GOVERNMENT NOTIFICATION.—No. 29.

The following Circular Despatch and its enclosures, is published for general information.

By Command,

FREDERICK STEWART, Colonial Secretary.

Colonial Secretary's Office, Hongkong, 21st January, 1888.

CIRCULAR.

Downing Street, 18th November, 1887.

SIR,—With reference to my predecessor's circular despatch of the 2nd December last, I have the honour to transmit to you, for information and publication in the Colony under your Government, a copy of a letter from the Foreign Office enclosing a copy of a Parliamentary Paper containing the text of the Convention concerning the creation of an International Union for the protection of Literary and Artistic Works, signed at Berne, September 9th, 1886.

It will be seen from the Foreign Office letter that steps have been taken for the passing of an

Order of the Queen in Council for bringing the Convention into effect.

I have the honour to be,

Sir,

Your most obedient humble Servant,

H. T. HOLLAND.

The Officer Administering the Government of Hongkong.

(COPY.)

THE FOREIGN OFFICE TO THE COLONIAL OFFICE.

Foreign Office, October 31st, 1887.

Sir,—I am directed by the Marquis of Salisbury to transmit to you, to be laid before Sir Henry Holland, and for communication to the Colonies, copies of a Parliamentary Paper containing the text of the Convention concerning the creation of an International Union for the protection of Literary and Artistic Works, signed at Berne, September 9th, 1886.

The following States, viz.: Great Britain, Germany, Belgium, Spain, France, Haïti, Italy, Switzerland, and Tunis, have ratified the Convention, and the ratifications of those States were deposited

at Berne on the 5th of September last.

I am to add that steps have been taken for the passing of an Order in Council for bringing the Convention into effect three months after the date of the deposit of the ratifications in conformity with the stipulations of Article XX.

I am, &c.,

(Signed)

T. V. LISTER.

The Under-Secretary of State, Colonial Office.

Convention concerning the Creation of an International Union for the Protection of Literary and Artistic Works.

Signed at Berne, September 9, 1886.

[Ratifications exchanged at Berne, September 5, 1887.]

(Translation.)

Convention concerning the Creation of an International Union for the Protection of Literary and Artistic Works.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the German Emperor, King of Prussia; His Majesty the King of the Belgians; Her Majesty the Queen Regent of Spain, in the name of His Catholic Majesty the King of Spain; the President of the French Republic; the President of the Republic of Haïti; His Majesty the King of Italy; the President of the Republic of Liberia; the Federal Council of the Swiss Confederation; His Highness the Bey of Tunis.

Being equally animated by the desire to protect effectively, and in as uniform a manner as possible,

the rights of authors over their literary and artistic works,

Have resolved to conclude a Convention to that effect, and have named for their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, Sir Francis Ottiwell Adams, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Companion of the Most Honourable Order of the Bath, her Envoy Extraordinary and Minister Plenipotentiary at Berne; and John Henry Gibbs Bergne, Esquire, Companion of the Most Distinguished Order of St. Michael and St. George, Director of a Department in the Foreign Office at London.

His Majesty the German Emperor, King of Prussia, M. Otto von Bülow, Privy Councillor of Legation, and Chamberlain of His Majesty, his Envoy Extraordinary and Minister Plenipotentiary to the Swiss Confederation.

His Majesty the King of the Belgians, M. Maurice Delfosse, his Envoy Extraordinary and

Minister Plenipotentiary to the Swiss Confederation.

Her Majesty the Queen Regent of Spain, in the name of His Catholic Majesty the King of Spain; the Count de la Almina, Senator, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Confederation; M. Don José Villa-Amil y Castro, Chief of the Section of Intellectual Property in the Ministry of Public Instruction, Doctor of Civil and Canon Law, Member of the Facultative Corps of Archivists, Librarians, and Archeologists, and of the Academies of History, of the Fine Arts of St. Ferdinand, and of the Academy of Sciences at Lisbon.

The President of the French Republic, M. François Victor-Emmanuel Arago, Senator, Ambas-

sador from the French Republic to the Swiss Confederation.

The President of the Republic of Haïti, M. Louis Joseph Janvier, Doctor of Medicine of the Faculty of Paris, Prizeman of the Faculty of Medicine of Paris, bearing Diplomas from the School of Political Sciences of Paris (Administrative and Diplomatic Sections), decorated with the Haïtian Medal of the third class.

His Majesty the King of Italy, M. Charles Emmanuel Beccaria des Marquis d'Incisa, Chevalier of the Orders of Saints Maurice and Lazarus, and of the Crown of Italy, his Chargé d'Affaires to the Swiss Confederation.

The President of the Republic of Liberia, M. William Kæntzer, Imperial Councillor, Consul-

General, Member of the Chamber of Commerce of Vienna.

The Federal Council of the Swiss Confederation, M. Numa Droz, Vice-President of the Federal Council, Head of the Department of Commerce and Agriculture; M. Louis Ruchonnet, Federal Councillor, Chief of the Department of Justice and Police; M. A. d'Orelli, Professor of Law at the University of Zurich.

His Highness the Bey of Tunis, M. Louis Renault, Professor to the Faculty of Law of Paris, and to the Free School of Political Sciences, Chevalier of the Order of the Legion of Honour, and Chevalier

of the Order of the Crown of Italy.

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:-

ARTICLE I.

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

ARTICLE II.

Authors of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether published in one of those countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives.

The enjoyment of these rights is subject to the accomplishment of the conditions and formalities prescribed by law in the country of origin of the work, and cannot exceed in the other countries the

term of protection granted in the said country of origin.

The country of origin of the work is that in which the work is first published, or if such publication takes place simultaneously in several countries of the Union, that one of them in which the shortest term of protection is granted by law.

For unpublished works the country to which the author belongs is considered the country of

origin of the work.

ARTICLE III.

The stipulations of the present Convention apply equally to the publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union.

ARTICLE IV.

The expression "literary and artistic works" comprehends books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions with or without words; works of design, painting, sculpture, and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

ARTICLE V.

Authors of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorizing the translation of their works until the expiration of ten years from the publication of the original work in one of the countries of the Union. For works published in incomplete parts ("livraisons") the period of ten years commences from

the date of publication of the last part of the original work.

For works composed of several volumes published at intervals, as well as for bulletins or collections ("cahiers") published by literary or scientific Societies, or by private persons, each volume, bulletin, or collection is, with regard to the period of ten years, considered as a separate work.

In the cases provided for by the present Article, and for the calculation of the period of protection, the 31st December of the year in which the work was published is admitted as the date of publication.

ARTICLE VI.

Authorized translations are protected as original works. They consequently enjoy the protection stipulated in Articles II and III as regards their unauthorized reproduction in the countries of the Union.

It is understood that, in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

ARTICLE VII.

Articles from newspapers or periodicals published in any of the countries of the Union may be reproduced in original or in translation in the other countries of the Union, unless the authors or publishers have expressly forbidden it. For periodicals it is sufficient if the prohibition is made in a general manner at the beginning of each number of the periodical.

This prohibition cannot in any case apply to articles of political discussion, or to the reproduction

of news of the day or current topics.

ARTICLE VIII.

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies, the matter is to be decided by the legislation of the different countries of the Union, or by special arrangements existing or to be concluded between them.

ARTICLE IX.

The stipulations of Article II apply to the public representation of dramatic or dramatico-musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works, or their lawful representatives, are, during the existence of their exclusive right of translation, equally protected against the unauthorized public

representation of translations of their works.

The stipulations of Articles II apply equally to the public performance of unpublished musical works, or of published works in which the author has expressly declared on the title-page or commencement of the work that he forbids the public performance.

ARTICLE X.

Unauthorized indirect appropriations of a literary or artistic work, of various kinds, such as adaptations, arrangements of music, &c., are specially included amongst the illicit reproductions to which the present Convention applies, when they are only the reproduction of a particular work, in the same form, or in another form, with non-essential alterations, additions, or abridgments, so made as not to confer the character of a new original work.

It is agreed that, in the application of the present Article, the Tribunals of the various countries of the Union will, if there is occasion, conform themselves to the provisions of their respective laws.

ARTICLE XI.

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

For anonymous or pseudonymous works, the publisher whose name is indicated on the work is entitled to protect the rights belonging to the author. He is, without other proof, reputed the lawful

representative of the anonymous or pseudonymous author.

It is, nevertheless, agreed that the Tribunals may, if necessary, require the production of a certificate from the competent authority to the effect that the formalities prescribed by law in the country of origin have been accomplished, as contemplated in Article II.

ARTICLE XII.

Pirated works may be seized on importation into those countries of the Union where the original work enjoys legal protection.

The seizure shall take place conformably to the domestic law of each State.

ARTICLE XIII.

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

ARTICLE XIV.

Under the reserves and conditions to be determined by common agreement,* the present Convention applies to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin.

ARTICLE XV.

It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into separate and particular arrangements between each other, provided always that such arrangements confer upon authors or their lawful representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

ARTICLE XVI.

An international office is established, under the name of "Office of the International Union for

the Protection of Literary and Artistic Works."

This Office, of which the expenses will be borne by the Administrations of all the countries of the Union, is placed under the high authority of the Superior Administration of the Swiss Confederation, and works under its direction. The functions of this Office are determined by common accord between the countries of the Union.

ARTICLE XVII.

The present Convention may be submitted to revisions in order to introduce therein amendments

calculated to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, will be considered in Conferences to be held successively in the countries of the Union by Delegates of the said countries.

It is understood that no alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

ARTICLE XVIII.

Countries which have not become parties to the present Convention; and which grant by their domestic law the protection of rights secured by this Convention, shall be admitted to accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who

will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention.

ARTICLE XIX.

Countries acceding to the present Convention shall also have the right to accede thereto at any

time for their Colonies or foreign possessions.

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

ARTICLE XX.

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

Such denunciation shall be made to the Government authorized to receive accessions, and shall only be effective as regards the country making it, the Convention remaining in full force and effect

for the other countries of the Union.

ARTICLE XXI.

The present Convention shall be ratified, and the ratifications exchanged at Berne, within the space of one year at the latest.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Berne, the 9th day of September, 1886.

F. O. ADAMS.
J. H. G. BERGNE. (L.S.)(L.S.)OTTO von BÜLOW. MAURICE DELFOSSE. (L.S.)COMTE DE LA ALMINA Y CASTRO. (L.S.) JOSÉ VILLA-AMIL. EMMANUEL ARAGO L.S.) (L.S.) LOUIS JOSEPH JANVIER. E. DI BECCARIA. KŒNTZER. DROZ. L. RUCHONNET. (L.S.) (L.S)A. D'ORELLI. (L.S.) L. RENAULT.

^{*} See paragraph 4 of Final Protocol, p. 15.

Additional Article.

The Plenipotentiaries assembled to sign the Convention concerning the creation of an International Union for the protection of literary and artistic works have agreed upon the following Additional Article, which shall be ratified together with the Convention to which it relates:—

The Convention concluded this day in no wise affects the maintenance of existing Conventions between the Contracting States, provided always that such Conventions confer on authors, or their lawful representatives, rights more extended than those secured by the Union, or contain other stipulations which are not contrary to the said Convention.

In witness whereof, the respective Plenipotentiaries have signed the present Additional Article.

Done at Berne, the 9th day of September, 1886.

(Signed)

F. O. ADAMS.
J. H. G. BERGNE.
OTTO VON BÜLOW.
MAURICE DELFOSSE.
ALMINA.
VILLA-AMIL.
EMMANUEL ARAGO.
LOUIS JOSEPH JANVIER.
E. DI BECCARIA.
KŒNTZER.
DROZ.
L. RUCHONNET.
A. D'ORELLI.
L. RENAULT.

Final Protocol.

In proceeding to the signature of the Convention concluded this day, the undersigned Plenipotentiaries have declared and stipulated as follows:

1. As regards Article IV, it is agreed that those countries of the Union where the character of artistic works is not refused to photographs, engage to admit them to the benefits of the Convention concluded to-day, from the date of its coming into effect. They are, however, not bound to protect the authors of such works further than is permitted by their own legislation, except in the case of international engagements already existing, or which may hereafter be entered into by them.

It is understood that an authorized photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the said Convention, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private arrangements between those who have legal rights.

2. As regards Article IX, it is agreed that those countries of the Union whose legislation implicitly includes choregraphic works amongst dramatico-musical works, expressly admit the former works to the benefits of the Convention concluded this day.

It is, however, understood that questions which may arise on the application of this clause shall rest within the competence of the respective Tribunals to decide.

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright, shall not be considered as constituting an infringement of musical copyright.

4. The common agreement alluded to in Article XIV of the Convention is established as follows:—

The application of the Convention to works which have not fallen into the public domain at the time when it comes into force, shall operate according to the stipulations on this head which may be contained in special Conventions either existing or to be concluded.

In the absence of such stipulations between any countries of the Union, the respective countries shall regulate, each for itself, by its domestic legislation, the manner in which the principle contained in Article XIV is to be applied.

5. The organization of the International Office established in virtue of Article XVI of the Convention shall be fixed by a Regulation which shall be drawn up by the Government of the Swiss Confederation.

The Official language of the International Office will be French.

The International Office will collect all kinds of information relative to the protection of the rights of authors over their literary and artistic works. It will arrange and publish such information. It

will study questions of general utility likely to be of interest to the Union, and, by the aid of documents placed at its disposal by the different administrations, will edit a periodical publication in the French language treating questions which concern the Union. The Governments of the countries of the Union reserve to themselves the faculty of authorizing, by common accord, the publication by the Office of an edition in one or more other languages if experience should show this to be requisite.

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

The Admistration of the country where a Conference is about to be held, will prepare the programme of the Conference with assistance of the International Office.

The Director of the International Office will attend the sittings of the Conferences, and will take part in the discussions without a deliberative voice. He will make an annual Report on his administration, which shall be communicated to all the members of the Union.

The expenses of the Office of the International Union shall be shared by the Contracting States. Unless a fresh arrangement be made, they cannot exceed a sum of 60,000 fr. a year. This sum may be increased by the decision of one of the Conferences provided for in Article XVII.

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

First Cl	ass			25	units.
Third	••	***************			
Fourth	••	**************	•••••		
\mathbf{Fifth}	"	*****************			
Sixth	"	********			• • •

These coefficients will be multiplied by the number of States of each class, and the total product thus obtained will give the number of units by which the total expense is to be divided. The quotient will give the amount of the unity of expense.

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

The Swiss Administration will prepare the Budget of the Office, superintend its expenditure, make the necessary advances, and draw up the annual account, which shall be communicated to all the other Administrations.

6. The next Conference shall be held at Paris between four and six years from the date of the coming into force of the Convention.

The French Government will fix the date within these limits after having consulted the International Office.

7. It is agreed that, as regards the exchange of ratifications contemplated in Article XXI, each Contracting Party shall give a single instrument, which shall be deposited, with those of the other States in the Government archives of the Swiss Confederation. Each party shall receive in exchange a copy of the *procès-verbal* of the exchange of ratifications, signed by the Plenipotentiaries present.

The present Final Protocol, which shall be ratified with the Convention concluded this day, shall be considered as forming an integral part of the said Convention, and shall have the same force, effect, and duration.

In witness whereof the respective Plenipotentiaries have signed the same.

Done at Berne, the 9th day of September, 1886.

(Signed)

F. O. ADAMS.
J. H. G. BERGNE.
OTTO VON BÜLOW.
MAURICE DELFOSSE.
ALMINA.
VILLA-AMIL.
EMMANUEL ARAGO.
LOUIS-JOSEPH JANVIER.
E. DI BECCARIA.
KENTZER.
DROZ.
L. RUCHONNET.
A. D'ORELLI.
L. RENAULT.

Procès-verbal of Signature.

THE undersigned Plenipotentiaries, assembled this day to proceed with the signature of the Convention with reference to the creation of an International Union for the protection of literary and artistic works, have exchanged the following declarations:—

1. With reference to the accession of the Colonies or foreign possessions provided for by Article XIX of the Convention.

The Plenipotentiaries of His Catholic Majesty the King of Spain reserve to the Government the power of making known His Majesty's decision at the time of the exchange of ratifications.

The Plenipotentiary of the French Republic states that the accession of his country carries with it that of all the French Colonies.

The Plenipotentiaries of Her Britannic Majesty state that the accession of Great Britain to the Convention for the protection of literary and artistic works comprises the United Kingdom of Great Britain and Ireland, and all the Colonies and foreign possessions of Her Britannic Majesty.

At the same time they reserve to the Government of Her Britannic Majesty the power of announcing at any time the separate denunciation of the Convention by one or several of the following Colonies or possessions, in the manner provided for by Article XX of the Convention, namely:—

India, the Dominion of Canada, Newfoundland, the Cape, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia, and New Zealand.

2. With respect to the classification of the countries of the Union having regard to their contributory part to the expenses of the International Bureau (No. 5 of the Final Protocol):

The Plenipotentiaries declare that their respective countries should be ranked in the following classes, namely:—

Germany in the first class. Belgium in the third class. Spain in the second class. France in the first class. Great Britain in the first class. Haiti in the fifth class. Italy in the first class. Switzerland in the third class. Tunis in the sixth class.

The Plenipotentiary of the Republic of Liberia states that the powers which he has received from his Government authorize him to sign the Convention, but that he has not received instructions as to the class in which his country proposes to place itself with respect to the contribution to the expenses of the International Bureau. He therefore reserves that question to be determined by his Government, who will make known their intention on the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed the present procès-verbal. Done at Berne, the 9th day of September, 1886.

(Signed)

.F. O. ADAMS.
J. H. G. BERGNE.
OTTO VON BÜLOW.
MAURICE DELFOSSE.
ALMINA.
VILLA-AMIL.
EMMANUEL ARAGO.
LOUIS-JOSEPH JANVIER.
.E. DI BECCARIA.
KŒNTZER.
DROZ.
L. RUCHONNET.
A. D'ORELLI.
L. RENAULT.

Proces-verbal recording Deposit of Ratifications.

In accordance with the stipulations of Article XXI, paragraph 1, of the Convention for the creation of an International Union for the protection of literary and artistic works, concluded at Berne on the 9th September, 1886, and in consequence of the invitation addressed to that effect by the Swiss Federal Council to the Governments of the High Contracting Parties, the Undersigned assembled this day in the Federal Palace at Berne for the purpose of examining and depositing the ratifications of:—

Her Majesty the Queen of Great Britain and Ireland, Empress of India,

His Majesty the Emperor of Germany, King of Prussia,

His Majesty the King of the Belgians,

Her Majesty the Queen Regent of Spain, in the name of His Catholic Majesty the King of Spain,

The President of the French Republic, The President of the Republic of Haïti,

His Majesty the King of Italy,

The Council of the Swiss Confederation,

His Highness the Bey of Tunis,

to the said International Convention, followed by an Additional Article and Final Protocol.

The instruments of these acts of ratification having been produced and found in good and due form, they have been delivered into the hands of the President of the Swiss Confederation, to be deposited in the archives of the Government of that country, in accordance with clause No. 7 of the Final Protocol of the International Convention.

In witness whereof the Undersigned have drawn up the present proces-verbal, to which they have

affixed their signatures and the seals of their arms.

Done at Berne, the 5th September, 1887, in nine copies, one of which shall be deposited in the archives of the Swiss Confederation with the instruments of ratification.

For Great Britain(L.S.)	F. O. ADAMS.
For Germany(L.S.)	ALFRED von RÜLOW.
For Belgium(L.S.)	HENRY LOUMYER.
For Spain(L.S.)	COMTE DE LA ALMINA.
For France (L.S.)	EMMANUEL ARAGO.
For Haïti(L.S.)	LOUIS-JOSEPH JANVIER.
For Italy(L.S.)	FÈ.
For Switzerland (L.S.)	DROZ.
For Tunis(L.S.)	H. MARCHAND.

Protocol.

On proceeding to the signature of the *procès-verbal* recording the deposit of the acts of ratification given by the High Parties Signatory to the Convention of the 9th September, 1886, for the creation of an International Union for the protection of literary and artistic works, the Minister of Spain renewed, in the name of his Government, the declaration recorded in the *procès-verbal* of the Conference of the 9th September, 1886, according to which the accession of Spain to the Convention includes that of all the territories dependent upon the Spanish Crown.

The Undersigned have taken note of this declaration.

In witness whereof they have signed the present Protocol, done at Berne, in nine copies, the 5th September, 1887.

For Great Britain	F. O. ADAMS.
For Germany	ALFRED von BÜLOW.
For Belgium	HENRY LOUMYER.
For Spain	COMTE DE LA ALMINA.
For France	EMMANUEL ARAGO.
For Haiti	LOUIS-JOSEPH JANVIER.
For Italy	FÈ.
For Switzerland	DROZ.
For Tunis	H. MARCHAND.