

No. 131.

2nd Session, 5th Parliament, 19 Victoria, 1856.

BILL.

An Act for the protection of Copyrights.

Received and read, first time, Monday, 31st
March, 1856.

Second reading, Wednesday, 2nd April, 1856.

Mr. CASALT.

TORONTO:

PRINTED BY JOHN LOVELL, YONGE STREET.

An Act for the protection of Copyrights in this Province.

WHEREAS it has become necessary to make more effectual Legislative provision for the protection of Copyrights in this Province ; Therefore Her Majesty, &c., enacts as follows :

Preamble.

I. Copyright is the exclusive right which belongs to an author residing in this Province, over the works which he has composed.

What is copy-right.

II. The exclusive right enjoyed by an author to publish a work, is guaranteed to him during his lifetime, upon his conforming to the conditions hereinafter laid down, and this right shall date from the day of the deposit of the title of the work as hereinafter mentioned.

Term of copy-right.

III. After his death this right shall pass to his widow, heirs, legatees or other representatives in conformity with the rules of Law touching civil rights, and shall last for fifty years, to be computed from the day of the decease of the author.

Duration after decease of author.

IV. The extended term of fifty years granted by the third section shall only be allowed, on condition of the reprinting of the work within the period of twenty years at the most, after the death of the author.

Condition of such duration.

V. The proprietor by succession or other title, of a posthumous work, shall enjoy the right of publishing it or permitting its publication, on complying with the conditions hereinafter mentioned.

Proprietor by succession.

VI. The author may by authentic act or by deed, sell, give, cede, or convey the exclusive right of publishing his works or any part thereof, either for the entire period granted to himself, his heirs or representatives by the 2nd and 3rd sections or for a shorter period ; the parties mentioned in sections 3 and 5 shall have the same right.

Author may dispose of copy-right.

VII. The said exclusive right shall belong to authors of *written works of every description*. The words *written works of every description*, shall be construed to extend to compilations, and to translations of works which shall have become public property : They shall also extend to notes and commentaries made upon and in respect of such works, but in the latter case the copyright shall be limited to the notes and commentaries accompanying the said works : Copyright shall also be granted for lectures given by professors of Law or Medicine or of other branches of Science or Art, and also by public Lecturers.

What works shall be the subject of copy-right.

VIII. In order to the preservation of his exclusive right, the author shall deposit a statement in writing in the office of the Provincial Registrar, of the title in detail of the work he is about to publish, also, whether

Title of work to be deposited with Provincial Registrar.

the said work is to be published in volumes or in distinct parts, or by numbers, or by a series of articles in some periodical magazine or in a Newspaper.

Duty of Registrar.

IX. Upon the production of the title of the work, the Registrar shall enter in a register to be kept for that purpose, the title of the work as deposited with him, and the year and day of the month upon which the deposit thereof shall have been made, and he shall give to the author, if he shall require it, a certificate in the form hereinafter prescribed, setting forth the said deposit. 5

Certain entries &c., to be evidence.

X. The entries made in the register and the certificates given by the Registrar or the person authorized by him, shall be evidence of what is therein stated in any Court of Justice in this Province. 10

Notice of such copy-right to be given on title page.

XI. The title of the work having been deposited as aforesaid, it shall be sufficient for the author, in order to the preservation of his right of property, if it be a work published in one or more volumes or in numbers, to insert upon the title page or upon the reverse thereof, the words following:— 15
Deposited in conformity with the law, in the Office of the Provincial Registrar on the day of 185, and if it be any work, article, or writing published in a magazine or newspaper, it shall be sufficient to insert at the head thereof, after the title, the words following: 20
Deposited in conformity with the law, and the republication hereof is prohibited.

Two copies to be deposited in the Library of Parliament and one with the Provincial Registrar.

XII. If the work be published in one or more volumes or in numbers so as to form one or more volumes, the author or his legal representative shall, within three months after the printing and publication of each volume, deposit two copies thereof in the Library of Parliament and one 25 in the office of the Provincial Registrar, under pain of forfeiting his copyright, and the Librarian of Parliament and the Provincial Registrar, upon receipt of each volume, shall give to the author or his legal representative, a certificate setting forth the deposit required by this section.

Application of foregoing provisions.

XIII. The foregoing provisions shall apply to all geographical maps, 30 plans or charts, designs, engravings, lithographs, and musical compositions, drawn, made, or composed in this Province, for which copyright shall have been obtained, and every work of the description referred to in this section, shall contain in some conspicuous part thereof, the words following: *Deposited in conformity with the law, in the Office of the Provincial Registrar on the day of 185*, and three copies shall be deposited and a receipt given as hereinbefore is provided. 35

In case of fraud in obtaining copy-right, remedy of parties aggrieved.

XIV. In all cases in which a *copyright shall have been obtained, in any work which shall have become public property before the day upon which the deposit of the title of such work shall have been made, 40 or in any work published under a title differing from that under which it was theretofore known, or in case any one shall have fraudulently or illegally obtained a right of property contrary to the provisions and intention of this Act, any person who shall be grieved by the obtaining of the said right may, in Lower Canada, by action in the Superior 45 Court for the Judicial District within which the person who shall so have obtained the right shall reside, or in Upper Canada by action in any Superior Court of Civil Jurisdiction, require that such person be ousted of such copyright and that the same be declared null and of no effect, and the said Court upon satisfactory proof of the allegations of the Plaintiff, shall 50

pronounce judgment in conformity with the conclusions of the declaration, and shall further condemn the Defendant to the payment of a fine not exceeding *fifty* pounds currency, and costs of suit.

XV. Whoever shall translate or cause to be translated, or shall print, or publish, or cause to be printed or published, in this Province, without the express consent in writing of the author or artist or of his legal representative, any work whatsoever, the copyright or exclusive right over which shall have been obtained as hereinbefore provided, or who shall import or cause to be imported, or cause to be sold in this Province, a pirated edition of such work, shall, upon action of debt instituted for that purpose, in Lower Canada, in the Superior Court for the Judicial District within the limits of which the person contravening this enactment shall reside, or in Upper Canada, in any Superior Court of Civil Jurisdiction, be condemned to pay to the author or artist or his legal representative the sum of ten shillings currency, as and for damages for each copy of any such work which shall be found in his possession contrary to the provisions of this Act.

In case of publication or sale of pirated editions of works.

XVI. It shall be lawful for any Judge of the Court, in the case of the prosecution referred to in the next preceding section, upon the declaration on oath of the author or artist or his legal representative, to the effect that a depository of copies of any work printed, published or pirated as mentioned in the preceding section, exists in any locality or place whatsoever, or in the custody of any person whatsoever, within the judicial limits of the said Court, to order the issue of a writ for the search and examination of such place and for the seizure of each and every such copy, and to cause them to be conveyed to and deposited in the office of the Clerk or prothonotary of the said Court, there to remain until judgment shall be obtained, and also at the same time to issue an order of summons to compel the said person so found in possession of the said copies, to appear before the said Court upon the day fixed by the said writ, to answer to the demand contained in the Plaintiff's action.

Search for copies of pirated works may be made in certain cases.

XVII. In the case mentioned in sections 15 and 16, in default of the Defendant's establishing the legality of the act complained of by the Plaintiff, he shall be condemned to pay to the Plaintiff the sums mentioned in the 15th section, and the said Court by its judgment may order the Clerk or Prothonotary to destroy each and every copy which shall have been deposited as provided by section 16.

Burden of proof to rest with Defendant.

XVIII. Any author residing in the United Kingdom of Great Britain and Ireland, who shall comply with the foregoing requirements of the Act, and shall print and publish his work in this Province, shall during his lifetime have the copyright thereof as defined in this Act; but the right hereby vested in any person not resident in this Province, shall not be given, sold or transferred either wholly or partially, except to a person resident therein.

On what condition authors in the United Kingdom may obtain copyright here.

XIX. Whoever shall falsely assert in any work by him written, composed, printed or published, in any manner whatsoever, that he has obtained copyright in respect of such work in conformity with the provisions of this Act, or who shall employ or make use of expressions which might lead to the belief that he has obtained such right, shall incur a penalty not exceeding £25 currency, and costs, upon proof of the offence made before a Court of competent Civil Jurisdiction, by the oath of one or more credible

Persons falsely asserting that they possess copyright how dealt with.

witnesses, other than the prosecutor, and in such case the onus of proof that he has obtained the said copyright, shall be upon the Defendant.

Application of fine. XX. The fine mentioned in the preceding section and in section 14, shall belong, one-half to Her Majesty and one-half to the prosecutor, and shall be levied by execution and sale of the property and goods of the Defendant in accordance with the rules prescribed by the law in like cases. 5

In case of counterfeit or alteration of certificate. XXI. Whosoever shall counterfeit, alter or change any certificate required by this Act, shall be guilty of forgery, and shall upon conviction be liable to the punishment provided for the crime of forgery.

Limitation of actions. XXII. Every action or prosecution by virtue of this Act, shall be pre- 10 scribed at the expiration of two years to be computed from the date of the cause of such action or prosecution.

This Act to apply to copy- rights already obtained. XXIII. The foregoing provisions shall apply to works published hereto- fore in this Province, the authors of which or their legal representatives, shall have obtained copyright in conformity with the laws in force before 15 the passing of this Act; and the said authors or their legal representatives, upon observance of the formalities required by this Act, shall, for all purposes whatsoever, enjoy all and every the rights and advantages conferred by this Act, in the same manner as though the copyright of the said works had been obtained in conformity with the provisions herein contained. 20

Fees to Regis- trar. XXIV. The Provincial Registrar shall be entitled to receive the fees following :

For every entry of Deposit of the title of a Work.....	2	6
For every Certificate required.....	7	6

Certain Acts repealed. XXV. The Act of the Legislature of Lower Canada passed in the second 25 year of the reign of King William the fourth, and intituled, "*An Act for the protection of copyrights*;" the Act passed in the session held in the fourth and fifth years of Her Majesty's Reign, and intituled, "*An Act for the pro- tection of copyrights in this Province*;" and the Act passed in the session held in the tenth and eleventh years of Her Majesty's reign, intituled "*An 30 Act to extend the Provincial copyright Act to persons resident in the United Kingdom on certain conditions*," shall be and remain repealed, as shall the Acts repealed by them.

Public Act. XXVI. This Act shall be a public Act, and the Interpretation Act shall apply thereto.



FORM REFERRED TO IN SECTION 9.

Office of the Registrar
For the Province of Canada.

Be it known that on the day of , in the year , A. B.,
of , in the District of , (*Profession of Depositor,*) has
deposited in my Office the Title of a Work, (*here mention whether the Work
is to be published in volumes, in numbers, or in a Magazine, or whether it is a
Geographical Map, Plan, Design, Engraving, Lithograph, or Musical Com-
position,*) which is in the following words :—(*here insert the Title as given by
the depositor,—and, for which he claims a copyright as author,—(or as
purchaser, as the case may be.)*) Given in the city of , on the day
and year aforesaid.

B²³⁰

(Signed,)

F. G.