

Copyright

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INTERNATIONAL UNION**MALTA****Declaration of continued adherence to the Berne Convention for the Protection of Literary and Artistic Works, as revised at Rome on June 2, 1928***Notification of the Swiss Government to the Government of Union Countries*

By a note of May 29, 1968, addressed to the Swiss Embassy in London, the Ministry of Commonwealth and Foreign Affairs of Malta confirmed the continued adherence of Malta to the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Rome on June 2, 1928. This adherence is based on a declaration of application which was made in due time by the United Kingdom of Great

Britain and Northern Ireland under Article 26(1) of the Convention. Consequently, Malta is considered to be bound by the said Convention since September 21, 1964, i. e. from the date of its accession to independence.

Concerning its participation in the expenses of the International Bureau of the Union, Malta is placed, according to its request, in the sixth class of contribution by virtue of Article 23 of the Berne Convention as revised at Rome.

Berne, August 20, 1968.

NATIONAL LEGISLATION

SIERRA LEONE

The Copyright Act, 1965

(No. 28, of May 5, 1965)

(Continued)¹⁾

PART VI

Miscellaneous and supplementary provisions

Assignments and licences in respect of copyright

29. — (1) Subject to the provisions of this section, copyright shall be transmissible by assignment, by testamentary disposition, or by operation of law, as personal or movable property.

(2) An assignment of copyright may be limited in any of the following ways, or in any combination of two or more of those ways, that is to say —

- (a) so as to apply to one or more, but not all, of the classes of acts which by virtue of this Act the owner of the copyright has the exclusive right to do (including any one or more classes of acts not separately designated in this Act as being restricted by the copyright, but falling within any of the classes of acts so designated);
- (b) so as to apply to one or more, but not all, of the countries in relation to which the owner of the copyright has by virtue of this Act that exclusive right;
- (c) so as to apply to part, but not the whole, of the period for which the copyright is to subsist;

and references in this Act to a partial assignment are references to an assignment so limited.

(3) No assignment of copyright (whether total or partial) shall have effect unless it is in writing signed by or on behalf of the assignor.

(4) A licence granted in respect of any copyright by the person who, in relation to the matters to which the licence relates, is the owner of the copyright shall be binding upon every successor in title in his interest in the copyright, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser; and reference in this Act, in relation to any copyright, to the doing of anything with, or (as the case may be) without, the licence of the owner of the copyright shall be construed accordingly.

Prospective ownership of copyright

30. — (1) Where by an agreement made in relation to any future copyright and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright (wholly or partially) to another

person (in this subsection referred to as “the assignee”), then if, on the coming into existence of the copyright the assignee or a person claiming under him would, apart from this subsection, be entitled as against all other persons to require the copyright to be vested in him (wholly or partially, as the case may be), the copyright shall, on its coming into existence, vest in the assignee or his successor in title accordingly by virtue of this subsection and without further assurance.

(2) Where, at the time when any copyright comes into existence, the person who, if he were then living, would be entitled to the copyright is dead, the copyright shall devolve as if it had subsisted immediately before his death and he had then been the owner of the copyright.

(3) Subsection (4) [of] section 29 shall apply in relation to a licence granted by a prospective owner of any copyright as it applies in relation to a licence granted by the owner of a subsisting copyright, as if any reference in that subsection to the owner’s interest in the copyright included a reference to his prospective interest therein.

(4) In this Act “future copyright” means copyright which will or may come into existence in respect of any future work or class or works or other subject-matter, or on the coming into operation of any provisions of this Act, or on any other future event, and “prospective owner” shall be construed accordingly and, in relation to any such copyright, includes a person prospectively entitled thereto by virtue of such an agreement as is mentioned in subsection (1).

Copyright to pass under will with unpublished work

31. — Where under a bequest (whether specific or general) a person is entitled, beneficially or otherwise, to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless a contrary intention is indicated in the testator’s will or a codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

Provisions as to the Government and Government departments

32. — (1) In the case of every original literary, dramatic, musical or artistic work made by or under the direction or control of the Government or a Government department, —

¹⁾ See *Copyright*, 1968, pp. 127 and 158.

(a) if apart from this section copyright would subsist in the work, copyright shall subsist therein by virtue of this subsection, and

(b) in any case, the Government shall, subject to the provisions of this Part, be entitled to the copyright in the work.

(2) The Government shall, subject to the provisions of this Part, be entitled —

(a) to the copyright in every original literary, dramatic or musical work first published in Sierra Leone if first published by or under the direction or control of the Government or a Government department;

(b) to the copyright in every original artistic work published in Sierra Leone, if first published by or under such direction or control.

(3) Copyright in a literary, dramatic or musical work, to which the Government is entitled in accordance with either of the preceding subsections, —

(a) where the work is unpublished, shall continue to subsist so long as the work remains unpublished, and

(b) where the work is published, shall subsist (or if copyright in the work subsisted immediately before its first publication, shall continue to subsist) until the end of the period of fifty years from the end of the calendar year in which the work was first published, and shall then expire.

(4) Copyright in an artistic work to which the Government is entitled in accordance with the preceding provisions of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the work was made, and shall then expire:

Provided that where the work in question is an engraving or a photograph the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the engraving or photograph is first published.

(5) In the case of every sound recording or cinematograph film made by or under the direction or control of the Government or a Government department —

(a) if apart from this section copyright would not subsist in the recording or film, copyright shall subsist therein by virtue of this subsection, and

(b) in any case, the Government shall, subject to the provisions of this Part, be entitled to the copyright in the recording or film, and it shall subsist for the same period as if it were copyright subsisting by virtue of, and owned in accordance with, section 14 or, as the case may be, section 15.

(6) The preceding provisions of this section shall have effect subject to any agreement made by or on behalf of the Government or a Government department with the author of the work, or the maker of the sound recording or cinematograph film, as the case may be, whereby it is agreed that the copyright in the work, recording or film shall vest in the author or maker, or in another person designated in the agreement in that behalf.

(7) In relation to copyright subsisting by virtue of this section —

(a) in the case of a literary, dramatic, musical or artistic work, the provisions of Part II, with the exception of provisions thereof relating to the subsistence, duration or ownership of copyright, and

(b) in the case of a sound recording or cinematograph film, the provisions of Part III, with the exception of provisions thereof relating to the subsistence or ownership of copyright,

shall apply as those provisions apply in relation to copyright subsisting by virtue of Part II or, as the case may be, Part III.

Broadcasts of sound recordings and cinematograph films, and diffusion of broadcast programmes

33. — (1) Where a sound broadcast or television broadcast is made by the Service or the Authority, and a person, by the reception of that broadcast, causes a sound recording to be heard in public, he does not thereby infringe the copyright (if any) in that recording under section 14.

(2) Where a television broadcast or sound broadcast is made by the Service or the Authority, and the broadcast is an authorised broadcast, any person who, by the reception of the broadcast causes a cinematograph film to be seen or heard in public shall be in the like position, in any proceedings for infringement of the copyright (if any) in the film under section 15, as if he had been the holder of a licence granted by the owner of that copyright to cause the film to be seen or heard in public by the reception of the broadcast.

(3) Where a television broadcast or sound broadcast is made by the Service or Authority, and the broadcast is an authorised broadcast any person who, by the reception of the broadcast, causes a programme to be transmitted to subscribers to a diffusion service, being a programme comprising a literary, dramatic or musical work, or an adaptation of such a work, or an artistic work, or a cinematograph film, shall be in the like position, in any proceedings for infringement of the copyright (if any) in the work or film, as if he had been the holder of a licence granted by the owner of that copyright to include the work, adaptation or film in any programme caused to be transmitted by him to subscribers to that service by the reception of the broadcast.

(4) If, in the circumstances mentioned in either subsection (2) or subsection (3) the person causing the cinematograph film to be seen or heard, or the programme to be transmitted, as the case may be, infringed the copyright in question, by reason that the broadcast was not an authorised broadcast, —

(a) no proceedings shall be brought against that person under this Act in respect of his infringement of that copyright, but

(b) it shall be taken into account in assessing damages in any proceedings against the Service or the Authority, as the case may be, in respect of that copyright in so far as that copyright was infringed by them in making the broadcast.

(5) For the purposes of this section, a broadcast shall be taken in relation to a work or cinematograph film, to be an authorised broadcast if, but only if, it is made by, or with the licence of, the owner of the copyright in the work or film.

Use of copyright material for education

34. — (1) Where copyright subsists in a literary, dramatic, musical or artistic work, the copyright shall not be taken to be infringed by reason only that the work is reproduced, or an adaptation of the work is made or reproduced, —

(a) in the course of instruction, whether at school or elsewhere, where the reproduction or adaptation is made by the teacher or pupil otherwise than by the use of a duplicating process, or

(b) as part of the questions to be answered in an examination, or in an answer to such a question.

(2) Nothing in subsection (1) shall apply to the publication of a work or of an adaptation of a work; and for the purposes of section 7, the fact that to a person's knowledge the making of an article would have constituted an infringement of copyright but for subsection (1) shall have the like effect as if, to his knowledge the making of it had constituted such an infringement.

(3) For the avoidance of doubt it is hereby declared that, where a literary, dramatic or musical work —

(a) is performed in class, or otherwise in presence of an audience, and

(b) is so performed in the course of the activities of a school by a person who is a teacher in, or a pupil in attendance at, the school,

the performance shall not be taken for the purposes of this Act to be a performance in public if the audience is limited to persons who are teachers in, or pupils in attendance at, the school, or are otherwise directly connected with the activities of the school.

(4) For the purposes of subsection (3) a person shall not be taken to be directly connected with the activities of a school by reason only that he is a parent or guardian of a pupil in attendance at the school.

(5) Subsections (3) and (4) shall apply in relation to sound recordings, cinematograph films and television broadcasts as they apply in relation to literary, dramatic and musical works, as if reference to performance were a reference to the act of causing the sounds or visual images in question to be heard or seen.

(6) Nothing in this section shall be construed —

(a) as extending the operation of any provision of this Act as to the acts restricted by copyright of any description, or

(b) as derogating from the operation of any exemption conferred by any provision of this Act other than this section.

(7) In this section "school" means a primary or secondary school as defined in section 2 of the Education Act, 1964, and

"duplicating process" means any process involving the use of an appliance for producing multiple copies.

Special provisions as to public records

35. — Where any work in which copyright subsists, or a reproduction of any such work, is comprised in any records belonging to the Government which are under the charge and superintendence of the Courts or any Government department and are open to the inspection of the public under the provisions of any enactment, the copyright in the work is not infringed by the making, or the supplying to any person, of any reproduction of the work [by] or under the direction of any public officer.

False attribution of authorship

36. — (1) The restrictions imposed by this section shall have effect in relation to literary, dramatic, musical or artistic works; and any reference in this section to a work shall be construed as a reference to such a work.

(2) A person (in this subsection referred to as "the offender") contravenes those restrictions as respects another person if, without the licence of that other person, he does any of the following acts in Sierra Leone, that is to say, he —

(a) inserts or affixes that other person's name in or on a work of which that person is not the author, or in or on a reproduction of such a work, in such a way as to imply that the other person is the author of the work, or

(b) publishes, or sells or lets for hire, or by way of trade offers or exposes for sale or hire, or by way of trade exhibits in public, a work in or on which the other person's name has been inserted or affixed, if to the offender's knowledge that person is not the author of the work, or

(c) does any of the acts mentioned in paragraph (b) in relation to, or distributes, reproductions of a work, being reproductions in or on which the other person's name has been so inserted or affixed, if to the offender's knowledge that person is not the author of the work, or

(d) performs in public, or broadcasts, a work of which the other person is not the author, as being a work of which he is the author, if to the offender's knowledge that person is not the author of the work.

(3) Subsection (2) shall apply where, contrary to the fact, a work is represented as being an adaptation of the work of another person as it applies where a work is so represented as being the work of another person.

(4) In the case of an artistic work which has been altered after the author parted with the possession of it, the said restrictions are contravened in relation to the author, by a person who in Sierra Leone without the licence of the author —

(a) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire the work as so altered, as being the unaltered work of the author, or

(b) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire a reproduction of the work as so altered, as being a reproduction of the unaltered work of the author,

if to his knowledge it is not the unaltered work, or, as the case may be, a reproduction of the unaltered work, of the author.

(5) Subsections (2), (3) and (4) shall apply with respect to anything done in relation to another person after that person's death as if any reference to that person's licence were a reference to a licence given by him or by his personal representatives:

Provided that nothing in those subsections shall apply to anything done in relation to a person more than twenty years after that person's death.

(6) In the case of an artistic work in which copyright subsists the said restrictions are also contravened in the relation to the author of the work, by a person who in Sierra Leone publishes, or sells or lets for hire, or by way of trade offers for sale or hire, or by way of trade exhibits in public, a reproduction of the work, as being a reproduction made by the author of the work, if (in any case) the reproduction or reproductions was or were to his knowledge not made by the author.

(7) The preceding provisions of this section shall apply (with the necessary modifications) with respect to acts done in relation to two or more persons in connection with the same work.

(8) The restrictions imposed by this section shall not be enforceable by any criminal proceedings; but any contravention of those restrictions, in relation to a person, shall be actionable at his suit, or, if he is dead, at the suit of his personal representatives, as breach of statutory duty.

(9) Any damages recovered under this section by personal representatives, in respect of a contravention committed in relation to a person after his death, shall devolve as part of his estate, as if the right of action had subsisted and had been vested in him immediately before his death.

(10) Nothing in this section shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than by virtue of this section:

Provided that this subsection shall not be construed as requiring any damages recovered by virtue of this section to be disregarded in assessing damages in any proceedings instituted otherwise than by virtue of this section and arising out of the same transaction.

(11) In this section "name" includes initials or monogram.

General provisions as to Orders, Regulations and Rules

37. — (1) Orders, Regulations or Rules made under this Act shall be subject to annulment in pursuance of a resolution of the House of Representatives.

(2) Where a power to make Regulations or Rules is conferred by any provision of this Act, Regulations or Rules made under that power may be made either as respects all,

or as respects any one or more, of the matters to which the provision relates; and different provision may be made by any such Regulations or Rules as respects different classes of case to which the Regulations or Rules apply.

Transitional provisions, repeals and saving

38. — (1) The transitional provisions contained in the Fourth Schedule shall have effect for the purposes of this Act; and the provisions of the Fifth Schedule shall have effect in accordance with those transitional provisions.

(2) Subject to the said transitional provisions the Fine Arts Copyright Act, 1862 and the Copyright Act, 1911, shall cease to apply in Sierra Leone.

(3) The Copyright Act is hereby repealed.

(4) Nothing in this Act shall affect —

- (a) any right or privilege of the Government subsisting otherwise than by virtue of an enactment; or
- (b) any right or privilege of the Government or any other person under any enactment except in so far as that enactment is expressly repealed, amended or modified by this Act, or
- (c) the right of the Government or of any person deriving title from the Government to sell, use or otherwise deal with articles forfeited by virtue of this Act; or
- (d) the operation of any rule of equity relating to breaches of trust or confidence.

(5) Subject to the provisions of subsection (4) no copyright or right in the nature of copyright shall subsist otherwise than by virtue of this Act or of some other enactment made in that behalf.

SCHEDULES

FIRST SCHEDULE

(Section 12)

False registration of industrial designs

1. The provisions of this Schedule shall have effect where —

- (a) copyright subsists in an artistic work, and proceedings are brought under this Act relating to that work;
- (b) a corresponding design has been registered under the Act of 1949, and the copyright in the design subsisting by virtue of that registration has not expired by effluxion of time before the commencement of those proceedings; and
- (c) it is proved or admitted in the proceedings that the person registered as the proprietor of the design was not the proprietor thereof for the purposes of the Act of 1949, and was so registered without the knowledge of the owner of the copyright in the artistic work.

2. For the purposes of those proceedings (but subject to paragraph 3) the registration shall be treated as never having been effected, and accordingly, in relation to that registration, subsection (1) of section 12 shall not apply, and nothing in section 7 of the Act of 1949 shall be construed as affording any defence in those proceedings.

3. Notwithstanding anything in paragraph 2, if in the proceedings it is proved or admitted that any act to which the proceedings relate —

- (a) was done in pursuance of an assignment or licence made or granted by the person registered as proprietor of the design, and
- (b) was so made in good faith in reliance upon the registration, and without notice of any proceedings for the cancellation of the regis-

tration or for rectifying the entry in the register of designs relating thereto,

subsection (1) of section 12 shall apply in relation to that act for the purposes of the first-mentioned proceedings.

4. In this Schedule "the Act of 1949" means the United Kingdom Registered Designs Act, 1949, and "corresponding design" has the meaning assigned to it by subsection (7) of section 12 of this Act.

SECOND SCHEDULE

(Section 13)

Duration of copyright in anonymous and pseudonymous works

1. Where the first publication of a literary, dramatic, or musical work or of an artistic work other than a photograph, is anonymous or pseudonymous, then subject to the following provisions of this Schedule —

- (a) subsection (3) of section 4, or, as the case may be subsection (4) of section 5, shall not apply, and
- (b) any copyright subsisting in the work by virtue of either of those sections shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the work was first published, and shall then expire.

2. Paragraph 1 shall not apply in the case of a work if, at any time before the end of the period mentioned in that paragraph, it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry.

3. For the purposes of this Act a publication of a work under two or more names shall not be taken to be pseudonymous unless all those names are pseudonyms.

THIRD SCHEDULE

(Section 13)

Works of joint authorship

1. In relation to a work of joint authorship, the reference to the author in subsections (1) and (2) of section 4, in subsections (2) and (3) of section 5 and in paragraph 2 of the Second Schedule, shall be construed as references to any one or more of the authors.

2. In relation to a work of joint authorship, other than a work to which paragraph 3 applies, references to the author in subsection (3) of section 4, in subsection (4) of section 5 and in subsection (6) of section 9 shall be construed as references to the author who died last.

3. (1) This paragraph applies to any work of joint authorship which was first published under two or more names, of which one or more (but not all) were pseudonyms.

(2) This paragraph also applies to any work of joint authorship which was first published under two or more names all of which were pseudonyms, if, at any time within the period of fifty years from the end of the calendar year in which the work was first published, it is possible for a person without previous knowledge of the facts to ascertain the identity of any one or more (but not all) of the authors by reasonable inquiry.

(3) In relation to a work to which this paragraph applies references to the author in subsection (3) of section 4 and in subsection (4) of section 5 shall be construed as references to the author whose identity was disclosed, or, if the identity of two or more of the authors was disclosed, as references to that one of those authors who died last.

(4) For the purposes of this paragraph the identity of the author shall be taken to have been disclosed if either —

- (a) in his case, the name under which the work [was] published was not a pseudonym, or
- (b) it is possible to ascertain his identity as mentioned in subparagraph (2).

4. (1) In relation to a work of joint authorship of which one or more of the authors are persons to whom this paragraph applies, subsection (1) of section 6 shall have effect as if the author or authors other than persons to whom this paragraph applies, had been the sole author, or (as the case may be) sole joint authors, of the work.

(2) This paragraph applies, in the case of a work, to any person such that, if he had been the sole author of the work, copyright would not have subsisted in the work by virtue of Part II.

5. In the proviso to subsection (6) of section 8, the references to other excerpts from works by the author of the passage in question —

- (a) shall be taken to include a reference to excerpts from works by the author of that passage in collaboration with any other person, or
- (b) if the passage in question is from a work of joint authorship, shall be taken to include a reference to excerpts from the works by any one or more of the authors of that passage, or by any one or more of those authors in collaboration with any other person.

6. Subject to the preceding provisions of this Schedule, any reference in this Act to the author of the work shall (unless it is otherwise expressly provided) be construed, in relation to a work of joint authorship, as a reference to all the authors of the work.

FOURTH SCHEDULE

(Section 38)

Transitional provisions

PART I

Provisions relating to Part I of Act

1. (1) In the application of subsection (9) of section 2 to a publication effected before the commencement of that section, the reference in paragraph (d) to thirty days shall be treated as a reference to fourteen days.

(2) For the purposes of the application of subsection (10) of section 2 to an act done before the commencement of a provision of this Act to which that subsection applies, references to copyright include references to copyright under the Act of 1911, and, in relation to copyright under that Act, references to licence of the owner are references to the consent or acquiescence of the owner.

PART II

Provisions relating to Part II of Act

Conditions for subsistence of copyright

2. In the application of sections 4 and 5 to works first published before the commencement of those sections, subsections (2) of section 4 and subsection (3) of section 5 shall apply as if paragraphs (b) and (c) of those subsections were omitted.

Duration of copyright

3. In relation to any photograph taken before the commencement of section 5, subsection (4) of that section shall not apply but, subject to subsection (3) of that section, copyright subsisting in the photograph by virtue of that section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the photograph was taken, and shall then expire.

Ownership of copyright

4. (1) Subsections (2) to (4) of section 6 shall not apply —

- (a) to any work made as mentioned in subsection (2) or subsection (4) of that section, if the work was so made before the commencement of that section, or
- (b) to any work made as mentioned in subsection (3) of that section, if the work was or is so made in pursuance of a contract made before the commencement of that section.

(2) In relation to any work to which the preceding sub-paragraph applies, subsection (1) of section 6 shall have effect subject to the proviso set out in paragraph 1 of the Fifth Schedule (being the proviso to subsection (1) of section 5 of the Act of 1911).

Infringements of copyright

5. (1) For the purposes of section 7 the fact that, to a person's knowledge, the making of an article constituted an infringement of copyright under the Act of 1911, or would have constituted such an infringement

if the article had been made in the place into which it is imported shall have the like effect as if, to that person's knowledge the making of the article had constituted an infringement of copyright under this Act.

6. Subsection (7) of section 8 does not apply to assignments made or licences granted before the commencement of that section.

7. (1) References in section 10 to records previously made by, or with the licence of, the owner of the copyright in a work include references to records previously made by, or with the consent of, the owner of the copyright in that work under the Act of 1911.

(2) The repeal by this Act of any provisions of section 19 of the Act of 1911, or of the provisions of the United Kingdom Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928, shall not affect the operation of those provisions, or of any Regulations or Order made thereunder in relation to a record made before the repeal.

8. (1) In relation to a painting, drawing, engraving, photograph or cinematograph film made before the commencement of section 11, subsection (6) of that section shall apply if by virtue of subsection (3) or subsection (4) of that section the making of the painting, drawing, engraving, photograph or film would not have constituted an infringement of copyright under this Act if this Act had been in operation at the time when it was made.

(2) In subsection (10) of section 11, the reference to construction by, or with the licence of, the owner of the copyright in any architectural drawings or plans includes a reference to construction by, or with the licence of, the person who, at the time of the construction, was the owner of the copyright in the drawings or plans under the Act of 1911, or under any enactment repealed by that Act.

9. (1) Section 12 and the First Schedule do not apply to artistic works made before the commencement of that section.

(2) Copyright shall not subsist by virtue of this Act in any artistic work made before the commencement of section 12 which at the time when the work was made, constituted a design capable of registration under the United Kingdom Registered Designs Act, 1949, or under the enactments repealed by that Act and was used, or intended to be used, as model or pattern to be multiplied by any industrial process.

(3) The provisions set out in paragraph 2 of the Fifth Schedule to this Act (being the relevant provisions of the United Kingdom Copyright (Industrial Designs) Rules, 1949) shall apply for the purposes of the last preceding sub-paragraph.

10. (1) Where, before the repeal by this Act of section 3 of the Act of 1911, a person has, in the case of a work, given the notice requisite under the proviso set out in paragraph 3 of the Fifth Schedule (being the proviso to the said section 3), then as respects reproductions by that person of that work after the repeal of that section by this Act, that proviso shall have effect as if it had been re-enacted in this Act as a proviso to subsection (2) of section 3:

Provided that the said proviso shall have effect subject to the provisions set out in paragraphs 4 and 5 of the Fifth Schedule (being so much of subsection (1) of sections 16 and 17 respectively of the Act of 1911 as is applicable to the said proviso), as if those provisions had also been re-enacted in this Act.

(2) For the purposes of the operation of the said proviso in accordance with the preceding sub-paragraph, any Regulations made by the United Kingdom Board of Trade thereunder before the repeal of section three of the Act of 1911 shall have effect as if they had been made under this Act and the power of making further Regulations thereunder shall apply as if the proviso had been re-enacted as mentioned in the preceding sub-paragraph but shall, as from the commencement of this Act vest in the Minister of Trade and Industry and the reference in the said proviso to the Board of Trade shall be construed accordingly.

Works of joint authorship

11. (1) Notwithstanding anything in section 13 or in the Third Schedule copyright shall not subsist by virtue of Part II in any work of joint authorship first published before the commencement of section 13, if the period of copyright had expired before the commencement of that section.

(2) In this paragraph "the period of copyright" means whichever is the longer of the following periods, that is to say, —

- (a) the life of the author who died first and a term of fifty years after his death, and
- (b) the life of the author who died last.

PART III

Provisions relating to Part III of Act

Sound recordings

12. In the case of a sound recording made before the commencement of section 14, subsection (3) of that section shall apply with the substitution for the period mentioned in that subsection, of fifty years from the end of the calendar year in which the recording was made.

13. Subsection (6) of section 14 shall not apply to a sound recording made before the commencement of that section.

14. Notwithstanding anything in section 14, copyright shall not subsist by virtue of that section in a sound recording made before the first day of July, 1912, unless immediately before the commencement of that section, a corresponding copyright subsisted, in relation to that recording by virtue of subsection (8) of section 19 of the Act of 1911 (which relates to records made before the commencement of that Act).

Cinematograph films

15. Section 15 shall not apply to cinematograph films made before the commencement of that section.

16. Where a cinematograph film made before the commencement of section 15 was an original dramatic work within the definition of "dramatic work" set out in paragraph 9 of the Fifth Schedule (being the definition thereof of the Act of 1911), the provisions of this Act, including the provisions of this Schedule other than this paragraph shall have effect in relation to the film as if it had been an original dramatic work within the meaning of this Act; and the person who was the author of the work for the purposes of the Act of 1911 shall be taken to be the author thereof for the purposes of the said provisions as applied by this paragraph.

17. The provisions of this Act shall have effect in relation to photographs forming part of a cinematograph film made before the commencement of section 15 as those provisions have effect in relation to photographs not forming part of a cinematograph film.

Television broadcast and sound broadcasts

18. Copyright shall not subsist by virtue of section 16 in any television broadcast or sound broadcast made before the commencement of that section.

19. For the purposes of subsection (3) of section 16, a previous television broadcast shall be disregarded if it was made before the commencement of that section.

Supplementary

20. For the purposes of subsections (2) to (4) of section 18 the fact that, to a person's knowledge the making of an article constituted an infringement of copyright under the Act of 1911, or would have constituted such an infringement if the article had been made in the place into which it is imported, shall have the like effect as if, to that person's knowledge the making of the article had constituted an infringement of copyright under this Act.

PART IV

Provisions relating to Part IV of Act

21. Nothing in section 19 shall apply to any infringement of copyright under the Act of 1911, or shall affect any proceedings under that Act, whether begun before or after the commencement of that section.

22. Section 20 shall not apply with respect to any article made, or as the case may be, imported, before the commencement of that section; but notwithstanding the repeal by this Act of section 7 of the Act of 1911 (which contains provisions corresponding to subsection (1) of section 20), proceedings may (subject to the provisions of that Act), be brought or continued by virtue of the said section in respect to any article made or imported before the repeal, although the proceedings relate to the conversion or detention thereof after the repeal took effect.

23. Section 21 shall not apply to any licence granted before the commencement of that section, and shall not affect any proceedings under the Act of 1911, whether begun before or after the commencement of that section.

24. For the purposes of section 23 the definition of "infringing copy" in section 20 shall apply as if any reference to copyright in that definition included a reference to copyright under the Act of 1911.

25. Where before the commencement of section 24 a notice had been given in respect of a work under section 14 of the Act of 1911 (as applied in Sierra Leone by the Copyright Act), (which contains provisions corresponding to section 24), and that notice had not been withdrawn and had not otherwise ceased to have effect before the commencement of section 24, the notice shall have effect after the commencement of that section as if it had been duly given thereunder:

Provided that a notice shall not continue to have effect by virtue of this paragraph after the end of the period of six months beginning with the commencement of section 24.

PART V

Provisions relating to Part V of Act

26. In section 26, subsection (2) shall not apply to works made before the commencement of that section, and subsection (3) shall not apply to works first published before the commencement of that section.

PART VI

Provisions relating to Part VI of Act

Assignments, licences and bequests

27. (1) Where by virtue of any provision of this Act copyright subsists in a work, any document or event which —

- (a) was made or occurred before the commencement of that provision, and
- (b) had any operation affecting the title to copyright in the work under the Act of 1911, or would have had such an operation if the Act of 1911 had continued in force,

shall have the corresponding operation in relation to the copyright in the work under this Act:

Provided that, if the operation of any such document was or would have been limited to a period specified in the document, it shall not have any operation in relation to the copyright under this Act, except in so far as that period extends beyond the commencement of the provision of this Act by virtue of which copyright subsists in the work.

(2) For the purposes of the operation of a document in accordance with sub-paragraph (1) —

- (a) expressions used in the document shall be construed in accordance with their effect immediately before the commencement of the provision in question, notwithstanding that a different meaning is assigned to them for the purposes of this Act; and
- (b) subsection (1) of section 30 shall not apply.

(3) Without prejudice to the generality of sub-paragraph (1), the proviso set out in paragraph 6 of the Fifth Schedule (being the proviso to subsection (2) of section 5 of the Act of 1911) shall apply to assignments and licences having effect in relation to copyright under this Act in accordance with that sub-paragraph, as if that proviso had been re-enacted in this Act.

(4) In relation to copyright under this Act in a sound recording or in a cinematograph film, the preceding provisions of this paragraph shall apply subject to the following modifications, that is to say, —

- (a) in the case of a sound recording, references to the copyright under the Act of 1911 shall be construed as references to the copyright under that Act in records embodying the recording, and
- (b) in the case of a cinematograph film, references to the copyright under the Act of 1911 shall be construed as references to any copyright under that Act in the film (in so far as it constituted a dramatic work for the purposes of the Act of 1911) or in photographs forming part of the film.

(5) In this paragraph "operation affecting the title" in relation to copyright under the Act of 1911, means any operation affecting the owner-

ship of that copyright, or creating, transferring or terminating an interest, right or licence in respect of that copyright.

28. (1) Section 31 shall not apply to a bequest contained in the will, of a testator who died before the commencement of that section.

(2) In the case of an author who died before the commencement of section 31, the provision set out in paragraph 7 of the Fifth Schedule (being subsection (2) of section 17 of the Act of 1911) shall have effect as if it had been re-enacted in this Act.

Crown and Government Departments

29. Subsection (4) of section 32 shall apply in relation to photographs taken before the commencement of that section as if the proviso to that subsection were omitted.

30. (1) In the application of subsection (5) of section 32 to a sound recording made before the commencement of that section, paragraph (b) of that subsection shall apply as if for the period mentioned in that paragraph there were substituted the period of fifty years from the end of the calendar year in which the recording was made.

(2) With respect to cinematograph films made before the commencement of section 32 —

- (a) subsection (5) of that section shall not apply, but
- (b) in the case of a cinematograph film made as mentioned in that subsection, but before the commencement of section 32 if it was an original dramatic work as mentioned in paragraph 16 of this Schedule the provisions of subsections (1) to (3) of section 32 shall apply in accordance with that paragraph, and
- (c) in relation to photographs forming part of such a cinematograph film the provisions of subsections (1), (2) and (4) of section 32 (as modified by paragraph (b) of this sub-paragraph) shall apply as they apply in relation to photographs not forming part of cinematograph film.

False attribution of authorship

31. (1) Paragraphs (b) and (c) of subsection (2) of section 36 shall apply to any such acts as therein mentioned, if done after the commencement of that section, notwithstanding that the name in question was inserted or affixed before the commencement of that section.

(2) Subject to sub-paragraph (1), no act done before the commencement of section 36 shall be actionable by virtue of that section.

(3) In this paragraph "name" has the same meaning as in section 36.

PART VII

Works made before 1st July, 1912

32. (1) This Part applies to works made before the first day of July, 1912.

(2) In this Part "right conferred by the Act of 1911" in relation to a work, means such a substituted right as, by virtue of section 24 of the Act of 1911, was conferred in place of a right subsisting immediately before the commencement of that Act.

33. Notwithstanding anything in Part II of this Schedule, neither subsection (1) or subsection (2) of section 4, nor subsection (2) or subsection (3) of section 5, shall apply to a work to which this Part applies, unless a right conferred by the Act of 1911 subsisted in the work immediately before the commencement of section 4 or section 5 as the case may be.

34. (1) Where, in the case of a dramatic or musical work to which this Part applies, the right conferred by the Act of 1911 did not include the sole right to perform the work in public, then, in so far as copyright subsists in the work by virtue of this Act, the acts restricted by the copyright shall be treated as not including those specified in sub-paragraph (3).

(2) Where, in the case of a dramatic or musical work to which this Part applies, the right conferred by the Act of 1911 consisted only of the sole right to perform the work in public, then, the acts restricted by the copyright shall be treated as consisting only of those specified in sub-paragraph (3).

(3) The said acts are —

- (a) performing the work or an adaptation thereof in public;
- (b) broadcasting the work or an adaptation thereof;
- (c) causing the work or an adaptation thereof to be transmitted to subscribers to a diffusion service.

35. Where a work to which this Part applies consists 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, and immediately before the commencement of section 4 a right of publishing the work in a separate form subsisted by virtue of the provision set out in paragraph 8 of the Fifth Schedule (being the note appended to the First Schedule to the Act of 1911), that provision shall have effect, in relation to that work, as if it had been re-enacted in this Act with the substitution, for the word "right" where it first occurs, of the word "copyright".

36. (1) Without prejudice to the generality of sub-paragraph (1) of paragraph 27, the provisions of this paragraph shall have effect where —

- (a) the author of the work to which this Part applies, had, before the commencement of the Act of 1911, made such an assignment or grant as is mentioned in paragraph (a) of the proviso to subsection (1) of section 24 of that Act (which relates to transactions whereby the author had assigned, or granted an interest in, the copyright or performing right in a work for the full term of that right under the law in force before the Act of 1911), and
- (b) copyright subsists in the work by virtue of any provision of this Act.

(2) If, before the commencement of that provision of this Act, any event occurred, or notice was given, which in accordance with paragraph (a) of the said proviso had any operation affecting the ownership of the right conferred by the Act of 1911 in relation to the work, or creating, transferring or terminating an interest, right or licence in respect of that right, that event or notice shall have the corresponding operation in relation to the copyright in the work under this Act.

(3) Any right which, at a time after the commencement of that provision of this Act, would, by virtue of paragraph (a) of the said proviso have been exercisable in relation to the work, or to the right conferred by the Act of 1911, if this Act had not been passed, shall be exercisable in relation to the work or to the copyright therein under this Act, as the case may be.

(4) If, in accordance with paragraph (a) of the said proviso, the right conferred by the Act of 1911 would have reverted to the author or his personal representatives on the date referred to in that paragraph and the said date falls after the commencement of the provision of this Act whereby copyright subsists in the work, then on that date —

- (a) the copyright in the work under this Act shall revert to the author or his personal representatives, as the case may be, and
- (b) any interest of any other person in that copyright which subsists on that date by virtue of any document made before the commencement of the Act of 1911 shall thereupon determine.

PART VIII

General and supplementary provisions

37. (1) The provisions of this paragraph shall have effect for the construction of any reference to qualified persons in any provision of this Act.

(2) In relation to photographs taken before the commencement of section 5, and to sound recordings made before the commencement of section 14, the definition of "qualified person" in subsection (5) of section 3 shall apply as if in paragraph (b) of that subsection, for the words "body incorporated under the laws of" there were substituted the words "body corporate which has established a place of business in".

38. (1) The provisions of sub-paragraphs (2) and (3) shall apply where —

- (a) immediately before the date on which any provisions of the Act of 1911 (in this paragraph referred to as "the repealed provisions") are repealed in the law of Sierra Leone by this Act, the repealed provisions have effect as applied by an Order in Council made in respect of a foreign country under section 29 of the Act of 1911, and
- (b) no Order under section 25 of this Act, applying any provisions of this Act in the case of that country, is made so as to come into force on or before that date.

(2) The repealed provisions, as applied by the Order in Council under section 29 of the Act of 1911 (or by that Order as varied by any sub-

sequent Order thereunder), shall continue to have effect, notwithstanding the repeal, until the occurrence of whichever of the following events first occurs, that is to say —

- (a) the revocation of the Order in Council under section 29 of the Act of 1911;
- (b) the coming into operation of an Order under section 25 of this Act applying any of the provisions of this Act in the case of the country in question;
- (c) the expiration of the period of two years beginning with the date mentioned in the sub-paragraph (1).

(3) For the purposes of continuing, varying or terminating the operation of the repealed provisions in accordance with the sub-paragraph (2) and for the purposes of any proceedings arising out of the operation of those provisions in accordance with that sub-paragraph, all the provisions of the Act of 1911 (including the power to revoke or vary Orders in Council under section 29 of that Act), which shall as regards Sierra Leone be exercisable by the Governor-General, shall be treated as continuing in force as if none of those provisions had been repealed by this Act.

(4) In relation to a country in respect of which an Order in Council has been made under subsection (3) of section 26 of the Act of 1911 (which relates to countries therein referred to as self-governing dominions to which that Act does not extend), the preceding provisions of this paragraph shall apply as they apply in relation to a foreign country with the substitution, for references to section 29 of the Act of 1911, of references to the said subsection (3).

39. The mention of any particular matter in the preceding provisions of the Act of 1911 shall not affect the general application to this Act of section 19 of the Interpretation Act, 1961 (which relates to the effect of repeals), either in relation to the Act of 1911 or to any other enactment repealed by this Act.

40. For the purposes of the application, by virtue of any of the preceding paragraphs of this Schedule, of any of the provisions set out in the Fifth Schedule, —

- (a) the expressions of which definitions are set out in paragraph 9 of that Schedule (being the definitions of those expressions in the Act of 1911), shall notwithstanding anything in this Act, be construed in accordance with those definitions; and
- (b) where, for those purposes, any of those provisions is to be treated as if it had been re-enacted in this Act, it shall be treated as if it had been so re-enacted with the substitution, for the words "this Act", wherever the reference is to the passing or the commencement of the Act of 1911, of the words "the Copyright Act, 1911".

41. Without prejudice to the operation of any of the preceding provisions of this Schedule —

- (a) any enactment or other document referring to an enactment repealed by this Act shall be construed as referring (or as including a reference) to the corresponding enactment of this Act;
- (b) any enactment or other document referring to copyrights or to works in which copyright subsists, if apart from this Act it would be construed as referring to copyright under the Act of 1911, or to works in which copyright subsists under that Act, shall be construed as referring (or as including a reference) to copyright under this Act, or, as the case may be, to works or any other subject-matter in which copyright subsists under this Act;
- (c) any reference in an enactment or other document to the grant of an interest in copyright by licence shall be construed, in relation to copyright under this Act, as a reference to the grant of a licence in respect of that copyright.

42. (1) Except in so far as it is otherwise expressly provided in this Schedule, the provisions of this Act apply in relation to things existing at the commencement of those provisions as they apply in relation to things coming into existence thereafter.

(2) For the purposes of any reference in this Schedule to works, sound recordings or cinematograph films made before the commencement of a provision of this Act, a work, recording or film, the making of which extended over a period, shall not be taken to have been so made unless the making of it was completed before the commencement of that provision.

43. (1) In this Schedule "photograph" has the meaning assigned to it in the definition set out in paragraph 9 of the Fifth Schedule and not the meaning assigned to it by section 48.

(2) In this Schedule "the Act of 1911" means the United Kingdom Copyright Act, 1911.

FIFTH SCHEDULE

Provisions of Copyright Act, 1911, and Rules, referred to in Seventh Schedule

1. Proviso to S. 5(1) of the Copyright Act, 1911 (referred to in paragraph 4 of Fourth Schedule): —

" 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; and

(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. Rule 2 of the Copyright (Industrial Designs) Rules, 1949 (referred to in paragraph 9 of Fourth Schedule): —

" A design shall be deemed to be used as a model or pattern to be multiplied by an industrial process —

(a) when the design is reproduced or is intended to be reproduced on more than 50 single articles, unless all the articles in which the design is reproduced or is intended to be reproduced together form only a single set of articles as defined in subsection (a) of section 44 of the Registered Designs Act, 1949, or

(b) when the design is to be applied to —

- (i) printed paper hangings,
- (ii) carpets, floor cloths or oil cloths, manufactured or sold in lengths or pieces,
- (iii) textile piece goods, or textile goods manufactured or sold in lengths or pieces, or
- (iv) lace, not made by hand".

3. Proviso to S. 3 of the Copyright Act, 1911 (referred to in paragraph 10 of Fourth Schedule): —

" 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 Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent on the price of which he publishes the work; 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 mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties."

4. S. 16(1) of the Copyright Act, 1911 (referred to in paragraph 10 of Fourth Schedule): —

" In the case of a work of joint authorship . . . references in this Act to the period after the expiration of any specified 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 . . ."

5. S. 17(1) of Copyright Act, 1911 (referred to in paragraph 10 of Fourth Schedule): —

" 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, . . . the proviso to section 3 of this Act shall . . . apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid."

6. Proviso to S. 5(2) of the Copyright Act, 1911 (referred to in paragraph 27 of Fourth Schedule): —

" 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 the 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 on 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 the estate, and any agreement entered in to 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 work as part of a collective work."

7. S. 17 of the Copyright Act, 1911 (referred to in paragraph 28 of Fourth Schedule): —

" The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published or performed in public nor delivered in public, shall be *prima facie* proof of the copyright being [with] the owner of the manuscript."

8. Note to First Schedule to the Copyright Act, 1911 (referred to in paragraph 35 of Fourth Schedule): —

" In the case of an essay, article, or portion forming part of and first published in a review, 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 Act had not been passed, have become entitled under section 18 of the Copyright Act, 1842."

9. Definitions in S. 35(1) of the Copyright Act, 1911 (referred to in paragraphs 16, 40 and 43 of Fourth Schedule): —

" 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 of the combination of incidents represented give the work an original character;

" 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;

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

" collective work " means —

(a) any 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;

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

" lecture " includes address, speech and sermon.

NOTE. — In this Schedule " this Act " means the Copyright Act, 1911.

Desiring to assist the rapid development of all nations needing help from those who are more fortunately placed;

Calls upon its member associations to urge their governments to provide such technical and economic aid as would eliminate any need to ratify or implement the Stockholm Protocol, and, together with the publishing industry, to facilitate the local publication and distribution of needed books in developing countries;

Pledges its willingness to cooperate within the existing international law of copyright to facilitate such publication by making available to local publishers the necessary publishing rights for reprints and translations; and

Invites the Executive Committee of the International Publishers Association to seek the support of all intergovernmental organizations to these ends, and to urge the speedy formation of the Study Group of the Berne/UCC Committees resolved upon in Geneva, in December 1967, to evaluate the needs of developing countries, so that all necessary measures may be taken at the earliest possible moment.

Recommendation

The Music Publishers Section of the IPA:

Considering that the Protocol Regarding Developing Countries integrated at Stockholm, on July 14, 1967, in the Berne Convention during the revision of that Convention would result particularly in denying the composers of musical works, their heirs and assigns, of the exclusive rights of their works that member countries are intended to protect in as effective and uniform a manner as possible according to the terms of the Preamble to the Convention;

That in fact, since translation does not affect musical works involving no literary text, the graphic reproduction by photocopying of copies already published and the mechanical reproduction by re-recording on tapes of works which have already been broadcast would be simple and a minimum burden if licences were granted in developing countries because the musical script with its notes and lines is the only language that can be read and understood internationally without translation being necessary;

That, further, musical works, without any exception, do not only interest those passionately fond of music and future creators of musical works, but also performers of these works and that, as a consequence, those who wish to reproduce and broadcast them in developing countries can always invoke aims which are educational, cultural, concern study or research, to justify their request for a licence;

That the same would apply to composers, their heirs and assigns, concerning the right of authorization to broadcast their musical works and the public communication by radio of these works since this right could be allowed them in developing countries only if the broadcast were made for profit-making purposes, that is to say purposes other than obviously educational, cultural, concerning study or research;

That the just compensation envisaged by the Protocol will be largely illusory, due to the fact that for reproductions payment and transfer could be made subject by national law to currency regulations and that, for broadcasts, they will be fixed, failing agreement, by the competent authority, which is to say, arbitrarily;

That, finally, at the Conference organized by Unesco in Accra, numerous African governments did not show themselves to be in favour of the Protocol in recognizing, in particular, the risks that it involves for intellectual native creative work;

In consequence asks most urgently that the governments of member countries do not deliver up their musical heritage to the ruinous expropriation which would result from the improper reservations conceded by the Protocol, but properly desirous of offering their cooperation to developing countries so as to assist them in resolving their problems which are essentially of a financial, cultural and professional nature, which require the governments concerned:

1. to negotiate and conclude with these countries, on the economic as much as on the intellectual plane, bilateral or multilateral agreements aimed at bringing to each of these countries cooperation adapted to their needs and wishes and thus as effective as it would be precise;
2. not to ratify the Stockholm Convention since the Protocol cannot be separated from it and to preserve under their jurisdiction all the protection which should be assured them by one or other of the Berne Conventions which they have ratified in the past.

Resolution

Modern reprographic copying methods, together with computer technology, lead to an erosion of the rights of reproduction of literary, scientific and artistic works which belong exclusively to the author or his lawfully authorised agent, unless justified exceptions, clearly defined as "fair use", are laid down in the national laws of the different countries.

Wherefore, the 18th Congress of IPA request all member associations to take the necessary steps for creating within national and international legislations a clear definition of "fair use".

International Confederation of Societies of Authors and Composers (CISAC)

(26th Congress, Vienna, June 23 to 29, 1968)

CISAC — or the "World Congress of Authors and Composers" (which it is also called following its statutory reform in 1966) — held its 26th Congress in Vienna, from June 23 to 29, 1968. The Congress was preceded by meetings of the Executive Bureau and the Administrative Council on June 21 and 22.

Delegates of authors' societies from the following 32 countries participated in the Congress: Argentina, Australia, Austria, Belgium, Brazil, Canada, Czechoslovakia, Denmark, Finland, France, Germany (Dem. Rep.), Germany (Fed. Rep.), Greece, Hungary, Israel, Italy, Japan, Mexico, Netherlands, Norway, Poland, Portugal, Rumania, South Africa, Spain, Sweden, Switzerland, United Arab Republic, United Kingdom, United States of America, Uruguay, Yugoslavia. BIRPI and Unesco were invited to attend the meetings of the Legal and Legisla-

tive Committee and the Congress itself; they were represented respectively by Mr. Claude Masouyé, Counsellor, Head of the Copyright Division, and Mr. Yuri Matveev, Copyright Division.

Under the patronage of Dr. Theodor Piffli-Percevic, Minister for Cultural Affairs in the Austrian Government, and Mr. Bruno Marek, Mayor of the city of Vienna, the Congress had as its specially invited guests Mr. Thierry Maulnier, of the French Academy, and Mr. Karl-Heinz Stockhausen, German composer. The working sessions were held in the Intercontinental Hotel, and the Congress was the occasion for other events and receptions.

The agenda included several questions, which were discussed within the different professional, social and technical bodies of CISAC. Some of these questions led to the adoption

of resolutions. The texts of these resolutions are reproduced below.

At the close of the discussions, the 26th Congress elected the French composer Georges Auric, member of the *Institut*, President of the Confederation, and the Italian writer Mrs. Alba de Cespedes Vice-President. It also elected the members of the Administrative Council. The next Congress of CISAC is scheduled to be held in Spain in 1970.

Resolutions

The World Congress of Authors and Composers grouped within the International Confederation of Societies of Authors and Composers (CISAC), meeting at Vienna (Austria) on June 28 and 29, 1968, adopted the following resolutions:

Representation of authors in national delegations to conferences, committees and meetings dealing with copyright

Conscious of the ever-increasing role in the organisation of international relations played by gatherings of all kinds having for purpose the consideration of questions concerning all aspects of copyright,

Stresses the importance for authors of the work accomplished by such gatherings, both nationally and internationally, particularly through their influence, direct or indirect, and in the long or the short term, on provisions governing, under national legislation or international conventions, the protection of authors' rights;

Reiterates the wish that authors have already often expressed, through their national societies and CISAC, that governments should not overlook the importance of such meetings for creators of works of the mind, and ensure, therefore, that the authors are given adequate representation on national delegations to conferences, committees, symposia and international gatherings of all kinds dealing with copyright, either in the person of authors themselves or that of their chosen delegates;

Expresses the hope that this new appeal to the conscience of governments will be heard, and that its justification will be universally acknowledged, since it would appear to be legitimate that, whenever authors' rights are at stake, authors themselves, being those persons most directly concerned, should at least be consulted and given the opportunity of expressing their opinion.

Stockholm Act of the Berne Convention and the Universal Copyright Convention

Having regard to the results of the Stockholm Diplomatic Conference (June 11 to July 14, 1967) concerning the revision of the substantive clauses of the Berne Convention (Brussels Act) and particularly the adoption of a "Protocol Regarding Developing Countries" forming an integral part of the revised Convention (Stockholm Act),

Having been informed also of the work carried out in Geneva from December 12 to 15, 1967, and the Resolutions then adopted by the Permanent Committee of the Berne Union and the Intergovernmental Copyright Committee of Unesco, meeting jointly or separately,

Considers that the Protocol can be neither accepted nor used as a means of extending the geographical area of application of the Convention of the Berne Union, which extension is at present contemplated at the cost of an appreciable lowering of the level of protection guaranteed by that Convention;

Declares itself, therefore, in favour of the temporary suspension for countries at present considered as developing countries according to the established practice of the United Nations General Assembly, of the "safeguard clause" contained under letter (a) of the Declaration annexed to Article XVII of the Universal Copyright Convention;

Recalls in this connection that it was said of this Convention, when it was concluded in 1952, that it was in fact an "interim" Convention, from which it would appear that, if certain countries are to accede to the Berne Union only on the basis of the existence of the said Protocol, it would be better, at least for the present, for them to rely on the system of protection provided by the Universal Convention.

Stockholm Act of the Berne Convention Control of authors' societies

Disturbed by the amendment proposals put forward on the occasion of the Diplomatic Conference at Stockholm (June 11 to July 14, 1967) by the delegations of the United Kingdom and Australia within the context of Article 17 of the Brussels Act concerning the exercise of authors' rights,

Recalls that societies of authors play a part that is just as indispensable for creators of works of the mind as it is for the users of such works;

Considers that authors, aware of the cultural mission that society looks to them to fulfil, are by reason of their vocation the persons qualified to control the rights of an essentially personal nature that they are acknowledged by existing law and enactments to possess;

Emphasizes that any intervention by third parties in such control necessarily jeopardizes the attainment of the balanced relationship that should exist between authors and users of literary and artistic works and the protection of the moral and material interests of the authors of the said works;

Notes with satisfaction that the Stockholm Diplomatic Conference of 1967 rejected the proposals to amend Article 17 of the Berne Convention the purpose of which was to make authors' societies, through the Convention, subject to a "lex specialis";

Believes that, in fact, any control or surveillance, direct or indirect, of authors' societies which attenuates the freedom of such societies to negotiate with powerful organisations of users deprives of any practical value the exclusive rights with which intellectual creation is invested, and thus is contrary to the interest of society in promoting such creation.

Contracts between authors and broadcasting organisations

On the proposal of the International Council of Authors and Composers of Music,

Considers that, within the normal context of their essential activities, the broadcasting organisations:

- (1) are not justified in proposing to authors publishing contracts providing, in accordance with the usual practice of authors' societies, the allocation of a publisher share of the mechanical reproduction and public performance royalties;
- (2) must obtain from the authors' societies invested with their members' rights of public performance and mechanical reproduction:
 - (a) the authorisation to broadcast their own programmes or to relay the programmes of other broadcasters;
 - (b) the authorisation to produce the material supports (tapes, phonograms, films, etc.) of works necessary to their broadcasts;
 - (c) the authorisation to use, for the purpose of broadcasting, the recordings licensed by the authors exclusively for sale for private use;
 - (d) the authorisation to export the supports so produced, against payment for each export licence granted of the appropriate pecuniary consideration;
- (3) are entitled to conclude commissioning contracts with authors including or not including, as the case may be, clauses providing for an exclusive temporary exploitation which justifies a separate remuneration arising out of the commissioning of the work and which should remain entirely independent of mechanical reproduction and public performance royalties.

Collection of cinematographic royalties in cinema theatres

Expresses the wish that all societies belonging to CISAC should in agreement with the professional organisations of film authors, including authors of pre-existing works, take all appropriate steps with a view to the collection of the royalties of the said authors in cinemas, in accordance with the doctrine that CISAC has never ceased to assert.

Functions of authors' societies

Attaches the utmost importance to effective action by authors' societies in their respective countries — thanks to the financial resources provided for this purpose by the confederal form of contracts — in favour of authors in the social, professional, moral and cultural spheres.

