

The Copyright Act, 1895.

(59 Vic., No. 24.)

ARRANGEMENT OF SECTIONS.

PART I.

PRELIMINARY.

Section.

1. Division of Act.
2. Short title and commencement.
3. (1.) Repeals.
(2.) Saving clause.
Validity of registration, etc.
- (3.) Rights, liabilities, and legal proceedings.
4. Interpretation of terms, etc.:
"Book."
"Copyright."
"Dramatic or Musical Production."
"Drawing or Painting."
"Engraving."
"Photograph."
"Proprietor."
"Registrar."
"Regulations."
"Work of Sculpture."

PART II.

COPYRIGHT OF LITERARY, DRAMATIC, AND MUSICAL PRODUCTIONS, LECTURES, ETC.

Books.

5. (1.) Duration of copyright in books.
Life and seven years.
(2.) Forty-two years at least.
(3.) Forty-two years from publication after death.
6. Governor may license the republication of books which the proprietor refuses to republish after death of author.
7. (1.) Copies of books to be delivered within a certain time at Victoria Public Library. Books first published in W.A.
(2.) Subsequent editions of such books.
(3.) Subsequent editions published in W.A. of any book.
8. (1.) Mode of delivering books at library.
(2.) Receipt for delivery.
9. Penalty for default in delivering copies for use of library.
10. (1.) Register book to be kept.
(2.) Register to be open for inspection.
(3.) Registrar to give a certified copy.

11. (1.) Entries of copyright of books in register book.
(2.) Copyright assignable.
(3.) Not subject to stamp duty.
12. Assignment of copyright of a dramatic piece not to convey right of representation.
13. Proprietor cannot sue before registration.
14. (1.) Notice to be given by defendant in actions for piracy.
(2.) Nature of defence.
(3.) Default of such notice.
Proviso.
15. Remedy for piracy by penalty and suit.
16. (1.) Books copyrighted in Western Australia not to be reprinted elsewhere and imported.
(2.) Such books may be seized.
(3.) Penalty.
17. (1.) Books unlawfully printed or imported shall become property of proprietor of copyright, and may be recovered by action.
(2.) Proprietor may sue for such books, etc.

Reviews, Magazines, Newspapers.

18. Copyright in reviews, magazines, etc.
Duration of copyright in encyclopedias, etc.
19. Proprietors of reviews, magazines, etc., can register at once.
20. (1.) Messages by electric telegraph not to be published during three days after receipt without consent of the receiver.
(2.) Publication of part to be deemed publication of the whole.
(3.) Time of publication.
21. Unlawfully telegraphing or publishing liable to punishment.
22. (1.) *Prima facie* evidence of publication of message.
(2.) *Prima facie* evidence of publication.
23. How telegraphic message protected by this Act to be headed.

Dramatic and Musical Productions.

24. Property in dramatic and musical productions.
Proviso.

Copyright Act, 1895.

25. Provisions respecting copyright in books to apply to dramatic or musical production.
Proviso.
26. Printed notice restraining public performance.
27. (1.) Provision when the rights of performance are vested in different owners.
Before publication of copy.
(2.) After publication of copy.
28. Penalty on owner of copyright for non-compliance with notice from owner of right of performance.
29. (1.) Penalty on persons performing dramatic or musical pieces contrary to last section.
(2.) Costs.
(3.) Pleading sole liberty.
(4.) Exception to liability, etc.
Lectures.
30. (1.) Authors of lectures or their assigns to have the sole right of publishing same.
(2.) (a.) Persons taking down lectures for printing or
(b.) Selling or publishing same liable to forfeiture and penalty.
31. Penalty on printers or publishers of newspapers publishing lectures without leave.
32. Persons having leave to attend lectures not entitled to publish them.
33. Publication of lectures after expiration of copyright, etc., not prohibited.
34. Notice not to print, lithograph, copy, and publish lectures to be given by public advertisement.

PART III.

COPYRIGHT OF FINE ARTS.

35. (1.) Copyright in paintings, drawings, sculpture, engravings, photographs.
(2.) Copyright retained by vendor only by agreement with purchaser.
(3.) Copyright does not pass to purchaser except by agreement.
(4.) Articles at exhibition protected.
36. Copyright not to prevent representation of subject of works.
37. (1.) Books for registration of paintings, etc.
(2.) Contents of memorandum.
(3.) Registration necessary to sue.
(4.) Omission to register not to affect copyright.
38. Certain provisions of this Act to apply to books to be kept under this part.
39. Penalties on infringement of copyright in fine arts.
Penalty.

40. (1.) Fraudulent productions and sales.
(2.) Penalty.
(3.) Copies, etc., to be forfeited.
(4.) Proviso.
41. Recovery of penalties.
42. (1.) Importation of pirated works prohibited.
(2.) On declaration of proprietor, Customs' Officer may detain.
43. Saving of right to bring action for damages.
44. Remedies given by Part III. to be additional to all other remedies.

PART IV.

MISCELLANEOUS.—GENERAL PROVISIONS.

Registration.

45. Office of registration.
46. (1.) Appointment of Registrar.
(2.) Appointment of officers.
47. (1.) Amending, varying, or expunging entries in or from register book.
(2.) Upon refusal of Registrar, application to be made to court.
(3.) Application to be by notice or summons.
(4.) Registrar to comply with order.
48. Discretionary power to register vested in Registrar.
Proviso.
49. Registrar, etc., receiving gratuities punished.
50. Making false entries, declarations, etc., a misdemeanour.

Procedure.

51. Proceedings before Justices.
52. Non-payment of penalty.
53. Appeal.
54. Limitation of actions, proceedings, etc.
Proviso.
55. Judge of Supreme Court can make orders for injunctions.

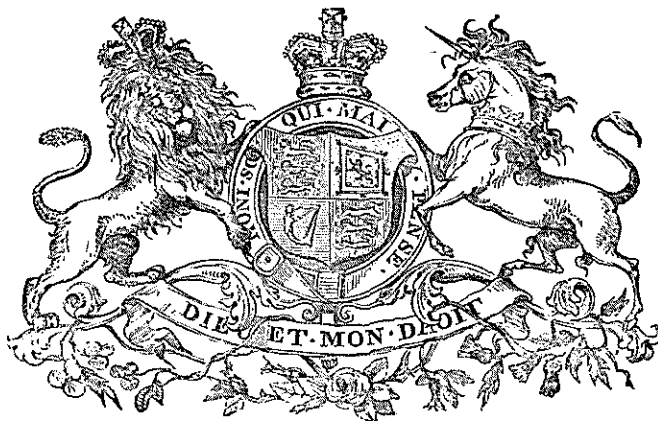
Regulations.

56. (1.) Governor can make regulations.
(2.) Publication of Regulations.
(3.) Evidence.

Miscellaneous.

57. (1.) Seal of "Registry Office."
(2.) Evidence.
58. (1.) Copyright to be personal property.
(2.) Assignment of Copyright.
59. Reference.

SCHEDULES.



Western Australia.

ANNO QUINQUAGESIMO NONO VICTORIÆ REGINÆ.

No. XXIV.

AN ACT to regulate the Law of Copyright,
and for other purposes.

[Assented to, 2nd October, 1895.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. THIS Act is divided into parts, as follows:—

PART I.—PRELIMINARY, ss. 1–4.

Division of Act.

PART II.—COPYRIGHT OF LITERARY, DRAMATIC, AND
MUSICAL PRODUCTIONS, LECTURES, &c., ss. 5–34.

PART III.—COPYRIGHT OF FINE ARTS, ss. 35–44.

PART IV.—MISCELLANEOUS PROVISIONS, ss. 45–59.

2. THIS Act may be cited as “The Copyright Act, 1895,” and shall come into operation on the first day of January, 1896.

Short title and
commencement.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

Repeals. First Schedule.	<p>3. (1.) THE Acts mentioned in the First Schedule to this Act are hereby repealed.</p>
Saving clause.	<p>(2.) Such repeal shall not affect the validity of any registration made under "The Copyright Register Act, 1887," or any copyright vested thereunder; but all such registrations shall be and continue to be as valid and effectual, and every such copyright shall continue to be vested, as if made or vested under this Act, and all such registrations which could lawfully be made under "The Copyright Register Act, 1887," before the passing of this Act may be validly and effectually made under the provisions of this Act and shall be subject thereto and protected thereby.</p>
Validity of Registration, &c.	
Rights, liabilities, and legal proceedings.	<p>(3.) Such repeal shall not affect any rights accrued, liabilities incurred, or any legal proceedings instituted or commenced before the coming into operation of this Act; but such rights shall be enforceable, and such liabilities shall continue, and such proceedings may be instituted and prosecuted in like manner as though this Act had never been passed.</p>
Interpretation of terms, etc. 54 Vic. No. 1076, s. 2 (Victorian).	<p>4. EXCEPT where there is anything in the context repugnant thereto or inconsistent therewith, the following words and expressions in this Act mean or include the matters following:—</p>
Book.	<p>"Book" means and includes every volume, part or division of a volume, newspaper, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan, separately published:</p>
Copyright.	<p>"Copyright" means the sole and exclusive right and liberty of making, printing, writing, drawing, painting, photographing, or otherwise howsoever multiplying copies of any matter, thing, or subject to which the said word is herein applied:</p>
Dramatic or musical production.	<p>"Dramatic or musical production" means and includes every tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic piece, entertainment, or composition:</p>
Drawing or painting.	<p>"Drawing or painting" means and includes every drawing or painting made in any manner and material, and by any process:</p>
Engraving.	<p>"Engraving" means and includes every work made upon a plate, block, or slab of any material by engraving, lithography, or other process whereby impressions may be taken from such plate, block, or slab, or whereby prints or impressions of drawings or designs are capable of being multiplied:</p>
Photograph.	<p>"Photograph" means and includes every photograph or other similar work which is produced by the action of light or any chemical process:</p>

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

“Proprietor” means and includes,—

- (1.) (a.) The author of any book, or of any tragedy, comedy, play, opera, farce, or other dramatic or musical composition or production, or of any lecture as hereinafter described in Part II. of this Act; Proprietor.
5 & 6 Vic., c. 100, s. 5.
- (b.) The author of every original painting, drawing, work of sculpture, and photograph as hereinafter described in Part III. of this Act, unless such author has executed any of the works aforesaid on behalf of another person for a good or a valuable consideration, in which case such person shall be the proprietor thereof, and shall be entitled to be registered in the place of the author; and
- (2.) Every person acquiring for a good or valuable consideration the copyright in any book, tragedy, comedy, play, opera, farce, or other dramatic or musical composition or production, or in such lecture, and in such original painting, drawing, work of sculpture, and photograph; and
- (3.) Every person upon or to whom the property in such copyright or any part thereof as aforesaid devolves or is bequeathed, and to the extent to which the same has been so acquired, or has so devolved or been bequeathed but not otherwise; and
- (4.) Any other person expressly or impliedly included in this definition by any of the provisions of this Act.

“Registrar” means and includes the Registrar and Assistant Registrars (if any) appointed under and by virtue of this Act: Registrar.

“Regulations” means the Regulations made under the provisions of this Act: Regulations.

“Work of sculpture” means and includes any and every piece of sculpture, whether in the round, in relief, or in intaglio, made in any material and by any process. Work of sculpture.

PART II.—COPYRIGHT OF LITERARY, DRAMATIC, AND MUSICAL PRODUCTIONS, LECTURES, &c.

Books.

5. (1.) THE copyright in every book which, before or after the coming into operation of this Act, has been or is first published in Western Australia in the lifetime of its author shall, except as Duration of
copyright in books.
Life and seven years.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

54 Vic., No. 1076, s.
15 (Victorian).
5 & 6 Vic., c. 45 s. 3.

hereinafter mentioned, endure for the natural life of such author, and for the further term of seven years, commencing at the time of his death, and shall be the property of such author and his assigns.

Forty-two years at
least.

(2.) Whenever the said term of seven years expires before the end of forty-two years from the first publication of such book in Western Australia, the copyright shall in that case endure for such period of forty-two years.

Forty-two years
from publication
after death.

(3.) The copyright in every book which has been or is published in Western Australia after the death of its author shall endure for the term of forty-two years from the first publication thereof in Western Australia, and shall be the property of the proprietor of the author's manuscript from which such book is first published and his assigns.

Governor may license
the republication of
books which the
proprietor refuses to
republish after death
of author.

6. THE Governor may, on complaint made to the Attorney General—

54 Vic., No. 1076, s.
16 (Victorian).
5 & 6 Vic., c. 45, s. 5.

(1.) That the proprietor of the copyright in any book, after the death of its author, has refused to republish or to allow the republication of the same; and

(2.) That, by reason of such refusal, such book may be withheld from the public;

grant a license to such complainant to publish such book in such manner and subject to such conditions as the Governor thinks fit, and such complainant may publish such book according to such license.

7. A PRINTED copy of the whole of—

Copies of books to be
delivered within a
certain time at
Victoria Public
Library. Books first
published in W.A.

54 Vic., No. 1076, s.
17 (Victorian).
5 & 6 Vic., c. 45, s. 6.

Subsequent editions
of such books.

(1.) Every book which is first published in Western Australia after the coming into operation of this Act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best published copies of the same; and

(2.) Any second or subsequent edition of any book which is so published, with any additions or alterations, whether the same is in letter-press or in the maps, prints, or other engraving belonging thereto, and whether the first edition of such book has been published before or after the coming into operation of this Act; and

Subsequent editions
published in W.A. of
any book.

(3.) Any second or subsequent edition published in Western Australia of any book, of which the first or some preceding edition has not been delivered for the use of the Victoria Public Library at Perth, bound, sewed, or stitched together, and upon the best paper on which the same is printed;

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

shall, within two calendar months after the day on which any such book is first sold, published, or offered for sale within Western Australia, be delivered by or on behalf of the publisher thereof at the Victoria Public Library aforesaid.

8. (1.) EVERY copy of every book which under the provisions of this part of this Act ought to be delivered as aforesaid shall be delivered at the Victoria Public Library aforesaid, between the hours of ten in the forenoon and five in the afternoon, to one of the officers of the said Library, or to some person authorised by the committee or trustees thereof to receive the same.

Mode of delivering books at Library.

54 Vic., No. 1076, s. 18 (Victorian).

5 & 6 Vic., c. 45, s. 7.

(2.) Such officer or other person receiving such copy shall give a receipt in writing for the same, and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this part of this Act.

Receipt for delivery.

9. WHENEVER any such publisher neglects to deliver such book as aforesaid in pursuance of the provisions of this Act, he shall be guilty of an offence against this Act and liable for every such default to a penalty not exceeding Five pounds, to be recovered, together with the value of such copy of such book or edition which he ought to have delivered, by the librarian of the said Library in a summary way on conviction before two Justices of the Peace, or by action of debt or other action at the suit of such librarian in any court of competent jurisdiction in Western Australia, together with such costs of suit as are allowed.

Penalty for default in delivering copies for use of Library.

54 Vic., No. 1074, s. 19 (Victorian).

5 & 6 Vic., c. 45, s. 10.

10. (1.) A REGISTER, wherein may be registered as herein-after enacted the proprietorship in the copyright of books and in dramatic or musical productions, whether in manuscript or otherwise, and the assignments of such proprietorship and licenses affecting such copyright, shall be kept at the registry appointed by virtue of this Act.

Register book to be kept.

54 Vic., No. 1074, s. 20 (Victorian).

5 & 6 Vic., c. 45, s. 11.

(2.) Such register shall at all convenient times be open to the inspection of any person, on payment of the fee prescribed by the Regulations in that behalf for every entry searched for or inspected in such register.

Register to be open for inspection.

(3.) The Registrar shall, whenever thereunto reasonably required, give a copy of any entry in such register, certified under his hand, and impressed, stamped, or sealed with the stamp or seal of the said registry, to any person requiring the same, on payment of the fee prescribed by the Regulations in that behalf.

Registrar to give a certified copy.

11. (1.) AFTER the coming into operation of this Act, the proprietor of copyright in any book heretofore first published, or in any book hereafter to be first published, may require the Registrar,

Entries of copyright of books in register book.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

54 Vic., No. 1074, s. 21 (Victorian).
5 & 6 Vic., c. 45, s. 13.

Second Schedule.

Third Schedule.

by notice in writing, attested by a subscribing witness, in the form contained in the Second Schedule to this Act, to make entry in the said register of the title of such book, the time of the first publication thereof, and of the making of such entry, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, and such entry shall be forthwith made by the Registrar in the form contained in the Third Schedule to this Act, upon payment of the fee prescribed by the Regulations in that behalf.

Copyright assignable.

Fourth Schedule.

Fifth Schedule.

(2.) Every such registered proprietor may assign his interest or any portion of his interest in the said copyright, by notice in writing to the Registrar, attested by a subscribing witness, in the form contained in the Fourth Schedule to this Act, and the Registrar shall forthwith make in the said register book an entry of such assignment and of the name and place of abode of the assignee thereof, in the form contained in the Fifth Schedule to this Act, upon payment of the fee prescribed by the Regulations in that behalf.

Not subject to Stamp duty.

(3.) Such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.

Assignment of copyright of a dramatic piece not to convey right of representation.

54 Vic., No. 1076, s. 27 (Victorian).
5 & 6 Vic., c. 45, s. 22.

12. NO assignment of the copyright of any book consisting of or containing a dramatic or musical production shall be holden to convey to the assignee the right of representing or performing such dramatic or musical production, unless an entry in the said register is made of such assignment wherein is expressed the intention of the parties that such right should pass by such assignment.

Proprietor cannot sue before registration.

54 Vic., No. 1076, s. 29 (Victorian).
5 & 6 Vic., c. 45, s. 24.

13. NO proprietor of copyright under this part of this Act, save the proprietor of copyright in any lecture as hereinafter mentioned, shall institute or maintain any action or any summary proceeding in respect of any infringement of such copyright, unless he has, before commencing such action or proceeding, caused an entry to be made in the said register aforesaid pursuant to this part of this Act: Provided always, that the omission to make such entry shall not affect such copyright but only the right to sue or proceed in respect of the infringement thereof as aforesaid.

Notice to be given by defendant in actions for piracy.

14. (1.) WHENEVER, after the coming into operation of this Act, any action is brought against any person—

54 Vic., No. 1076, s. 23 (Victorian).
5 & 6 Vic., c. 45, s. 16.

(a.) For printing, or causing to be printed, any book for sale, hire, or exportation; or

Copyright Act, 1895.

- (b.) For importing, selling, publishing, or exposing for sale or hire, or causing to be imported, sold, published, or exposed for sale or hire, any such book ; or
- (c.) For having in his possession, for sale or hire, any such book,

contrary to the provisions of this Act, the defendant on pleading thereto shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of the action.

(2.) Whenever the nature of his defence is—

- (a.) That the plaintiff was not the author or first publisher of the book in which he by such action claims copyright, or is not the proprietor of the copyright therein, or
- (b.) That some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein,

Nature of defence.

then the defendant shall specify in such notice the name of the person whom he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published.

(3.) In default of specifying any such particulars in such notice, the defendant in such action shall not at the trial or hearing thereof be allowed,—

Default of such notice.

- (a.) To give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein ; or
- (b.) To take any objection other than the objections stated in such notice ; or
- (c.) To object that any other person was the author or first publisher of such book or the proprietor of the copyright therein than the person specified in such notice, or
- (d.) Give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication with the title, time, and place specified in such notice ;

Provided always, that nothing in this section contained shall in any such action relieve the plaintiff from the onus of proving that he was the proprietor of such book at the time of the alleged invasion of his copyright therein.

Proviso.

15. ANY person who—

- (1.) After the coming into operation of this Act, prints, or causes to be printed, in Western Australia, either for

Remedy for piracy by penalty and suit.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

54 Vic., No. 1076,
s. 22 (Victorian).

5 & 6 Vic., c. 45, s. 15.

sale, hire, or exportation, any book in which there is a subsisting copyright as aforesaid, without the consent in writing of the proprietor thereof, or his agent duly authorised in that behalf, in writing; or

- (2.) Imports, or causes to be imported, for sale or hire any such book from parts beyond the sea, or outside Western Australia,
- (3.) Knowing such book to be unlawfully printed or imported,
 - (a.) Sells, publishes, or exposes for sale or hire, or
 - (b.) Causes to be sold, published, or exposed for sale or hire; or
 - (c.) Has in his possession for sale or hire

any such book so unlawfully printed or imported without such consent as aforesaid, shall be guilty of an offence against this Act, and liable for every such offence to a penalty not exceeding Ten pounds, to be recovered by the proprietor against whom such offence has been committed, with full costs of suit, before two or more Justices, in a summary manner, and also to an action or suit in any Court of competent jurisdiction at the instance of the proprietor of such copyright.

Books copyrighted in
Western Australia
not to be reprinted
elsewhere and
imported.

54 Vic., No. 1076,
s. 24 (Victorian).

5 & 6 Vic., c. 45, s. 17.

Such books may be
seized.

16. (1.) NO person other than the proprietor of the copyright, or some person authorised by him, shall import into Western Australia, for sale or hire, any printed book first composed or written or printed and published in Western Australia wherein there is copyright and reprinted elsewhere than in Western Australia.

(2.) Any person not being such proprietor, or person authorised as aforesaid, who

- (a.) Imports, or brings or causes to be imported, or brought for sale or hire, any such book into Western Australia, contrary to the true intent and meaning of this part of this Act; or
- (b.) Knowingly sells, publishes, or exposes for sale, or lets to hire, or causes to be sold, published, exposed for sale, or let for hire, or has in his possession for sale or hire, any such book,

shall be guilty of an offence against this Act, and every such book shall be forfeited and may be seized by an officer of Customs, or of the Police, who shall hand the same to the registered proprietor of the copyright therein.

Penalty.

(3.) Every person so offending shall be liable upon conviction in summary manner, before two or more Justices of the Peace,

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

for every such offence, to a penalty of Ten pounds, and shall in addition to such penalty forfeit and pay double the value of every copy of such book which he so imports, or brings, or causes to be imported, or brought into Western Australia, or knowingly sells, publishes, or exposes for sale or lets to hire, or causes to be sold, published, or exposes for sale, or let to hire, or has in his possession for sale or hire contrary to the true intent and meaning of this part of this Act, to the proprietor of the copyright in such book, who shall also be entitled to receive a moiety of each such penalty of Ten pounds.

17. (1.) ALL copies of any book wherein there is copyright, and of which entry has been made in the said register, and which have been printed or imported contrary to the provisions of this Act, shall be deemed to be the property of the proprietor of such copyright, if such proprietor is duly registered as herein prescribed.

Books unlawfully printed or imported shall become property of proprietor of copyright, and may be recovered by action.

54 Vic., No. 1076, s. 28 (Victorian).
5 & 6 Vic., c. 45, s. 23.

Proprietor may sue for such books, &c.

(2.) Such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover such copies or damages for the detention of the same in an action of detinue from any party who detains the same, or to sue for and recover damages for the conversion thereof in an action of trover.

Reviews, Magazines, Newspapers.

18. (1.) WHENEVER any publisher or other person in Western Australia, before or at the time of or since the coming into operation of this Act,—

Copyright in reviews, magazines, &c.
54 Vic., No. 1076, s. 25 (Victorian).

5 & 6 Vic., c. 45, s. 18.

- (a.) Has projected, conducted, and carried on, or projects, conducts, and carries on, or is the proprietor of any encyclopædia, review, magazine, periodical work, newspaper, or work published in Western Australia in a series of books or parts, or any book whatsoever; and
- (b.) Has employed, or employs any persons to compose the same or any volumes, parts, essays, articles, or portions thereof for publication in or as part of the same; and
- (c.) Such work, volumes, parts, essays, articles, or portions have been or are composed under such employment on the terms that the copyright therein is to belong to such proprietor, projector, publisher, or conductor, and have been or are paid for by such proprietor, projector, publisher, or conductor.

The copyright in every such encyclopædia, review, magazine, periodical work, newspaper, and work published in a series of books or parts, or any book whatsoever, and in every volume, part, essay, article, and portion so composed and paid for shall be the property of such proprietor, projector, publisher, or conductor.

Duration of copyright in encyclopædias, etc.

(2.) Except as hereinafter mentioned, such proprietor, projector, publisher, or conductor shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this part of this Act;

Provided always,—

- (a.) That in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature after the term of twenty-eight years from the first publication thereof respectively, the copyright of the same, as regards any publication thereof in a separate form, shall belong to the author and his assigns for the remainder of the term given by this part of this Act; and
- (b.) That the said proprietor, projector, publisher, or conductor shall not, during the term of twenty-eight years, publish any such essay, article, or portion separately or singly without the consent, previously obtained, of the author thereof or his assigns; and
- (c.) That nothing herein contained shall alter or affect the right of any person who has been, or is so employed as aforesaid to publish any such his composition in a separate form who by any contract, express or implied, has reserved or reserves to himself such right; but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition, when published in a separate form according to this part of this Act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

Proprietors of reviews, magazines, &c., can register at once.
54 Vic., No. 1076, s. 26 (Victorian). 5 & 6 Vic., c. 45, s. 19.

19. THE proprietor of the copyright in any such encyclopædia, review, magazine, periodical work, newspaper, or other work so published in a series of books or parts shall be entitled to all the benefits of the registration at the registry aforesaid under this part of this Act, on entering in the said register—

- (a.) The title of such encyclopædia, review, magazine, newspaper, periodical work, or other work so published in a series of books or parts; and
- (b.) The time of the first publication of the first volume, number, or part thereof, or of the first volume, number, or part first published after the coming into operation of this Act, in any such work which has been published heretofore; and
- (c.) The name and place of abode of the proprietor thereof and of the publisher thereof when such publisher is not also the proprietor thereof.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

20. (1.) WHENEVER any person, in the manner hereinafter mentioned, publishes in any newspaper or other printed paper published in Western Australia any message by electric telegraph containing intelligence from any place outside Western Australia lawfully received by such person, no other person shall, without the consent in writing of such first mentioned person or his agent thereto lawfully authorised, send by telegraph, or print or publish, or cause to be sent by telegraph or printed or published, such telegram or the substance thereof or any extract therefrom until after a period of seventy-two hours from the time of such first mentioned publication.

Messages by electric telegraph not to be published during three days after receipt without consent of the receiver.

(2.) The publication of the whole or any part of such telegram or of the substance thereof or (excepting the publication of any similar message in like manner received) of the intelligence therein contained, or any comment upon or any reference to such intelligence, shall be deemed to be a publication of the same.

Publication of part to be deemed publication of whole.

(3.) For the purposes of this section the time of publication of morning papers shall be deemed to be seven o'clock in the morning, and of evening papers two o'clock in the afternoon.

Time of publication.

21. IF any person sends by telegraph, prints or publishes, or causes to be sent by telegraph, printed or published, any message, news, or intelligence contrary to the provisions of this Act, he shall be guilty of an offence against this Act summarily punishable, on conviction before any two or more Justices of the Peace, and liable to a penalty of not less than Five pounds and not exceeding Fifty pounds for the first offence, and of not less than Twenty pounds and not exceeding One hundred pounds for every subsequent offence.

Unlawfully telegraphing or publishing liable to punishment.

22. (1.) IN any prosecution under the last preceding section, the production of any document which purports to be a telegraphic message, and which contains the intelligence published in the newspaper as aforesaid, and which has been delivered to some person entitled to receive the same by a messenger, clerk, superintendent, or other proper officer of the Electric Telegraph Department, shall be *prima facie* evidence that the message published as hereinbefore described in such newspaper is a message within the meaning of this Act; and

Prima facie evidence of publication of message.

(2.) Proof that any person is or is acting or appears to be acting as editor, sub-editor, printer, or manager of any newspaper in which there has been any publication contrary to the provisions of this Act shall be *prima facie* evidence that such person has wilfully caused such unlawful publication.

Prima facie evidence of publication.

23. EVERY telegraphic message published under the protection of this Act shall be printed with the heading "By Telegraph," or words equivalent thereto.

How telegraphic message protected by this Act to be headed.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

Dramatic and Musical Productions.

Property in dramatic
and musical pro-
ductions.

54 Vic., No. 1076,
s. 30 (Victorian).

3 & 4 Will. IV.,
c. 15, s. 1.

5 & 6 Vic., c. 45, s. 20.

24. FROM and after the coming into operation of this Act the author, or his assigns, of any dramatic or musical production in Western Australia,

(a.) Whether the same be printed or published or caused to be printed or published by the author thereof or his assignee or not, and

(b.) Whether the same was composed before or after the coming into operation of this Act,

Proviso.

shall have, as his own property, the sole liberty of representing, or performing, or causing or permitting to be represented or performed, at any place in Western Australia, any such dramatic or musical production for the term in this part of this Act provided for the duration of copyright in books: Provided always, that nothing in this section contained shall prejudice, alter, or affect the right or authority of any person to represent or cause to be represented, or perform or cause to be performed, at any place in Western Australia, such productions as aforesaid in all cases in which the author thereof, or his assignee, has, previously to the coming into operation of this Act, given his consent to or authorised such representation or performance.

Provisions respecting
copyright in books to
apply to dramatic or
musical production.

54 Vic., No. 1076,
s. 30 (Victorian).

5 & 6 Vic., c. 45, s. 20.

25. ALL the provisions of this part of this Act enacted in respect of and relating to the copyright in books, so far as the same are not inconsistent with the provisions of this Act relating to a dramatic or musical production, shall apply to the liberty of representing or performing any dramatic or musical production; and the first public representation or performance of any such production shall be deemed equivalent, in the construction of this part of this Act, to the first publication of any book.

Proviso.

Provided always,—

(1.) That in case of any dramatic or musical production in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing, or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance; and in the case of dramatic or musical productions, to print or cause to be printed upon every copy of such dramatic or musical production a notice to the effect that the right of public representation or performance is reserved; and

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

- (2.) That no copy of any dramatic or musical production is required to be delivered at the Victoria Public Library as aforesaid, unless such production has been printed for sale.

26. WHENEVER, after the coming into operation of this Act, the proprietor of any dramatic or musical production first published after the coming into operation of this Act, or the assigns of such proprietor desire to retain exclusively the right of public representation or performance of the same, such proprietor or assigns shall print or cause to be printed upon the title page of every published copy of such dramatic or musical production a notice to the effect that the right of public representation or performance is reserved.

Printed notice
restraining public
performance, 45 and
46 Vic., c. 40, s. 1.

27. (1.) WHENEVER, after the coming into operation of this Act, the right of public representation or performance of and the copyright in any dramatic or musical production is vested, before publication of any copy thereof, in different owners, then if the owner of the right of public representation or performance desires to retain the same, he shall, before any such publication of any copy of such dramatic or musical production, give to the owner of the copyright therein notice in writing requiring him to print upon every copy of such dramatic or musical production a notice to the effect that the right of public representation or performance is reserved.

Provision when the
rights of performance
are vested in different
owners.

45 & 46 Vic.,
c. 40, s. 2.

Before publication
of copy.

(2.) Whenever, after the coming into operation of this Act, the right of public representation or performance of and the copyright in any dramatic or musical production, after publication of any copy thereof, first becomes vested in different owners, and such notice as aforesaid has been duly printed on all copies published after the coming into operation of this Act previously to such vesting, then if the owner of the right of performance and representation desires to retain the same, he shall, before the publication of any further copies of such dramatic or musical production, give notice in writing to the person in whom the copyright is then vested, requiring him to print such notice as aforesaid on every copy of such production to be thereafter published.

After publication of
copy.

28. WHENEVER the owner for the time being of the copyright in any dramatic or musical production, after due notice being given to him or his predecessor in title at the time, and generally in accordance with the provisions of this Act, neglects or fails to print or cause to be printed legibly and conspicuously upon every copy of such production published by him or by his authority or by any person lawfully entitled to publish the same, and claiming through or under him, a note or memorandum stating that the right of public

Penalty on owner of
copyright for non-
compliance with
notice from owner of
right of performance.

45 & 46 Vic.,
c. 40, s. 3.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

representation or performance is reserved, then and in such case the owner of the copyright at the time of the happening of such neglect or default shall forfeit and pay to the owner of the right of public representation or performance of such production the sum of Twenty pounds, to be recovered in any Court of competent jurisdiction.

Penalty on persons performing dramatic or musical pieces contrary to last section.

54 Vic., No. 1076, s. 31 (Victorian).

3 & 4 Will. IV., c. 15, s. 2.

5 & 6 Vic., c. 45, s. 21.

29. (1.) EXCEPT as hereinafter mentioned any person who, during the continuance of such sole liberty as aforesaid, contrary to the provisions of this Act, or to the right of the author of any dramatic or musical production or his assigns, represents or performs, or causes to be represented or performed, without the consent in writing of such author or assigns first had and obtained, at any place in Western Australia, any such dramatic or musical production or any part thereof, shall be liable for each and every such representation or performance to the payment of such sum of money as in the discretion of the Court or Judge before whom the action is tried, in respect thereof, seems reasonable, or to the full amount of the benefit or advantage arising from such representation or performance, or the injury or loss sustained by the plaintiff therefrom, whichever is the greater damages, to the author or proprietor of such production so represented or performed contrary to the true intent and meaning of this part of this Act, to be recovered with full costs of suit, as between attorney and client, by such author or other proprietor in any Court of competent jurisdiction.

45 & 46 Vic., c. 40, s. 4.
Costs.

(2.) The costs of any such action or proceeding shall be in the absolute discretion of the Court or Judge before whom such action or proceeding is tried.

Pleading sole liberty.

(3.) In every such proceeding where the sole liberty of such author or his assigns is subject to such right or authority as aforesaid, it shall be sufficient for the plaintiff to state that he has such sole liberty, without stating the same to be subject to such right or authority, or otherwise mentioning the same.

Exception to liability, &c.

51 & 52 Vic., c. 17, s. 3.

(4.) The proprietor, tenant, or occupier of any place of dramatic entertainment or other place at which any unauthorised representation or performance of any dramatic or musical production, whether published before or after the coming into operation of this Act takes place, shall not, by reason of such representation or performance, be liable to any penalty or damages in respect thereof, unless he wilfully causes or permits such unauthorised representation or performance knowing it to be so unauthorised.

Lectures.

Authors of lectures or their assigns to have the sole right of publishing same.

30. (1.) THE author of any lecture first delivered in Western Australia, or the person to whom such author has sold or otherwise assigned or transferred the copy thereof in order to deliver the same

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

in any school, seminary, institution, or other place, or for any other purpose whatever, shall have the sole right and liberty of printing and publishing such lecture or any part thereof for the same period as is hereinbefore limited with respect to copyright in books:

54 Vic., No. 1076,
s. 32 (Victorian).

5 & 6 Will. IV.,
c. 65, s. 1.

(2.) (a.) And any person who, by taking down the same in shorthand, or otherwise in writing, or in any other way obtains, or makes a copy of such lecture or any part thereof, and prints or lithographs, or otherwise copies and publishes the same, or causes the same to be printed, lithographed, or otherwise copied and published, without leave of the author thereof, or of the person to whom the author thereof has sold or otherwise assigned or transferred the same; and

Persons taking
down lectures for
printing or

(b.) Every person who, knowing the same to have been printed or copied and published without such consent, sells, publishes, or exposes for sale, or causes to be sold, published, or exposed for sale, any such lecture or part thereof,

Selling or publishing
same liable to

shall be guilty of an offence against this Act and forfeit all such printed or otherwise copied lecture or part thereof, together with One penny for every folio of seventy-two words thereof which is found in his custody, either printed, lithographed, or copied, or being printed, lithographed, or copied, or which is sold, published, or exposed for sale contrary to the provisions of this Act, to be recovered before two or more Justices in a summary manner by the proprietor of the copyright in such lectures or his assigns.

Forfeiture and
penalty.

31. ANY printer or publisher of any newspaper who, without such leave as aforesaid, prints and publishes in such newspaper any such lecture or part thereof, shall be deemed and taken to be a person printing and publishing without leave contrary to the provisions of this Act, and liable to the aforesaid forfeitures and penalties in respect of such printing and publishing.

Penalty on printers
or publishers of
newspapers publish-
ing lectures without
leave.

54 Vic., No. 1076,
s. 33 (Victorian).
5 & 6 Will. IV., c. 65,
s. 2.

32. NO person allowed for certain fee and reward or otherwise to attend and be present at any lecture delivered in any place shall be deemed and taken to be licensed, or to have leave to print, copy, or publish such lecture, or part thereof, by reason only of having leave to attend such lecture or part thereof.

Persons having leave
to attend lectures not
entitled to publish
them.

54 Vic., No. 1076,
s. 34 (Victorian).
5 & 6 Will. IV.,
c. 65, s. 3.

33. NOTHING in this part of this Act contained shall extend to prohibit any person from printing, copying, and publishing any lecture or part thereof

Publication of lec-
tures after expiration
of copyright, etc.,
not prohibited.

(1.) Which is or has been printed and published with leave of the author thereof or his assigns; or

(2.) Whereof the time has expired wherein the sole right to print and publish the same is given by this Act; or

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

- (3.) Which has been printed or published before the coming into operation of this Act.

Notice not to print, lithograph, copy, and publish lectures to be given by public advertisement.

54 Vic., No. 1076, s. 36 (Victorian).

34. NOTHING in this part of this Act contained shall extend—

- (1.) To any lecture or part thereof, or to the printing, copying, or publishing of any lecture or part thereof, of which notice not to print, lithograph, or otherwise copy and publish the same has not been published twice at least in some paper generally circulating in the place where such lecture is delivered, two days at least before delivering the same; or
- (2.) To any lecture delivered in any university, public school, or college, or on any public foundation, or by any individual by virtue of or according to any gift, endowment, or foundation.

PART III.—COPYRIGHT OF FINE ARTS.

Copyright in paintings, drawings, sculpture, engravings, photographs.

54 Vic., No. 1076, s. 37 (Victorian).

25 & 26 Vic., c. 68, s. 1.

35. (1.) THE author, being a British subject or resident in Western Australia, of every new and original painting, drawing, work of sculpture, engraving, and photograph which is, or has been, made in Western Australia, and has not been sold or disposed of before the coming into operation of this Act, and his assigns, shall, subject to the provisions of this section, have the sole and exclusive right of copying, photographing, engraving, reproducing, and multiplying such painting, drawing, work of sculpture, and engraving, and the design thereof, or such photograph and the negative thereof, by any means and of any size, for the term of:

- (a.) Fourteen years from the making thereof, as regards such painting, drawing, work of sculpture, and engraving; and
- (b.) Three years from the making thereof, as regards such photograph and the negative thereof.

Copyright retained by vendor only by agreement with purchaser.

(2.) Whenever any painting, drawing, work of sculpture, engraving, photograph, or the negative of any photograph is for the first time after the coming into operation of this Act sold or disposed of, or is 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 purchaser of such painting, drawing, work of sculpture, engraving, photograph, or negative of a photograph, or by the person for or on whose behalf the same is so made or executed, but the copyright shall belong to the purchaser of such painting, drawing,

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

work of sculpture, engraving, photograph, or negative of a photograph, or to the person for or on whose behalf the same has been made or executed.

(3.) Such purchaser shall not 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 authorised in writing, has been made to that effect.

Copyright does not pass to purchaser except by agreement.

(4.) Notwithstanding anything in this section contained, the proprietors of all articles enumerated in this section which are publicly exhibited at any exhibition held in this Colony under the authority of the Government thereof shall, during the time of such exhibition, be entitled to the benefits of this Act as though such proprietors had complied with the provisions hereof.

Articles at exhibition protected.

36. NOTHING herein contained shall prejudice the right of any person to copy or use any work in which there is no copyright, or to represent any scene or object, notwithstanding that there is copyright in some representation of such scene or object.

Copyright not to prevent representation of subject of works. 54 Vic., No. 1076, s. 38 (Victorian). 25 & 26 Vic., c. 68, s. 2.

37. (1.) THERE shall be kept at the registry to be appointed under and by virtue of this Act a book or books entitled "The Register of Proprietors of Copyright in Paintings, Drawings, Works of Sculpture, Engravings, and Photographs," wherein shall be entered a memorandum of every copyright to which any person is entitled under this part of this Act, and also of every subsequent agreement relating to, or assignment of, any such copyright.

Books for registration of paintings, &c.

54 Vic., No. 1076, s. 39 (Victorian).

25 & 26 Vic., c. 68, s. 4.

(2.) 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 is vested by virtue thereof, and of the name and place of abode or place of business of the author of the work in which there is such copyright, together with a short description of the nature and subject of such work, and in addition thereto, if the person registering so desires, a sketch outline or photograph of the said work.

Contents of memorandum.

(3.) No proprietor of any such copyright shall be entitled to the benefit of this part of this Act until such registration, and no action shall be sustainable nor any penalty be recoverable in respect of anything done before registration.

Registration necessary to sue.

(4.) The omission to register any copyright under this part of this Act shall not affect such copyright, but only the right to sue or proceed in respect of the infringement thereof.

Omission to register not to affect copyright.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

Certain provisions of this Act to apply to books to be kept under this part.

54 Vic., No. 1076, s. 40 (Victorian).

25 & 26 Vic., c. 68, s. 5.

38. THE provisions and enactments contained in this Act, with regard to and in connection with—

- (a.) The keeping of the register thereby required, or therein referred to;
- (b.) The searches in such register;
- (c.) The delivery of certified and stamped or sealed copies thereof;
- (d.) The reception of such copies in evidence; and
- (e.) The cancelling or amending entries in such register books;

shall apply to the book or books to be kept by virtue of this Part of this Act, and to the entries and assignments of copyright and proprietorship therein under this part of this Act, as fully and effectually to all intents and purposes as if such provisions and enactments were expressly enacted in this part of this Act in relation thereto, and the forms of every kind contained in the Schedules to this Act may be varied to meet the circumstances of each case.

Penalties on infringement of copyright in fine arts.

54 Vic., No. 1076, s. 41 (Victorian).

25 & 26 Vic., c. 68, s. 6.

39. WHENEVER the author of any painting, drawing, work of sculpture, engraving, or photograph in which there is subsisting copyright after having sold or disposed of such copyright, or any other person not being the proprietor for the time being of copyright in any such painting, drawing, work of sculpture, engraving, or photograph,

- (1.) Without the consent of such proprietor repeats, copies, colourably imitates, or otherwise multiplies for sale, hire, exhibition, or distribution any such work or the design thereof; or
- (2.) Knowing that any such repetition, copy, or other imitation has been unlawfully made, imports into Western Australia, or sells, publishes, lets to hire, exhibits, or distributes, or offers for sale, hire, exhibition, or distribution, or causes or procures to be imported, sold, published, let to hire, exhibited, 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;

Penalty.

such author or person shall be guilty of an offence against this Act, punishable in a summary manner, and 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.

40. (1.)—

(a.) No person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any such painting, drawing, work of sculpture, engraving or photograph, or the negative thereof, any name, initials, or monogram.

Fraudulent productions and sales.
54 Vic., No. 1076, s. 42 (Victorian).
25 & 26 Vic., c. 68, s. 7.

(b.) No person shall fraudulently sell, publish, exhibit, or dispose of, or offer for sale, exhibition, or distribution, any such painting, drawing, work of sculpture, engraving, 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.

(c.) No person shall fraudulently utter, dispose of, or put off, or cause to be uttered, or disposed of, or put off, any copy or colourable imitation of any such painting, drawing, work of sculpture, engraving, or photograph, or negative of a photograph, whether there is 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 has been taken.

(d.) Whenever the author or maker of any such painting, drawing, work of sculpture, engraving, or photograph, or negative of a photograph made before or after the coming into operation of this Act has sold or otherwise parted with the possession of such work, and any alteration is afterwards made therein by any other person, by addition or otherwise, such person shall not, during the life of the author or maker of such work, and without his consent, make or knowingly 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.

(2.) Any person acting in contravention of this section shall be guilty of an offence against the Act, punishable in a summary manner, and shall, upon conviction, forfeit to the person or the assigns of the person whose name, initials, or monogram are so fraudulently signed or affixed, or to whom such spurious or altered work is so fraudulently or falsely ascribed as aforesaid, a sum not exceeding Ten pounds, or, at the option of the person aggrieved, not exceeding double the full price at which all such copies, engravings, imitations, or altered works have been sold or offered for sale.

Penalty.

(3.) All such copies, engravings, imitations, or altered works in the possession of or belonging to such offender at the time of committing any offence under this section shall be forfeited to the person, or the assigns of the person whose name, initials, or monogram is so fraudulently signed or affixed thereto, or to whom

Copies, etc., to be forfeited.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

such spurious or altered work is so fraudulently or falsely ascribed as aforesaid.

Proviso.

(4.) Provided always, that the penalties imposed by this section shall not be incurred unless the person whose name, initials, or monogram is so fraudulently signed or affixed, or to whom such spurious or altered work is so fraudulently or falsely ascribed as aforesaid, has been living at or within twenty years next before the time when the offence has been committed.

Recovery of penalties.

54 Vic., No. 1076,
s. 43 (Victorian).

25 & 26 Vic., c. 68,
s. 8.

41. ALL pecuniary penalties which are incurred, and all such unlawful copies, imitations, and all other effects and things as have been forfeited by offenders pursuant to this part of this Act, may be recovered by the proprietor against whom the offence has been committed, or by the person hereinbefore empowered to recover the same, either by action against the party offending or by summary proceeding before two or more Justices of the Peace.

Importation of pirated works prohibited.

54 Vic., No. 1076,
s. 44 (Victorian).

25 & 26 Vic., c. 68,
s. 10.

42. (1.) ALL repetitions, copies, or imitations of paintings, drawings, works of sculpture, engravings, or photographs wherein or in the design whereof there is subsisting copyright under this part of this Act, and all repetitions, copies, and imitations of the design of any such painting, drawing, work of sculpture, engraving, photograph or of the negative of any such photograph, which, contrary to the provisions of this part of this Act, have been made in Western Australia or elsewhere, are hereby absolutely prohibited to be imported into Western Australia, except by or with the consent of the proprietor of the copyright thereof, or his agent authorised in writing.

On declaration of proprietor Customs officer may detain.

(2.) If the proprietor of any such copyright, or his agent, declares that any goods imported are repetitions, copies, or imitations of any such painting, drawing, work of sculpture, engraving, or photograph or the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by any officer of Customs in Western Australia.

Saving of right to bring action for damages.

54 Vic., No. 1076,
s. 45 (Victorian).

25 & 26 Vic., c. 68,
s. 11.

43. IF the author of any such painting, drawing, work of sculpture, engraving, or photograph in which there is 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,

(a.) Without the consent of the proprietor thereof, repeats, copies, colourably imitates, or otherwise multiplies, or causes or procures 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

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

- (b.) Imports or causes to be imported into Western Australia, or sells, publishes, lets to hire, exhibits, or distributes, or offers for sale, hire, exhibition, or distribution, or causes or procures 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, and may recover damages for the retention or conversion thereof.

44. NOTHING herein contained, nor any proceeding, conviction, or judgment for any act in this part of this Act forbidden, shall affect any remedy which any person aggrieved by such act may be entitled to.

Remedies given by Part III. to be additional to all other remedies.
54 Vic., No. 1076, s. 45 (Victorian).
25 & 26 Vic., c. 68, s. 11.

PART IV.—MISCELLANEOUS.—GENERAL PROVISIONS.

Registration.

45. THE office of the Registrar General of Western Australia, or such other place as the Governor may from time to time appoint, shall be the place of registration for the purposes of this Act.

Office of registration.

46. (1.) THE Registrar General, or such other person as the Governor may from time to time appoint, shall be the Registrar for the purposes of this Act.

Appointment of Registrar.

(2.) The Governor may appoint one or more assistant registrars, who shall, for the purposes of this Act, have the same powers and perform the same duties as are vested in or incumbent upon the Registrar, and may appoint such other officers and servants as are necessary to carry out the provisions of this Act, and the Regulations.

Appointment of Officers.

47. (1.) THE Registrar may amend any entry in any register book under this Act upon,—

- (a.) Application in writing in that behalf stating the amendment required by the proprietor or part or limited proprietor of the registered copyright, or sole liberty to which such entry refers; and

Amending, varying, or expunging entries in or from register book.

54 Vic., No. 1076, s. 51 (Victorian).
5 & 6 Vic., c. 45, s. 14.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

(b.) Proof to the satisfaction of such Registrar that such entry requires the amendment so applied for.

Upon refusal of Registrar, application to be made to court.

(2.) Upon the refusal of such Registrar to amend as aforesaid, such proprietor may apply to the Supreme Court, or any Judge thereof, for an order that such entry be amended as required; and such Court or Judge may make such order regarding the amendment of such entry as to such Court or Judge shall seem just.

Application to be by notice or summons.

(3.) Whenever any person deems himself aggrieved by any entry made under the provisions of this Act in any register book, such person may apply by motion to the Supreme Court, or by summons to any Judge in Chambers, for an order that such entry may be expunged or varied; and upon any such application by motion or summons as aforesaid, such Court or Judge may make such order for expunging, varying, confirming, or otherwise dealing with such entry, either with or without costs, as to such Court or Judge seem just.

Registrar to comply with order.

(4.) The Registrar shall, on the production to him of any such order for expunging, varying, confirming, or otherwise dealing with any such entry, and on payment of the fee prescribed by the Regulations in that behalf, comply with the requisitions of such order according to the tenor thereof.

Discretionary power to register vested in Registrar.

54 Vic., No. 1076, s. 52 (Victorian).
6 & 7 Vic. c. 65, s. 9.

48. IF it appears to the satisfaction of the Registrar that any work, whether manual, mechanical, chemical, literary, dramatic, musical, or artistic, or of whatever kind, whether *ejusdem generis* or not, that may be the subject of copyright, and registered under any part of this Act, is contrary to public morality or order, the Registrar may, in his discretion, wholly refuse to register any such work as aforesaid:

Proviso.

Provided that the Governor may, on representation made to the Attorney General by the proprietor of any such work so wholly refused to be registered as aforesaid, order the Registrar to register such work, whereupon and in such case the Registrar shall register the same accordingly.

Registrar, &c., receiving gratuities punished.

54 Vic., No. 1076, s. 46 (Victorian).
5 & 6 Vic., c. 100, s. 19.

49. THE Registrar or any other officer or servant appointed to carry out the provisions of this Act, who demands or receives for any matter relating to or connected with this Act, or the administration thereof, any gratuity or reward in money or otherwise, except the salary or remuneration authorised by the Governor, shall forfeit for every such offence Fifty pounds to any person suing for the same by action of debt in any Court of competent jurisdiction, and shall also be liable to be suspended or dismissed from his office and rendered incapable of holding any situation in the said office or the public service of Western Australia, if the Governor thinks fit.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

50. ANY person who—

- (a.) Wilfully and knowingly makes or causes to be made any false entry in any register book under this Act; or
- (b.) Wilfully and knowingly produces or causes to be produced or tendered in evidence any paper or parchment falsely purporting to be a copy of any entry in any such register book,

Making false entries, declarations, &c., a misdemeanour.

54 Vic., No. 1076, s. 47 (Victorian).

shall be guilty of a misdemeanour, and shall, on conviction thereof, be imprisoned for any term not exceeding three years, with or without hard labour.

Procedure.

51. SUBJECT to the provisions of this Act all proceedings in respect of offences against this Act shall be heard and determined in a summary manner before any two or more Justices of the Peace in Petty Sessions, and the penalties, forfeitures, or other remedies in respect of the same may be enforced and appropriated according to the provisions of an Ordinance passed in the fourteenth year of the reign of Her Majesty Queen Victoria, and numbered Five.

Proceedings before Justices.

52. IN addition to the powers and provisions contained in such Ordinance, in every case of the adjudication of a fine or pecuniary penalty or the making of any order under this Act, and of the non-payment of such fine or pecuniary penalty or non-performance of such order, any two or more Justices of the Peace may commit the offender or person making default to any gaol in Western Australia for any time not exceeding three calendar months, the imprisonment to cease on payment of the fine or penalty and costs due, or on performance of such order.

Non-payment of penalty.

53. ANY person aggrieved by any order of Justices of the Peace made under the provisions of this Act, or by any order of Justices of the Peace dismissing any information laid under this Act, or by any conviction by Justices for any offence against this Act, may appeal therefrom, and such appeal shall be regulated, and the proceedings therein conducted in manner appointed by Part IX. of "The Police Act, 1892."

Appeal.

54. EXCEPT as hereinafter mentioned, no action, information, or other proceedings taken in respect of any offence against this Act shall be commenced after two years from the time of the commission of such offence: Provided always, any actions or other proceedings which, under the authority of this Act, are commenced or taken for or in respect of any copy or copies of books to be delivered for use of the Victoria Public Library hereinbefore mentioned may be commenced or taken at any time.

Limitation of actions, proceedings, &c.

Proviso.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

Judge of Supreme Court can make orders for injunctions.

54 Vic., No. 1076, s. 50 (Victorian).

25 & 26 Vic., c. 68, s. 9.

55. IN any action in the Supreme Court of Western Australia for the infringement of copyright under this Act, the Court, or any Judge thereof, may, on the application of the plaintiff or defendant, make such order for an injunction, inspection, or account, and give such directions respecting such action, injunction, inspection, or account, and the proceedings therein respectively, as to such Court or Judge seem fit.

Regulations.

Governor can make regulations.

54 Vic., No. 1076, s. 53 (Victorian).

56. (1.) THE Governor may from time to time make, vary, alter, amend, or rescind Regulations,—

(a.) Prescribing the form and mode of each and every kind of registration under this Act.

(b.) Fixing or altering the scale of fees to be paid for the registration of every kind of copyright, sole liberty, and proprietorship, whether entire or limited, and transfers or assignments thereof, whether entire or limited, under this Act, and for the amendment, alteration, and expunging of any entry in any register book, and for all searches, inspections, extracts, and copies of any register book, registered documents, or other books of reference allowed and kept in the said offices of registry by virtue of this Act; and

(c.) Prescribing the manner in which such fees are to be received, kept, and accounted for; and

(d.) To give effect to the provisions of this Act according to the true intent and meaning thereof.

Publication of regulations.

(2.) All Regulations made under this Act shall be laid before both Houses of Parliament within fourteen days from the making thereof if Parliament be then sitting, or if not then sitting, then within fourteen days after the then next assembling of Parliament; and when published in the *Government Gazette*, such Regulations shall have the force of law.

Evidence.

(3.) A copy of the *Government Gazette* containing any such Regulation shall be *prima facie* evidence in all courts of justice and in all legal proceedings of the due making of such Regulation, and that it is still in force.

Miscellaneous.

Seal of "Registry Office."

54 Vic., No. 1076, s. 54 (Victorian).

57. (1.) THE Registrar shall cause to be prepared a stamp or seal bearing the impression of the royal arms, and having inscribed in the margin thereof the words "Office of Copyright Registry of Western Australia."

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

(2.) All certificates, extracts, copies of entries, and other documents purporting to be impressed, stamped or sealed with such stamp or seal, and to be signed by the Registrar, shall be admissible in evidence in all legal proceedings without production of the originals thereof, and without further proof of the same being correct, or of the authenticity and genuineness of such stamp, seal, or signature, and shall be *prima facie* evidence of the facts and particulars contained herein.

Evidence.

58. (1.) ALL proprietorship, copyright, and sole liberty under this Act shall be deemed personal property, and be assignable at law and transmissible by bequest, and in case of intestacy shall be subject to the same law of distribution as other personal property.

Copyright to be personal property.
54 Vic., No. 1076, s. 48 (Victorian).
25 & 26 Vic., c. 68, s. 3.

(2.) Every assignment thereof, or of any part thereof, and every license to use or copy by any means or process whatsoever the article, work, or substance which is 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 of such sole liberty, or the agent of such proprietor appointed for that purpose in writing.

Assignment of copyright.

59. WHENEVER reference is made to any Act hereby repealed, or to any part or section or part thereof, such reference shall be deemed to be made to this Act and the corresponding section or part hereof.

Reference.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

SCHEDULES.

First Schedule.

Section 3.

Year and Number of Act.	Title.	Extent of Repeal.
36 Vic., No. 7 ...	"The Telegram Copyright Act, 1872" ...	The whole.
51 Vic., No. 3 ..	"The Copyright Register Act, 1887" ...	The whole.

Second Schedule.

Section 11, sub-
section (1).

THE COPYRIGHT ACT, 1895.

Form of requiring Entry of Proprietorship.

To the Registrar.

I, A.B., of [*here insert address and description*] do hereby certify that I am the proprietor of the copyright of a book intituled [*insert title*], and I hereby require you to make entry in the register book of my proprietorship of such copyright according to the particulars underwritten.

Title of Book.	Time of first Publication.	Time of making Entry.	Name of the Publisher.	Place of Abode of the Publisher.	Name of Proprietor of Copyright.	Place of Abode of Proprietor of Copyright.

Dated this day of
Witness, E.F.

18
(Signed) A.B.

Third Schedule.

Section 11, sub-
section (1).

THE COPYRIGHT ACT, 1895.

Original Entry of Proprietorship of Copyright of a Book.

Title of Book.	Time of first Publication.	Time of making Entry.	Name of the Publisher.	Place of abode of Publisher.	Name of Proprietor of Copyright.	Place of abode of the Proprietor of Copyright.

59° VICTORIÆ, No. 24.

Copyright Act, 1895.

Fourth Schedule.

THE COPYRIGHT ACT, 1895.

Form of Concurrence of the party assigning Copyright in any Book previously registered. Section 11, sub-section (2).
To the Registrar.

I, A.B., of [insert address and description] being the assignor of the copyright of the book hereunder described, do hereby require you to make entry of the assignment of the copyright therein.

Title of Book.	Assignor of the Copyright.	Assignee of Copyright.	Place of abode of Assignee.

Dated this day of 18 .
Witness, E.F. (Signed) A.B.

Fifth Schedule.

THE COPYRIGHT ACT, 1895.

Form of Entry of Assignment of Copyright in any Book previously registered. Section 11, sub-section (2).

Date of Entry.	Title of Book.	Assignor of Copyright.	Assignee of Copyright.	Place of abode of Assignee.
	[Set out the title of the book and refer to the page of the register book in which the original entry of the copyright thereof is made.]			