which shall be used for the purpose, and in such cases the clerk shall be entitled to charge a reasonable fee for comparing such copies with the original record before certification and for certifying the same.

*Penalty for
false registra-
tion.*

SEC. 20. Any person who shall register a design under this act knowing that the design is not an original work of authorship of the person named as author in the application, or who shall bring an action or suit under a certificate of registration procured for a design known by the registrant or by the plaintiff to be not an original work of authorship of the person named as author in the application, shall, when party to a suit or action under such registration, and upon due showing of such knowledge, be liable in the sum of \$500, or such part thereof as the court may determine, to be charged against the plaintiff and paid to the defendant in addition to the customary costs.

*Defendant may
plead general
issue.*

SEC. 21. In any action or suit for the infringement of a design registered under this act the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney thirty days before, may plead the invalidity of the plaintiff's claim and give proof in support thereof.

*Presumption of
originality.*

SEC. 22. In an action or suit for infringement of copyright in a design registered under this act there shall be a presumption of originality in the registered design and of validity in the registration thereof and a presumption of copying may arise from substantial resemblance to the registered design in defendant's design.

*Invalid regis-
trations.*

SEC. 23. After the registration of a design shall have been adjudged invalid and a judgment or decree shall have been entered for the defendant the clerk shall forward a certified copy of such judgment or decree to the register of copyrights, who shall forthwith make the same a part of the records of the Copyright Office.

*Trade-mark
rights.*

SEC. 24. Registration under this act shall not constitute any waiver or abandonment of any trade-mark rights in the design registered.

SEC. 25. The following sections of the United States Revised Statutes are hereby repealed: Section 4929, as amended by the act of May 9, 1902; sections 4930 and 4931; and in section 4934, as amended by the act of February 18, 1922, the following words: "In design cases: For three years and six months, \$10; for seven years, \$15; for fourteen years, \$30": *Provided, however,* That notwithstanding the four months' limitation in the proviso to section 1 of this act, an applicant who has duly filed in the Patent Office an application for a design patent and whose application has not become abandoned when this act goes into effect shall within six months after this act goes into effect elect to demand a design patent which may be granted him as if the sections herein repealed were still in effect; or upon payment of the fee prescribed in section 11 of this act to file an application for registration of said design under this act, or two or more applications in different classes, if the design as disclosed in said application is entitled to registration in such different classes, as a continuation of and substitute for said application for a design patent, and to obtain copyright protection therefor under the provisions of this act: *And provided further,* That each registration pursuant to this section shall have the same force and effect as if the application therefor had been filed on the day of the filing of the application for design patent. Except as above provided in this section no copyright registration of a design under the provisions of this act shall be valid if the certificate of registration shall have been issued to an author or proprietor to whom or to whose assignee shall have been previously issued a design patent in this country for the same design.

Repealed statutes.

Application filed in Patent Office.

SEC. 26. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for clerical service, office equipment, stationery and supplies, for carrying into effect this act, for the fiscal year ending June 30, 1927, \$50,000, and thereafter such sums as Congress may deem necessary, to be expended by the Librarian of Congress.

Appropriations.

SEC. 27. The Librarian of Congress shall annually submit estimates in detail for all expenses of carrying this

Assistants to register of copyrights.

act into effect, and he is hereby authorized to appoint such subordinate assistants to the register of copyrights as shall be necessary for the prompt and efficient execution of the work involved.

Date of effect. SEC. 28. This act shall go into effect on January 1, 1927.

[69th Cong., 1st sess. H. R. 13117. In the House of Representatives, June 28, 1926]

Bill H. R. 13117. Mr. Vestal introduced the following bill; which was referred to the Committee on Patents and ordered to be printed.

A BILL For copyright registration of designs.

Copyright in designs. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any person who is a citizen of or domiciled in the United States, or who is a citizen or subject of a foreign state or nation with which the United States shall have established reciprocal copyright relations, and who is the author of any design as hereinafter defined, or the legal representative or assignee of such author, may secure copyright therein upon the registration of such design in the Copyright Office of the United States: *Provided, however,* That the said design shall not have been in public use or on sale in this country by or with the consent of the author or proprietor for more than six months prior to the filing of the application for such registration.

Definition of "design." SEC. 2. The term "design" as used in this act means any design for a manufactured product, either as a pattern, shape, or form which is original in its application to or embodiment in such manufactured product and produces an artistic effect or secures ornamentation, or surface or other decoration; or any design for dies, molds, or devices for adapting a manufactured product for use in producing an artistic or ornamental effect; but shall not extend to any shape or form which has merely a functional or mechanical purpose.

Application for registration. SEC. 3. To secure registration under this act the author or his legal representative or his assignee must file

an application in the Copyright Office, stating all the facts required by section 9 of this act to be enumerated in the certificate of copyright registration, and, specifically: (a) That he is the author or originator of the design for which he solicits registration; or (b) that he is the assignee or legal representative of such author and that he verily believes the author named in the application to be the originator of such design: *Provided*, That any person who shall register a design under this act knowing that the design is not an original work of authorship of the person named as author in the said application shall be guilty of a misdemeanor punishable by a fine of \$500 or such part thereof as the court may determine.

SEC. 4. Any person entitled thereto, upon complying with the provisions of this act, shall have, within all territory which is under the jurisdiction and control of the United States, the exclusive right to reproduce the said copyrighted design and sell reproductions thereof embodied in or applied to the manufactured product described in the application registered or products of similar character substantially as specified in the certificate of registration: *Provided, however*, That nothing in this act shall be construed to take away or restrict the right of anyone—

(a) To repair manufactured articles protected under this act, or to make or sell parts of such manufactured articles for use as repair parts;

(b) To make and sell or to sell patterns for dress-making, or to make or to have made garments from such patterns, when such garments are made for individual use and are not manufactured in quantity for sale;

(c) To illustrate designs by pictorial representation, or to publicly distribute or exhibit such illustrations or pictorial representations of designs: *Provided*, That distribution, exhibition, or publication, as authorized in subsections (b) and (c) above, shall not be held to affect the force or validity of any copyright which may subsist in any design involved: *And provided further*, That a notice to that effect shall be printed on the

pattern or its envelope, or in the work containing such illustrations or pictorial representations, by the person who makes such patterns or who publishes such illustrations or pictorial representations of any design.

Assignment.

SEC. 5. Every copyright for a design registered under the provisions of this act, or any interest therein, shall be assignable in law by an instrument in writing; and the copyright claimant of record or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under such copyright for the whole or any part of the United States.

Must be recorded.

Such assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is 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, or prior to such subsequent purchase of mortgage. If such assignment, grant, or conveyance be acknowledged before any notary public of the several States or Territories or the District of Columbia, or any dependencies of the United States, or before any officer authorized to administer oaths in the United States or its dependencies and the Panama Canal Zone or the Philippine Islands, or any clerk or commissioner of any United States district court, or before a secretary in the Diplomatic Service or a diplomatic or consular officer of the United States authorized by law to administer oaths or perform notarial acts, or before any notary public, judge, or magistrate of any foreign country authorized to administer oaths or perform notarial acts in such country whose authority shall be proved by the certificate of a secretary in the Diplomatic Service, or a diplomatic or consular officer of the United States, the certificate of such acknowledgment, or the record thereof in the Copyright Office, when made, shall be prima facie evidence of the execution of such assignment, grant, or conveyance.

Infringement.

SEC. 6. During the term of protection for which any certificate of registration shall be issued hereunder it

shall be unlawful for any person other than the owner of the copyright, without license from such owner, to copy the registered design or any characteristic original feature thereof, or to make any obvious or fraudulent imitation of said design or of any characteristic original feature thereof in the class of manufactured product named in the certificate or any product of similar character for the purpose of sale or public distribution; or to sell or expose for sale or publicly distribute any manufactured product of similar character to which such copy or imitation shall, without the license of the owner, have been applied: *Provided, however,* That such sale or public distribution or exposure for sale or public distribution by other than the manufacturer shall be unlawful only as to goods purchased after actual notice in writing of the registration of the design: *And provided further,* That nothing in this act contained shall be deemed to apply to any reproduction, copy, use, sale, or public distribution of any design copyrighted under this act, in any motion picture or in any advertising matter of any kind, and in whatever form used in connection with the distribution or sale or other disposition of motion pictures.

SEC. 7. The rights secured under the registration provided in section 1 of this act shall endure for a term of two years from the date when the application for such registration shall have been filed. At any time before the expiration of the two-year term, an extension of the copyright may be registered for a further period of eighteen years to secure a total period of protection of twenty years upon filing an application for such extension and paying the fees prescribed in section 11 of this act.

Term of protection.

SEC. 8. The register of copyrights shall be authorized to determine and designate the different classes of manufactured products under which registrations may be made, and subject to approval by the Librarian of Congress, to make rules and regulations for such registrations and for the form of the required certificate.

Classes of registrations.

Certificate of registration.

SEC. 9. In the case of each entry of a claim for copyright in any design made subject matter of copyright by this act the person recorded as the claimant of copyright shall be entitled to a certificate of registration under the seal of the Copyright Office, which shall state the name, citizenship, and address of the author of the design and of the owner of the copyright in such design, if other than the author; the name or designation of the class of manufactured product in which the design is embodied or applied; or to which it is to be embodied or applied; the date when the application for registration was filed in the Copyright Office; and such marks as to class designation and entry number as shall fully identify the entry of the claim of copyright. Said certificate shall be admitted in any court as prima facie evidence of the facts stated therein. A duplicate certificate under the seal of the Copyright Office shall be supplied to any person requesting the same upon payment of the fee prescribed.

Single application sufficient.

SEC. 10. When a design actually embodied in or applied to, or to be embodied in or applied to one manufactured product is in substantially the same form to be embodied in or applied to a set of articles of the same general character ordinarily on sale together or intended to be used together, a single application for registration and one certificate of registration shall be sufficient to secure protection.

Fees for registration.

SEC. 11. The register of copyrights shall receive, and the persons to whom the services designated in this act are rendered shall pay, the following fees: (1) For the registration of any design under the provisions of this act for the first term of two years, \$2; (2) for the registration of the extension of the period of protection to twenty years, as provided herein, \$20, and the payment of the said fees shall include, in each case, the certificate provided for in this act; (3) for a duplicate certificate of any registration made, \$1; (4) for recording any document in the Copyright Office, as provided in section 5 of this act, or for furnishing certified copies of any such document, \$1 for each Copyright Office record-book page or fraction thereof up to five pages, and 50 cents for

each such page or fraction thereof beyond five pages; (5) for copies of any registration made, or of drawings or photographs or other identifying reproductions filed in relation to any design registered, and for comparing such copies with the originals before certification, a reasonable fee, and 50 cents additional for certification of each such copy under seal of the Copyright Office.

SEC. 12. All designs registered for the first term of two years shall be listed in the Catalogue of Copyright Entries, prepared and printed under the provisions of the act of March 4, 1909, and each extension registration shall be described in said catalogue and shall be further identified by a reproduction of the design. The periodic issues of said catalogue may be subscribed for upon application to the Superintendent of Public Documents at a price to be determined by the register of copyrights for each part of the catalogue, not exceeding \$10 for the complete Catalogue of Copyright Entries provided by the act approved March 4, 1909, or \$5 for the catalogue of designs registered under this act. The Catalogue of Copyright Entries for designs shall be admitted in any court as prima facie evidence of the facts therein stated as regards any copyright registration for a design made under the provisions of this act.

Designs to be listed in Catalogue of Copyright Entries.

SEC. 13. When registration has been made in the Copyright Office for any design as provided in this act, written, printed, or photographic copies of any papers, drawings, or photographs relating to such design preserved in the Copyright Office shall be given to any person making application therefor and paying the fees required by this act, and such copies when authenticated by the seal of the Copyright Office shall be evidence in all cases where the originals could be evidence and of the same force and effect.

Copies of records.

SEC. 14. It shall be the duty of the author or proprietor of a design registered or to be registered under this act, and of all persons making or vending the manufactured product embodying the design, to give notice to the public that the design is registered or to be registered, by affixing to the manufactured product the mark "De-

Notice of design registration.

Forms of notice required.

sign copyrighted," to which shall be added with reasonable promptness after registration the number of the registration entry. When the nature of the product will not permit the affixing of this mark in full it shall be sufficient to use the abbreviations "D. copr.," or the letter D inclosed within a circle thus (D), with or without the number of the registration: *Provided, however,* That when such abbreviation or symbol is used, or when the product itself will not permit the affixing of any of these marks, it shall be sufficient to attach a label or tag to the product or to the package or cover containing the product in which the design is embodied or to which it is applied, plainly marked with the words "Design copyrighted" and, with reasonable promptness after registration, the number of the registration entry: *Provided,* That in the case of any manufactured product in which the design is repeated, such as wall paper or textiles, one marking upon the roll, bale, or parcel of the manufactured product embodying such design shall be held sufficient: *And provided further,* That any person who, with fraudulent intent, falsely marks such a manufactured product for the purpose of deceiving the public shall be deemed guilty of a misdemeanor and for every such offense shall be punishable by a fine not exceeding \$500.

*Fraudulent no-
tice.*

*Jurisdiction of
courts.*

SEC. 15. The district and territorial courts of the United States and its insular possessions, including the courts of first instance of the Philippine Islands and the Supreme Court of the District of Columbia, shall have original jurisdiction, and the circuit courts of appeal of the United States, the Court of Appeals of the District of Columbia, and the Supreme Court of the Philippine Islands shall have appellate jurisdiction of all suits at law or in equity respecting designs registered in accordance with the provisions of this act.

Writs.

SEC. 16. Writs of certiorari may be granted by the Supreme Court of the United States for the review of cases arising under this act in the same manner as provided in the Judicial Code as amended by the act of February 13, 1925.

SEC. 17. The several courts vested with jurisdiction of cases arising under this act shall have power to grant *Injunctions.* injunctions, according to the course and principles of equity, to prevent the infringement of rights secured by registration under this act, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for wrongful use of a design, the complainant shall be entitled to recover the profits to be accounted for by the defendant and the damages to be assessed by the court or under the direction of the court. The courts shall have power within their discretion to increase the damages to treble the amount assessed; and in cases where the plaintiff may so request, or where from the record it is apparent to the court that an accounting would not find damages or profits to exceed \$100, the court may dispense with an accounting and may hold the defendant liable to pay to the plaintiff not less than \$100 nor more than \$250, or if upon proof the copying complained of be shown to be without knowledge or notice of the copyright, the courts may dispense with any recovery of profits and damages. In any suit or action brought for the infringement of any copyright registered hereunder there shall be no recovery of profits or damages or other relief granted for any infringement committed more than three years before the filing of the bill of complaint or the issuing of the writ in such suit or action or where the bill of complaint was filed or the writ issued more than two years after knowledge of the alleged infringement.

SEC. 18. In any action or suit for infringement of copyright in a design registered under this act, upon judgment for complainant, the court may order all *Destruction of infringing articles.* infringing articles, products, or parts disposed of in a manner which shall be just as between the parties, and all dies, models, and devices useful only in producing the infringing article or product, and all labels, prints, or advertising matter relating to the infringing article or product, to be delivered up and destroyed or otherwise disposed of.

Court records.

SEC. 19. After adjudication and the entry of a final decree by any court in any action brought under this act, any of the parties thereto may upon payment of the legal fees, have the clerk of the court prepare a certified copy or copies of such decree, or of the record, or any part thereof, and forward the same to any of the designated courts of the United States, and any such court to which such copy or copies may be forwarded under the provisions of this section shall forthwith make the same a part of its record; and any such record, judgment, or decree may thereafter be made, as far as applicable, the basis of an application to that court for injunction or other relief by any court in which such copies shall have been recorded; and in the preparation of such copies the printed copies of the record of either party on file with the clerk may be used without charge other than for the certificate. When the necessary printed copies are not on file with the clerk either party may file copies which shall be used for the purpose, and in such cases the clerk shall be entitled to charge a reasonable fee for comparing such copies with the original record before certification and for certifying the same.

Suits.

SEC. 20. Any person who shall bring an action or suit under a certificate of registration procured for a design known by the plaintiff to be not an original work of authorship of the person named as the author in the application, shall, upon due showing of such knowledge, be liable in the sum of \$500, or such part thereof as the court may determine, to be charged against the plaintiff and paid to the defendant in addition to the customary costs.

Presumption of originality.

SEC. 21. In an action or suit for infringement of copyright in a design registered under this act there shall be a presumption of originality in the registered design and of validity in the registration thereof and a presumption of copying may arise from substantial resemblance to the registered design in defendant's design.

Judgment for defendant.

SEC. 22. After the registration of a design shall have been adjudged invalid and a judgment or decree shall have been entered for the defendant, the clerk shall for-

ward a certified copy of such judgment or decree to the register of copyrights, who shall forthwith make the same a part of the records of the copyright office.

SEC. 23. Registration under this act shall not constitute any waiver or abandonment of any trade-mark rights in the design registered. ^{Trade-mark rights.}

SEC. 24. The following sections of the United States Revised Statutes are hereby repealed: Section 4929, as amended by the act of May 9, 1902; sections 4930 and 4931, and in section 4934, as amended by the act of February 18, 1922, the following words: "In design cases: For three years and six months, \$10; for seven years, \$15; for fourteen years, \$30": *Provided, however, That notwithstanding the six months' limitation in the proviso to section 1 of this act, an applicant who has duly filed in the Patent Office an application for a design patent, and whose application has not become abandoned when this act goes into effect elect either to demand a design patent which may be granted him as if the sections herein repealed were still in effect, or, upon payment of the fee prescribed in section 11 of this act, to file an application for registration of said design under this act, or two or more applications in different classes, if the design as disclosed in said application is entitled to registration in such different classes, as a continuation of and substitute for said application for a design patent, and to obtain copyright protection therefor under the provisions of this act: And provided further, That each registration pursuant to this section shall have the same force and effect as if the application therefor had been filed on the day of the filing of the application for design patent. No copyright registration of a design under the provisions of this act shall be valid if the certificate of registration shall have been issued to an author or proprietor to whom or to whose assignee shall have been previously issued a design patent in this country for the same design.* ^{Repealing clause.} ^{Design patents.}

SEC. 25. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise ^{Administrative appropriation.}

appropriated, for clerical service, office equipment, stationery and supplies, for carrying into effect this act, for the fiscal year ending June 30, 1927, \$100,000, or so much thereof as may be necessary, and thereafter such sums as Congress may deem necessary, to be expended by the Librarian of Congress.

Annual estimates. SEC. 26. The Librarian of Congress shall annually submit estimates in detail for all expenses of carrying this act into effect, and he is hereby authorized to appoint such subordinate assistants to the register of copyrights as shall be necessary for the prompt and efficient execution of the work involved.

Date of effect. SEC. 27. This act shall go into effect on January 1, 1927.

[69th Cong., 1st sess. H. R. 5245. In the House of Representatives, December 12, 1925]

Bill H. R. 5245: Notice of copyright in designs. Mr. Taylor of New Jersey introduced the following bill, which was referred to the Committee on Patents and ordered to be printed.

A BILL To amend sections 19 and 24 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 19 and 24 of the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, be amended to read as follows:

SEC. 19. That the notice of copyright shall be applied, in the case of a book or other printed publication, upon its title-page or the page immediately following, or if a periodical either upon the title-page or upon the first page of text of each separate number or under the title heading, or if a musical work either upon its title-page or the first page of music: *Provided,* That one notice of copyright in each volume or in each number of a newspaper or periodical published shall suffice; and in cases where an artistic work embodies a connected repetition

of a design on one substance, one notice placed on such substance, or attached to it, shall be sufficient.

SEC. 24. That the copyright subsisting in any work at the time when this act goes into effect may, at the expiration of the term provided for under existing law, be renewed and extended by the author of such work if still 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 by the author's executors, or in the absence of a will his next of kin, for a further period such that the entire term shall be equal to that secured by this act, including the renewal period: *Provided, however,* That if the work be a composite work upon which copyright was originally secured by the proprietor thereof, then such proprietor shall be entitled to the privilege of renewal and extension granted under this section: *Provided,* That application for such renewal and extension shall be made to the copyright office and duly registered therein within one year prior to the expiration of the existing term: *And provided further,* That if any author or proprietor of a work claimed by him to be the subject of copyright under this law shall be dissatisfied with the action or ruling of the Register of Copyrights or the Assistant Register of Copyrights he shall have the right to appeal therefrom to the Court of Appeals of the Supreme Court of the District of Columbia upon filing an appeal therefrom in the same manner and to the same effect that applicants for letters patent now have to appeal from decisions of the Commissioner of Patents on payment of the fees provided for such appeal in the Patent Office.

Renewals.

Right to appeal.

ADDENDUM II

COPYRIGHT—CHILE

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

*Proclamation
dated November
18, 1925: Chile.*

Whereas it is provided by the act of Congress approved March 4, 1909, entitled "An act to amend and consolidate the acts respecting copyright," that the copyright secured by the act, except the benefits under section 1(e) thereof, as to which special conditions are imposed, shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only upon certain conditions set forth in section 8 of the said act, to wit:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign state or nation 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 under this act or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto:

And whereas it is provided by section 1(e) of the said act of Congress, approved March 4, 1909, that the provisions of the act "so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compo-

sitions published and copyrighted after this act goes into effect, and shall not include the works of a foreign author or composer unless the foreign state or nation 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";

And whereas the President is authorized by the said section 8 to determine by proclamation made from time to time the existence of the reciprocal conditions aforesaid, as the purposes of the act may require;

And whereas the President by proclamation dated April 9, 1910, did declare and proclaim that one of the alternative conditions specified in section 8 of the act of March 4, 1909, was then and from July 1, 1909, had been fulfilled in respect to the citizens of Chile and that the citizens of Chile were and since July 1, 1909, had been entitled to all the benefits of the said act other than the benefits of section 1(e) thereof.

And whereas satisfactory official assurances have been received that in Chile protection of copyright, which is similar to the protection afforded by section 1(e) of the act of March 4, 1909, is and since July 1, 1925, has been available to citizens of the United States.

Now, therefore, I, Calvin Coolidge, President of the United States of America, do declare and proclaim

That on and after July 1, 1925, the conditions specified in section 1(e) of the act of March 4, 1909, existed and were fulfilled in respect to the citizens of Chile and that citizens of Chile are and since July 1, 1925, have been entitled to all the benefits of section 1(e) of the act of Congress approved March 4, 1909, including copyright controlling the parts of instruments serving to reproduce mechanically musical works. ~

Provided, That the enjoyment by any work of the rights and benefits conferred by section 1(e) of the act of March 4, 1909, shall be conditional upon compliance with the requirements and formalities prescribed with respect to such works by the copyright laws of the United States.

And provided further, That the provisions of section 1(e) of the act of March 4, 1909, in so far as they secure ^{Effective July 1, 1925.}

copyright controlling the parts of instruments serving to reproduce mechanically musical works shall apply only to compositions published after July 1, 1925, and registered for copyright in the United States which have not been reproduced within the United States prior to the date of this proclamation on any contrivance by means of which the work may be mechanically performed.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this eighteenth day of November, in the year of our Lord one thousand nine hundred and twenty-five, and of the independence of the United States of America the one hundred and fiftieth.

[SEAL.]

CALVIN COOLIDGE.

By the President:

FRANK B. KELLOGG,

Secretary of State.