

THE BURMA COPYRIGHT ACT.
[INDIA ACT III, 1914.] (24th February, 1914.)

CHAPTER I.
PRELIMINARY.

1. The Copyright Act as set out in the First Schedule and with the Definitions. Modifications set out herein shall apply to the Union of Burma.

2. In this Act, unless there is anything repugnant in the subject or context,
- (1) "The Copyright Act" means the Act of [Parliament of the United Kingdom of Great Britain and Ireland]² entitled the Copyright Act, 1911 ; and
 - (2) Words and expressions defined in the Copyright Act have the same, meanings as in that Act.

CHAPTER II.

CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. In the application to the Union of Burma of the Copyright Act (a copy of which Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, is set out in the First Schedule), the following modifications shall be made, namely :

- (1) the powers of the Board of Trade under section 3 shall, in the case of works first published in the Union of Burma, be exercised by the President of the Union ;
- (2) the powers of the Board of Trade under section 19 shall, as regards records, perforated rolls and other contrivances, the original plate of which was made in the Union of Burma, be exercised by the President of the Union; and the confirmation of [Parliament of the United Kingdom of Great Britain and Ireland] shall not be necessary to the exercise of any of these powers ;
- (3) the references in section 19, sub-section (4), *and in section 24-* Sub-section (1), to arbitration shall be read as arbitration in accordance with the law for the time being in force in that part of the Union of Burma in which the dispute occurs:
- (4) as regards works the authors whereof were at the time of the making of the works resident in the Union of Burma regards works first published in the Union of Burma reference in section 22 to the Patents and Designs Act 1907, shall be construed as a reference to [the Burma P-Designs Act, 1945,] and the reference in the said section 86 of the Patents and Designs Act, 1907 shall be construed as a reference to

[section 91] of [the Burma patents and Designs Act, 1945];¹

- (5) as regards works first published in the Union of Burma reference in section 24, sub-section (1), proviso (a), to the London Gazette and two London newspapers shall be construed reference to the Gazette and two newspapers published Union of Burma ; and the reference in proviso (b) of sub-section of the same section to the 26th day of July, 1910 shall, as regards works the authors whereof were at the - the making of the works resident in the Union of Burma as regards works first published in the Union of Burma ,be construed as a reference to the 30th day of October, 191 2.

4. (1) In the case of works first published in the Union of Burma, Copyright shall be subject to this limitation that the sole right to produce, reproduce perform or publish a translation of the work shall subsist only for a period of ten years from the date of the first publication of the work :

Provided that if within the said period the author, or any person to whom he has granted permission so to do, publishes a translation of any such work in any language, copyright in such work as regards the also right to produce, reproduce, perform or publish a translation in that language shall be subject to the limitation prescribed in this sub-section.

- (2) For the purposes of sub-section (1) the expression "author" includes the legal representative of a deceased author.

5. In the application of the Copyright Act to musical works the auth, whereof were at the time of the making of the works resident in the Union ' Burma, or to musical works first published in the Union of Burma, the term "musical work " shall, save as otherwise expressly provided by the Copyright Act, mean " any combination of melody and harmony, or either of them which has been reduced to writing."

6. (1) Copies made out of the Union of Burma of any work in which copyright subsists which if made in the Union of Burma would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Chief Customs officer, as defined in the Sea Customs Act, that he is desirous that such copies should not be imported into the Union of Burma, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of section 18 of the Sea Customs Act.

(2) Before detaining any such copies, or taking any further proceedings with a view to the confiscation thereof, such Chief Customs officer, or any other officer appointed by the Chief Customs authority in this behalf, may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in accordance with these regulations, that the copies are such as are prohibited by this section to be imported.

(3) The President of the Union may, by notification in the Gazette, make regulations, either general or special, respecting the detention and confiscation of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and confiscation ; and may, by such

regulations, determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Such regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant re-imbursing the Government all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention. [* *
* *]I

(6) This section shall have effect as the necessary modification of section 14 of the Copyright Act.

CHAPTER III.

PENALTIES

7. If any person knowingly

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work ; or
- (c) distributes infringing copies of any such work, either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work ; or
- (e) Imports for sale or hire into the Union of Burma any infringing copy of any such work ;

he shall be punishable with fine which may extend to twenty rupees for every copy dealt with in contravention of this section, but not exceeding five hundred rupees in respect of the same transaction.

8. If any person knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copy right subsists, or knowingly and for his private profit causes any such work to - performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to five hundred rupees.

9. If any person, after having been previously convicted of an offence punishable under section 7 or section 8, is subsequently convicted of an offence punishable under either of these sections, he shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

10. (1) The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or

all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or other • dealt with as the Court may think fit.

(2) Any person affected by an order under sub-section (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie ; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

11. No Court inferior to that of a Magistrate of the first class shall try any offence against this Act.

12. The provisions of this Chapter shall not apply to any case to which section 9 of the Copyright Act, regarding the restrictions on remedies in the case of a work of architecture, applies.

CHAPTER IV

MISCELLANEOUS.

13. Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the High Court or the Court District Judge.

14. * * * * *

THE FIRST SCHEDULE.

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COPYRIGHT ACT, 1911.

[1 & 2 GEO. 5, CH. 46.]

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An Act to amend and consolidate the Law relating to Copyright .

[16th December, 1911.]

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PART I.
IMPERIAL COPYRIGHT.

Rights.

¹1. (1) Subject to the provisions of this Act, copyright shall subsist in the term hereinafter mentioned in every original literary, dramatic, musical and artistic work, if

(a) in the case of a published work, the work was first published within the Union of Burma; and

(b) in the case of an unpublished work, the author was at the time of the making of the work a citizen of the Union or resident within the Union of Burma ;

but in no other works, except so far as the protection conferred by **this** is extended by notification by the President of the Union to foreign countries

(2) For the purposes of this Act, " copyright " means the sole right to produce or reproduce the work or any substantial part thereof in any form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public ; if the work is unpublished, to publish the work or any substantial part thereof ; and shall include the sole right-

(a) to produce, reproduce, perform, or publish any translation work ,

(b) in the case of a dramatic work, to convert it into a novel or non-dramatic work ;

(c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise ;

(d) in the case of a literary, dramatic or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered ;

and to authorize any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright : copyright. Provided that the following acts shall not constitute an infringement of copyright:

(i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary:

(ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the

work, provided that he does not thereby repeat or imitate the main design of that work:

- (iii) The making or publishing of paintings, drawings, engravings or photographs of a work of sculpture or artistic craftsmanship. if permanently situate in a public place or building or the making or publishing of paintings, drawings, engravings or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art :
- (iv) The publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists : Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged :
- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer : but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries :
- (vi) The reading or recitation in public by one person of reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who-

- (a) Sells or lets for hire, or by way of trade exposes or offers for sale or hire, or
- (b) distributes either for the purposes of trade or to such an extent to affect prejudicially the owner of the copyright, or (c) by way of trade exhibits in public, or
- (d) imports for sale or hire [* * * *],

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the Union of Burma in or into which the sale hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the con of the owner of the copyright, unless he was not aware, and had no reason ground for suspecting, that the performance would be an infringement copyright.

3. The term for which copyright shall subsist shall, except as otherwise

expressly provided by this Act, be the life of the author and a period of years after his death :

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this thirty years, from the death of the author of a published work, copyright the work shall not be deemed to be infringed by the reproduction of the for sale if the person reproducing the work proves that he has given prescribed notice in writing of his intention to reproduce the work, and that has paid in the prescribed manner to, or for the benefit of, the owner of copyright royalties in respect of all copies of the work sold by him calc at the rate of the ten per cent. on the price at which he publishes the w and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the pa% of royalties, including (if they think fit) regulations requiring payment advance or otherwise securing the payment of royalties.

4. If, at any time after the death of the author of a literary, dramatic or musical work which has been published or performed in public, a complaint is made to [the Supreme Court]' that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal 'he work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as [the Supreme Court] 1 may think fit.

5. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein: Provided that-

(a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright:

(b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine. or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations, [to the Government], and either for the whole term of the copyright or for any part thereof, may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent .

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a collective work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the rights so assigned, and the assignor, as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright and the provisions of this Act shall have effect accordingly.

Civil remedies

6. (1) Where copyright in any work has been infringed, the owner of copyright shall, except as otherwise provided by this Act, be entitled to such remedies by way of injunction or interdict, damages, accounts, otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the plaintiff shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant in issue proves the non-existence of the copyright, or as the case may be, the title of plaintiff, and where any such question is in issue, then

(a) if a name purporting to be that of the author of the work is or otherwise indicated thereon in the usual manner, the name so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work ;

(b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of publisher or proprietor of the work is printed or so indicated thereon in the usual manner, the person whose name so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of right therein.

7. All infringing copies of any work in which copyright subsists in any substantial part thereof, and all plates used or intended to be used in the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion

thereof.

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had not reasonable ground for suspecting, that copyright subsisted in the work.

9. (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement. * * * *

Importation of Copies.

14. (1) Copies made out of the United Kingdom of any work in which Importation copyright subsists which if made in the United Kingdom would infringe of copies. copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions conned in section 42 of the Customs Consolidation Act, 1876, and that section all apply accordingly.

(2) Before detaining any such copies or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, e Commissioners of Customs and Excise may require the regulations under s section, whether as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations t the copies are such as are prohibited by this section to be imported.

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be e respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing Commissioners of Customs and Excise all expenses and damages incurred respect of any detention made on his information and of any proceed consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section

(6) The foregoing provisions of this section shall have effect as if were part of the Customs Consolidation Act, 1876 : Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part the United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to importation into a British possession to which this Act extends of copies works made out of that possession.

Delivery of Books to Government.

15. (1) The publisher of every book published in the [Union of Bur shall, within one month after the publication, deliver, at his own expense, copy of the book to the [Government]], who shall give a written receipt for

(2) He shall also, if written demand is made before the expiration twelve months after publication, deliver within one month after receipt that written demand or, if the demand was made before publication, Ri one month after publication, [to some person named in the demand one more copies of the book but so as not to exceed five in number in any c In the case of an encyclopedia, newspaper, review, magazine, or work p shed in a series of numbers or parts, the written demand may include numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the [Government]¹ shall be a copy of the w book with all maps and illustrations belonging thereto finished and colored in the same manner as the best copies of the book are published, and be bound, sewed, or stitched together, and on the best paper on which book is printed.

(4) The copy delivered [in pursuance of sub-section (Z)] 1 shall be the paper on which the largest number of copies of the book is printed sale, and shall be in the like condition as the books prepared for sale.

(5) * * * *

(6) If a publisher fails to comply with this section, he shall be liable summary conviction to a fine not exceeding five pounds and the value of book, and the fine shall be paid to the trustees or authority to whom book ought to have been delivered.

(7) For the purposes of this section, the expression " book "includes every part or division of a book, pamphlet, sheet of letter-press, sheet music, map, plan, chart or table separately published, but shall not inc any second or subsequent

edition of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto.

Special Provisions as to certain Works.

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any special number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof:

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

17. (1) In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author, or in the case of a work of joint authorship at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section 3 of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where ownership has been acquired under a testamentary disposition made by

author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

18. Without prejudice to any rights or privileges of the Government where work has, whether before or after the commencement of this Act, been prepared by or published by or under the direction or control of [* *]¹ any government department, the copyright in the work shall, subject to any agreement with the author, belong to

the [Government,]' and in such case sha'l continue for a period of fifty years from the date of the first publication of the work.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced: in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who as the owner of such original plate at the time when such plate was made shag be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the [Union of Burma if it has established a place of business within the Union.]

(2) It shall not be deemed to be an infringement of copyright in musical work for any person to make, [within the Union of Burma], records perforated rolls or other contrivances by means of which the work ma} mechanically performed, if such person proves

- (a) that such contrivances have previously been made by, or with consent or acquiescence of, the owner of the copyright in work ; and
- (b) that he has given the prescribed notice of his intention to the contrivances, and has paid in the prescribed manner to. for the benefit of, the owner of the copyright in the w royalties in respect of all such contrivances sold by calculated at the rate hereinafter mentioned :

Provided that-

- (i) nothing in this provision shall authorize any alterations **in**, omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation d work to the contrivances in question ; and
 - (ii) for the purposes of this provision, a musical work shall be d to include any words so closely associated therewith as to part of the same work, but shall not be deemed to include contrivance by means of which sounds may be mechanically reproduced.
- (3) The rate at which such royalties as aforesaid are to be calculated shall-
- (a) in the case of contrivances sold within two years after there commencement of this Act by the person making the same two and one-half percent., and
 - (b) in the case of contrivances sold as aforesaid after the expiration of that period, be five per cent.,

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall in no case be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing:

Provided that if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament ; but where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect subject to the following modification and additions :

- (a) The conditions as to the previous making by, or with the consent or acquiescence of the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work shall not apply:
- (b) The rate of two and one-half per cent. shall be substituted for the rate of five percent as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the 1st day of July, 1913, if contrivances reproducing the same work had been lawfully made, or placed on sale, [within the Union of Burma] ¹ before the 1st day of the July, 1910.
- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorizing the making of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignees, and royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives:
- (d) The saving contained in this Act of the rights and interests arising from, or in connection with, action taken before the commencement of this Act shall not be construed as authorizing any person who has made contrivances by means of

which the work may be mechanically performed to sell any such contrivances whether made before or after the passing of this Act, except the terms and subject to the conditions laid down in this sec

(8) Notwithstanding anything in this Act, where a record, perforated or other contrivance by means of which sounds may be mechanically., reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and the like term as if this Act had been in force at the date of the making of original plate from which the contrivance was directly or indirectly derived:

Provided that-

- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would infringed copyright in some other such contrivance, if provision had been in force at the time of the making of first-mentioned contrivance.

20. Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting publish a report thereof in a newspaper.

21. The term for which copyright shall subsist in photographs shall be fit years from making of the original negative from which the photograph as directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author the work, and, where such owner is a body corporate the body corporate shall be deemed for the purposes of this Act to reside within [the Union of Burma if it has established a place of business within the Union]'.¹

22. (1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models of patterns to be multiplied by any industrial process.

(2) General rules under section 86 of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

¹23. If it appears to the President that a foreign country does not give, or Works of has not undertaken to give, adequate protection to the works of Burma authors it shall be lawful for the President, by notification, to direct that such of the provisions of this Act as confer copyright on works first published within the union shall not apply to works published after such date as may be specified in the notification, the authors whereof are subjects or citizens of such foreign country and thereupon those provisions shall not apply to such works.

24.(1) Where any person is immediately before the commencement of this

Act entitled to any such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright there under:

Provided that-

- (a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine ; but the person who immediately before the date at which the right would have so expired was the owner of the right or interest shall be entitled at his option either
 - (i) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration ; or
 - (ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore, subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment ;
- The notice above referred to must be given not more than one year nor less than six months before the date at which **the** right would have so expired, and must be sent by registered post to the author, or if he cannot with reasonable diligence be found, advertised in the London Gazette and in two London newspapers ;
- (b) where any person has, before the 26th day of July, 1910, taken any action whereby he has incurred any expenditure or liability connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of at with a view to the reproduction or performance of a work at time when such reproduction or performance would, but for passing of this Act, have been lawful, nothing in this sect shall diminish or prejudice any rights or interest arising from in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this sect becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.
- (2) For the purposes of this section, the expression "author " includes legal

personal representatives of a deceased author.

(3) Subject to the provisions of section 19, sub-sections (7) and (8), and of section 33 of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with the provisions of this section.

25-30. * * *

PART III. SUPPLEMENTAL PROVISIONS.

31. No person shall be entitled to copyright or any similar right in literary, dramatic, musical or artistic work, whether published or unpublished otherwise than under and in accordance with the provisions of this Act, or any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

32-34. * * *

35. (1) In this Act, unless the context otherwise requires,

"literary work " includes maps, charts, plans, tables, and compilations ;

" dramatic work " includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character ;

"artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs ;

"work of sculpture " includes casts and models ;

" architectural work of art " means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design and shall not extend to processes or methods of construction ;

"engravings" include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs;

" photograph " includes photo-lithograph and any work produced by any process analogous to photography ;

"cinematograph " includes any work produced by any process analogous to cinematography ; "collective work " means

(a) an encyclopedia, dictionary, year book, or similar work ;

- (b) a newspaper, review, magazine, or similar periodical ; and
- (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated ;

"infringing," when applied to a copy of a work in which copyright subsists, means any copy, including any colorable imitation made or imported in contravention of the provisions of this Act ;

" performance " means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument ;

"delivery," in relation to a lecture, includes delivery by means of any mechanical instrument ;

" plate " includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivance for the acoustic representation of the work are or are intended to be made ;

" lecture " includes address, speech, and sermon ;

(2) For the purposes of this Act (other than those relating to infringement merits of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, **if** published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within the [Union of Burma], ² notwithstanding that it has been published simultaneously in some other place, unless the publication in [the said Union] ² is colourable only and is not intended to satisfy reasonable requirements of the public, and a work shall be deemed to published simultaneously in two places if the time between the publication one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by [notification by the President of the Union].

(4) Where, in the case of an unpublished work, the making of a w has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with if the author during any substantial part of that period, a British subject or a resident within the [Union of Burma.] ²

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the [Union of Burma] if he is domiciled [within the Union].

First Schedule.
(Section 24.)
Existing Rights.

Existing Right	Substituted Right.
(a) In the case of works other than Dramatic and Musical Works.	
Copyright	---- Copyright as defined by this Act
(b) In the case of Musical and Dramatic Works.	
Both copyright performing right ---	Copyright as defined by this Act
Copyright, but not performing right ---	Copyright as defined by this
	Act, except the sole right to
	Perform the work or any
	Substantial part thereof in
	Public.
Performing right, but not copyright ---	The sole right to perform the
	Work in public but more of
	the other rights comprised in
	copyright as defined by this
	act.

In the case of an essay, article, or portion forming part of and first published in a review, magazine or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this AA had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings:

" Copyright," in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

"Performing right," in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

SECOND SCHEDULE.

