

## GOVERNMENT NOTIFICATION.—No. 168.

The following Circular Despatch, accompanying a copy of an Order of Her Majesty in Council, is published for general information.

By Command,

FREDERICK STEWART,  
*Colonial Secretary.*

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

## CIRCULAR.

DOWNING STREET,  
29th February, 1888.

SIR,—With reference to my Circular Despatch of the 18th November last, I have the honour to transmit to you, for information and publication in the Colony under your Government, a copy of an Order of the Queen in Council for bringing into effect from the sixth of December, 1887, the Convention for the creation of an International Union for the protection to be given by way of copyright to the authors of literary and artistic works, which was signed at Berne on the 9th of September, 1886.

2. I take this opportunity to point out to you that the Imperial Copyright Acts for engraving and sculpture do not apply to the Colonies, and that apparently the Act of 1862 (25 and 26 Vic. cap. 63) giving copyright in paintings and photographs does not so apply. I would request your attention to sections 4, 8, 9, 10, of the Act of 1862, which, you will observe, apply to the United Kingdom only; and would invite you to compare the language of section 1 of that Act with the Copyright Act of 1842 (5 and 6 Vic., cap. 45), which (sec. 29) expressly gives literary copyright throughout Her Majesty's Dominions.

3. It would seem, therefore, that although the effect of section 8 of the Act of 1886 may be to protect the owner of copyright in works of art produced in a Colony against piracy in the United Kingdom, he would not be entitled to similar protection in another Colony.

4. I have therefore to request that I may be informed at your early convenience whether it is the wish of your Government that legislation should be initiated in the Imperial Parliament for extending to works of art produced in a Colony the same privileges of copyright throughout the Empire as are now possessed by literary works produced in a Colony.

5. I may indicate the following as a further reason which seems to render it desirable that such legislation should be had: A colonist producing a work of art in a foreign country would, under the Convention, appear to be entitled to such copyright as under the laws of that country would be enjoyed by its subjects; but if that country finds that reciprocal advantages are not obtainable by its subjects in the Colonies, it might be inclined to alter its law so as to withdraw these advantages from colonists residing in such country.

I have the honour to be,

Sir,

Your most obedient humble Servant,

KNUTSFORD.

*The Officer Administering the Government of*  
HONGKONG.

At the Court at *Windsor*, the 28th day of *November*, 1887.

PRESENT,

The QUEEN's Most Excellent Majesty.

Lord President.

Lord Stanley of Preston.

Secretary Sir Henry Holland, Bart.

WHEREAS the Convention of which an English translation is set out in the First Schedule to this Order has been concluded between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the foreign countries named in this Order, with respect to the protection to be given by way of copyright to the authors of literary and artistic works:

And whereas the ratifications of the said Convention were exchanged on the fifth day of September one thousand eight hundred and eighty-seven, between Her Majesty the Queen and the Governments of the foreign countries following, that is to say :

Belgium ; France ; Germany ; Hayti ; Italy ; Spain ; Switzerland ; Tunis.

And whereas Her Majesty in Council is satisfied that the foreign countries named in this Order have made such provisions as it appears to Her Majesty expedient to require for the protection of authors of works first produced in Her Majesty's dominions :

Nor, therefore, Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority committed to Her by the International Copyright Acts, 1844 to 1886, doth order ; and it is hereby ordered, as follows :

1. The Convention as set forth in the First Schedule to this Order, shall, as from the commencement of this Order, have full effect throughout Her Majesty's dominions, and all persons are enjoined to observe the same.

2. This Order shall extend to the foreign countries following, that is to say :

Belgium ; France ; Germany ; Hayti ; Italy ; Spain ; Switzerland ; Tunis ;

and the above countries are in this Order referred to as the foreign countries of the Copyright Union, and those foreign countries together with Her Majesty's dominions, are in this Order referred to as the countries of the Copyright Union.

3. The author of a literary or artistic work which, on or after the commencement of this Order is first produced in one of the foreign countries of the Copyright Union shall, subject as in this Order and in the International Copyright Acts, 1844 to 1886, mentioned, have as respects that work throughout Her Majesty's dominions, the same right of copyright, including any right capable of being conferred by an Order in Council under section two or section five of the International Copyright Act, 1844, or under any other enactment, as if the work had been first produced in the United Kingdom, and shall have such right during the same period ;

Provided that the author of a literary or artistic work shall not have any greater right or longer term of copyright therein, than that which he enjoys in the country in which the work is first produced.

The author of any literary or artistic work first produced before the commencement of this Order shall have the rights and remedies to which he is entitled under section six of the International Copyright Act, 1886.

4. The rights conferred by the International Copyright Acts, 1844 to 1886, shall, in the case of a literary or artistic work first produced in one of the foreign countries of the Copyright Union by an author who is not a subject or citizen of any of the said foreign countries, be limited as follows, that is to say, the author shall not be entitled to take legal proceedings in Her Majesty's dominions for protecting any copyright in such work, but the publisher of such work shall, for the purpose of any legal proceedings in Her Majesty's dominions for protecting any copyright in such work, be deemed to be entitled to such copyright as if he were the author, but without prejudice to the rights of such author and publisher as between themselves.

5. A literary or artistic work first produced simultaneously in two or more countries of the Copyright Union shall be deemed for the purpose of copyright to have been first produced in that one of those countries in which the term of copyright in the work is shortest.

6. Section six of the International Copyright Act, 1852, shall not apply to]any dramatic piece to which protection is extended by virtue of this Order.

7. The Orders mentioned in the Second Schedule to this Order are hereby revoked ;

Provided that neither such revocation, nor anything else in this Order, shall prejudicially affect any right acquired or accrued before the commencement of this Order, by virtue of any Order hereby revoked, and any person entitled to such right shall continue entitled thereto, and to the remedies for the same, in like manner as if this Order had not been made.

8. This Order shall be construed as if it formed part of the International Copyright Act, 1886.

9. This Order shall come into operation on the sixth day of December, one thousand eight hundred and eighty-seven, which day is in this Order referred to as the commencement of this Order.

And the Lords Commissioners of Her Majesty's Treasury are to give the necessary orders herein accordingly.

C. L. PEEL.

## FIRST SCHEDULE.

*Copyright Convention.*

Convention for protecting effectively and in as uniform a manner as possible, the rights of authors over their literary and artistic works. Made on the fifth day of September, one thousand eight hundred and eighty-seven, between 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 Federal Council of the Swiss Confederation; His Highness the Bey of Tunis.

[The following is an English Translation of the Convention, with the omission of the formal beginning and end.]

## 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 thirty-first 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 Article 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.

\* See paragraph 4 of Final Protocol,

## 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 the "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.

*Additional Article.*

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.

*Final Protocol.*

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 addition 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 administration of the country where a Conference is about to be held, will prepare the programme of the Conference with the 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 sixty thousand francs 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 :—

First class .....	25 units.
Second class .....	20 "
Third class .....	15 "
Fourth class .....	10 "
Fifth class.....	5 "
Sixth class .....	3 "

These co-efficients 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.

## SECOND SCHEDULE.

### *Orders in Council Revoked.*

Orders in Council of the dates named below for securing the privileges of copyright in Her Majesty's dominions to authors of works of literature and the fine arts and dramatic pieces, and musical compositions, first produced in the following foreign countries, namely:—

FOREIGN COUNTRY.	DATE OF ORDER.
Prussia, .....	27th August 1846.
Saxony, .....	26th September 1846.
Brunswick, .....	24th April 1847.
The States of the Thuringian Union, .....	10th August 1847.
Hanover, .....	30th October 1847.
Oldenburg, .....	11th February 1848.
France, .....	16th January 1852.
Anhalt, Dessau, and Analt Bernbourg, .....	11th March 1853.
Hamburgh, .....	25th November 1853 and 8th July 1855.
Belgium, .....	8th February 1855.
Prussia, Saxony, Saxe Weimar, .....	19th October 1855.
Spain, .....	24th September 1857 and 20th November 1880.
The States of Sardinia, .....	4th February 1861.
Hesse, Darmstadt, .....	5th February 1862.
Italy, .....	9th September 1865.
German Empire, .....	24th September 1886.

The Order in Council of 5th August 1875, revoking the application of section six of 15 and 16 Victoria chapter 12 to dramatic pieces referred to in the Order in Council of 10th January 1852, with respect to works first published in France.

## GOVERNMENT NOTIFICATION.—No. 169.

The following Returns of Deaths for the week ended the 14th April are published for general information.

By Command,

FREDERICK STEWART,  
*Colonial Secretary.*

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