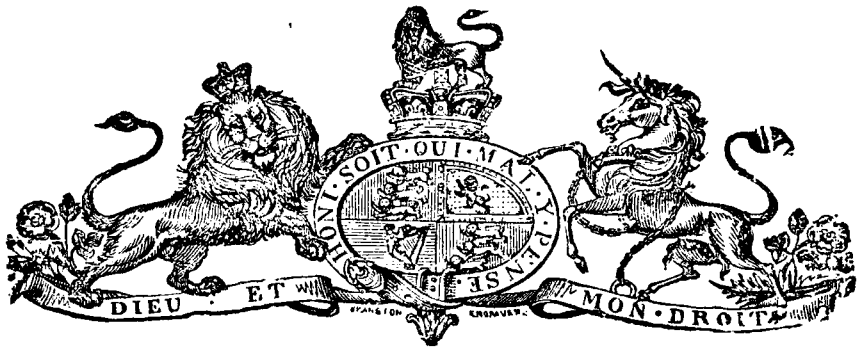


ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

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CAP. LXVIII.

An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

[29th *July* 1862.]

WHEREAS by Law, as now established, the Authors of Paintings, Drawings, and Photographs have no Copyright in such their Works, and it is expedient that the Law should in that respect be amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Copyright in Works hereafter made or sold to vest in the Author for his Life and for Seven Years after his Death.

1. The Author, being a *British* Subject or resident within the Dominions of the Crown, of every original Painting, Drawing, and Photograph which shall be or shall have been made either in the *British* Dominions or elsewhere, and which shall not have been sold or disposed of before the Commencement of this Act, and his Assigns, shall have the sole and exclusive Right of copying, engraving, reproducing, and multiplying such Painting or Drawing, and the Design thereof, or such Photograph, and the Negative thereof, by any Means and of any Size, for the Term of the natural Life of such Author, and Seven Years after his Death; provided that when any Painting or Drawing, or the Negative of any Photograph, shall for the First

Time

Time after the passing of this Act be sold or disposed of, or shall be made or executed for or on behalf of any other Person for a good or a valuable Consideration, the Person so selling or disposing of or making or executing the same shall not retain the Copyright thereof, unless it be expressly reserved to him by Agreement in Writing, signed, at or before the Time of such Sale or Disposition, by the Vendee or Assignee of such Painting or Drawing, or of such Negative of a Photograph, or by the Person for or on whose Behalf the same shall be so made or executed, but the Copyright shall belong to the Vendee or Assignee of such Painting or Drawing, or of such Negative of a Photograph, or to the Person for or on whose Behalf the same shall have been made or executed; nor shall the Vendee or Assignee thereof be entitled to any such Copyright, unless, at or before the Time of such Sale or Disposition, an Agreement in Writing, signed by the Person so selling or disposing of the same, or by his Agent duly authorized, shall have been made to that Effect.

Copyright not to prevent the Representation of the same Subjects in other Works.

2. Nothing herein contained shall prejudice the Right of any Person to copy or use any Work in which there shall be no Copyright, or to represent any Scene or Object, notwithstanding that there may be Copyright in some Representation of such Scene or Object.

Assignments, Licences, &c. to be in Writing.

3. All Copyright under this Act shall be deemed Personal or Moveable Estate, and shall be assignable at Law, and every Assignment thereof, and every Licence to use or copy by any Means or Process the Design or Work which shall be the Subject of such Copyright, shall be made by some Note or Memorandum in Writing, to be signed by the Proprietor of the Copyright, or by his Agent appointed for that Purpose in Writing.

Register of Proprietors of Copyright in Paintings, Drawings, and Photographs to be kept at Stationers Hall as in 5 & 6 Vict. c. 45.

4. There shall be kept at the Hall of the Stationers Company, by the Officer appointed by the said Company for the Purposes of the Act passed in the Sixth Year of Her present Majesty, intituled *An Act to amend the Law of Copyright*, a Book or Books, entitled "The Register of Proprietors of Copyright in Paintings, Drawings, "and Photographs," wherein shall be entered a Memorandum of every Copyright to which any Person shall be entitled under this Act, and also of every subsequent Assignment of any such Copyright; and such Memorandum shall contain a Statement of the Date of such Agreement or Assignment, and of the Names of the Parties thereto, and of the Name and Place of Abode of the Person in whom such Copyright shall be vested by virtue thereof, and of the Name and Place of Abode of the Author of the Work in which there shall be such Copyright, together with a short Description of the Nature and Subject of such Work, and in addition thereto, if the Person registering shall so desire, a Sketch, Outline, or Photograph of the said Work, and no Proprietor of any such Copyright shall

shall be entitled to the Benefit of this Act until such Registration, and no Action shall be sustainable nor any Penalty be recoverable in respect of anything done before Registration.

Certain Enactments of 5 & 6 Vict. c. 45. to apply to the Books to be kept under this Act.

5. The several Enactments in the said Act of the Sixth Year of Her present Majesty contained, with relation to keeping the Register Book thereby required, and the Inspection thereof, the Searches therein, and the Delivery of certified and stamped Copies thereof, the Reception of such Copies in Evidence, the making of false Entries in the said Book, and the Production in Evidence of Papers falsely purporting to be Copies of Entries in the said Book, the Application to the Courts and Judges by Persons aggrieved by Entries in the said Book, and the expunging and varying such Entries, shall apply to the Book or Books to be kept by virtue of this Act, and to the Entries and Assignments of Copyright and Proprietorship therein under this Act, in such and the same Manner as if such Enactments were here expressly enacted in relation thereto, save and except that the Forms of Entry prescribed by the said Act of the Sixth Year of Her present Majesty may be varied to meet the Circumstances of the Case, and that the Sum to be demanded by the Officer of the said Company of Stationers for making any Entry required by this Act shall be One Shilling only.

Penalties on Infringement of Copyright.

6. If the Author of any Painting, Drawing, or Photograph in which there shall be subsisting Copyright, after having sold or disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of Copyright in any Painting, Drawing, or Photograph, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply for Sale, Hire, Exhibition, or Distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or, knowing that any such Repetition, Copy, or other Imitation has been unlawfully made, shall import into any Part of the United Kingdom, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to be imported, sold, published, let to Hire, distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of the said Work, or of the Design thereof, made without such Consent as aforesaid, such Person for every such Offence shall forfeit to the Proprietor of the Copyright for the Time being a Sum not exceeding Ten Pounds; and all such Repetitions, Copies, and Imitations made without such Consent as aforesaid, and all Negatives of Photographs made for the Purpose of obtaining such Copies, shall be forfeited to the Proprietor of the Copyright.

7. No

Penalties on fraudulent Productions and Sales.

7. No Person shall do or cause to be done any or either of the following Acts; that is to say,

First, no Person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any Painting, Drawing, or Photograph, or the Negative thereof, any Name, Initials, or Monogram:

Secondly, no Person shall fraudulently sell, publish, exhibit, or dispose of, or offer for Sale, Exhibition, or Distribution, any Painting, Drawing, or Photograph, or Negative of a Photograph, having thereon the Name, Initials, or Monogram of a Person who did not execute or make such Work:

Thirdly, no Person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any Copy or colourable Imitation of any Painting, Drawing, or Photograph, or Negative of a Photograph, whether there shall be subsisting Copyright therein or not, as having been made or executed by the Author or Maker of the original Work from which such Copy or Imitation shall have been taken:

Fourthly, where the Author or Maker of any Painting, Drawing, or Photograph, or Negative of a Photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the Possession of such Work, if any Alteration shall afterwards be made therein by any other Person, by Addition or otherwise, no Person shall be at liberty, during the Life of the Author or Maker of such Work, without his Consent, to make or knowingly to sell or publish, or offer for Sale, such Work or any Copies of such Work so altered as aforesaid, or of any Part thereof, as or for the unaltered Work of such Author or Maker:

Penalties.

Every Offender under this Section shall, upon Conviction, forfeit to the Person aggrieved a Sum not exceeding Ten Pounds, or not exceeding double the full Price, if any, at which all such Copies, Engravings, Imitations, or altered Works shall have been sold or offered for Sale; and all such Copies, Engravings, Imitations, or altered Works shall be forfeited to the Person, or the Assigns or legal Representatives of the Person, whose Name, Initials, or Monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered Work shall be so fraudulently or falsely ascribed as aforesaid: Provided always, that the Penalties imposed by this Section shall not be incurred unless the Person whose Name, Initials, or Monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered Work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within Twenty Years next before the Time when the Offence may have been committed.

8. All

Recovery of pecuniary Penalties.

8. All pecuniary Penalties which shall be incurred, and all such unlawful Copies, Imitations, and all other Effects and Things as shall have been forfeited by Offenders, pursuant to this Act, and pursuant to any Act for the Protection of Copyright Engravings, may be recovered by the Person herein-before and in any such Act as aforesaid empowered to recover the same respectively, and herein-after called the Complainant or the Complainer, as follows:

In England and Ireland.

In *England* and *Ireland*, either by Action against the Party offending, or by summary Proceeding before any Two Justices having Jurisdiction where the Party offending resides:

In Scotland.

In *Scotland* by Action before the Court of Session in ordinary Form, or by summary Action before the Sheriff of the County where the Offence may be committed or the Offender resides, who, upon Proof of the Offence or Offences, either by Confession of the Party offending, or by the Oath or Affirmation of One or more credible Witnesses, shall convict the Offender, and find him liable to the Penalty or Penalties aforesaid, as also in Expenses, and it shall be lawful for the Sheriff, in pronouncing such Judgment for the Penalty or Penalties and Costs, to insert in such Judgment a Warrant, in the event of such Penalty or Penalties and Costs not being paid, to levy and recover the Amount of the same by Poinding: Provided always, that it shall be lawful to the Sheriff, in the event of his dismissing the Action and assoilzieing the Defender, to find the Complainer liable in Expenses, and any Judgment so to be pronounced by the Sheriff in such summary Application shall be final and conclusive, and not subject to Review by Advocation, Suspension, Reduction, or otherwise.

Superior Courts of Record in which any Action is pending may make an Order for an Injunction, Inspection, or Account.

9. In any Action in any of Her Majesty's Superior Courts of Record at *Westminster* and in *Dublin*, for the Infringement of any such Copyright as aforesaid, it shall be lawful for the Court in which such Action is pending, if the Court be then sitting, or if the Court be not sitting then for a Judge of such Court, on the Application of the Plaintiff or Defendant respectively, to make such Order for an Injunction, Inspection, or Account, and to give such Direction respecting such Action, Injunction, Inspection, and Account, and the Proceedings therein respectively, as to such Court or Judge may seem fit.

Importation of pirated Works prohibited.

10. All Repetitions, Copies, or Imitations of Paintings, Drawings, or Photographs, wherein or in the Design whereof there shall be subsisting Copyright under this Act, and all Repetitions, Copies, and Imitations of the Design of any such Painting or Drawing, or of the Negative of any such Photograph, which, contrary to the Provisions of this Act, shall have been made in any Foreign State, or in any Part of the *British* Dominions, are hereby absolutely prohibited to be imported into any Part of the United

Application in such Cases of Customs Acts.

Kingdom, except by or with the Consent of the Proprietor of the Copyright thereof, or his Agent authorized in Writing; and if the Proprietor of any such Copyright, or his Agent, shall declare that any Goods imported are Repetitions, Copies, or Imitations of any such Painting, Drawing, or Photograph, or of the Negative of any such Photograph, and so prohibited as aforesaid, then such Goods may be detained by the Officers of Her Majesty's Customs.

Saving of Right to bring Action for Damages.

11. If the Author of any Painting, Drawing, or Photograph, in which there shall be subsisting Copyright, after having sold or otherwise disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of such Copyright, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or the Negative of any such Photograph, or shall import or cause to be imported into any Part of the United Kingdom, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to be sold, published, let to Hire, exhibited, or distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of such Work, or the Design thereof, or the Negative of any such Photograph, made without such Consent as aforesaid, then every such Proprietor, in addition to the Remedies hereby given for the Recovery of any such Penalties, and Forfeiture of any such Things as aforesaid, may recover Damages by and in a Special Action on the Case, to be brought against the Person so offending, and may in such Action recover and enforce the Delivery to him of all unlawful Repetitions, Copies, and Imitations, and Negatives of Photographs, or may recover Damages for the Retention or Conversion thereof: Provided that nothing herein contained, nor any Proceeding, Conviction, or Judgment, for any Act hereby forbidden, shall affect any Remedy which any Person aggrieved by such Act may be entitled to either at Law or in Equity.

Provisions of 7 & 8 Vict. c. 12. to be considered as included in this Act.

12. This Act shall be considered as including the Provisions of the Act passed in the Session of Parliament held in the Seventh and Eighth Years of Her present Majesty, intituled *An Act to amend the Law relating to International Copyright*, in the same Manner as if such Provisions were Part of this Act.

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