

Such extension of any prescribed time, if granted after its expiration, shall have the same effect as if granted prior thereto, provided such expiration occurred on or after the fourth day of August, 1914.

6. The Commissioner may refuse to register the assignment of any patent made by a subject of any State at war with His Majesty and filed in the Patent Office on or after the fourth day of August, 1914, unless satisfied that such assignment was made in good faith and not for the purpose of evading any of the provisions of the foregoing Orders and Regulations.

7. The term "person" used in these Orders and Regulations shall, in addition to the meaning given thereto by par. 20 of section 34 of "The Interpretation Act," include any government department.

8. These Orders and Regulations shall come into operation as and from the fourth day of August, 1914.

9. The Orders and Regulations respecting Patents of Invention made under "The War Measures Act, 1914," and dated the 11th September, 1914, are hereby rescinded and repealed.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

"F"

ORDER IN COUNCIL.

[293]

AT THE GOVERNMENT HOUSE AT OTTAWA.

MONDAY, the 14th day of February, 1916.

PRESENT:

HIS ROYAL HIGHNESS THE GOVERNOR GENERAL IN COUNCIL.

His Royal Highness the Governor General in Council is pleased to order that the Orders and Regulations respecting Patents of Invention of date the 2nd October, 1914, made under and in virtue of the authority conferred by the War Measures Act, 1914, shall be and the same are hereby amended as follows:—

1. That Section 5 of said Orders and Regulations be amended by adding thereto "and shall be valid notwithstanding any previous extension or extensions granted either under authority of The Patent Act or these Orders and Regulations."

2. That the following section be added:—

"10. In any case in which through circumstances arising from the present state of war, the Commissioner may deem it expedient, he may order that during the continuance of the war and for six months thereafter, neither the failure to construct or manufacture in Canada any patented invention nor the importation of such invention into Canada shall in any way affect the validity of the patent granted in respect of such invention, notwithstanding anything in The Patent Act or in such patent."

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

"G"

OTTAWA, January 29, 1917.

"RE" TRADE MARKS.

No action has been taken under "The War Measures Act" to suspend or cancel Trade Mark registrations standing in the name of alien enemies, as the use by a Canadian of the Trade Mark of a foreigner, would lead the public to believe that they were obtaining the imported article, when, as a matter of fact, they were being supplied with a Canadian substitute for such article and consequently deception would arise.

Applications for registration of Trade Marks received on behalf of alien enemies are filed, and further action upon such applications is suspended until after the termination of the war. The same practice is followed with regard to Assignments of Trade Marks, either to or from alien enemies, which are tendered for registration.

P. E. RITOHIE,

Registrar.

"H"

MEMORANDUM "RE" COPYRIGHT.

On November 13, 1908, an International Copyright Convention, which was a revision of The Berns Convention, was signed at Berlin, Germany.

One of the principal alterations contained in The Berlin Convention was the entire abolition of formalities in the way of registration or otherwise, in order to obtain Copyright protection. The period of Copyright protection was fixed for the life of the author and fifty years afterwards. The scope of Copyright protection was also extended so as to extend to mechanical means for reproduction of music.

The Berlin Convention was signed on behalf of the British Government, with full liberty to ratify or not, or to make reservations to the Convention, if it were subsequently thought advisable. The revised Convention was examined from the point of view of the interests of the United Kingdom by a committee presided over by Lord Gorrell, which reported in December, 1909, substantially in favour of the ratification of the Convention. Before, however, any action could be taken to carry out the recommendations of the committee it was found necessary to ascertain the views of the other parts of the Empire.

The Conference of representatives of all self-governing Dominions, convened as a Subsidiary Conference of the Imperial Conference, met at London in the months of May and June, 1910, to consider in what manner the existing uniformity of the law on Copyright could best be maintained, and in what respects the existing law should be modified, the basis for discussion being the revised Copyright Convention. This Conference passed resolutions providing for the ratification of the Berlin Convention, and a Bill was prepared for introduction into the Imperial Parliament making such changes in the existing Copyright Law as were necessary to enable the United Kingdom to ratify the Berlin Convention.

At a subsequent date a Bill substantially the same as that prepared by the Imperial Copyright Conference was introduced, and, with certain modifications, passed as "The Copyright Act of 1911, 1 and 2, George V, Chapter 46," which came into force in the United Kingdom on the first day of July, 1912. The Act contains a provision that it shall not extend to a self-governing Dominion unless declared by the Legislature of that Dominion to be in force therein, either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt the Act to the circumstances of the Dominion, as may be enacted by such Legislature. A second provision is to the effect that if the Secretary of State certifies by notice published in the London Gazette that any self-governing Dominion has passed legislation in which works, the authors whereof were at the date of the making of the works, British subjects resident elsewhere than in the Dominion, or not being British subjects were resident in the parts of His Majesty's Dominions to which the Act extends, enjoy within the Dominion, rights substantially identical with those conferred by the Act, then while such legislation continues in force the Dominion shall, for the purpose of the rights conferred by the Act, be treated as if it were a Dominion to which the Act extends.

Canada determined to follow the course of independent legislation, in preference to declaring the Imperial Act in force in Canada, accordingly Bill Number 184 was read the first time on April 26, 1911. On May 12, 1911 the Bill was read a second time and the House went into committee thereon. The Bill was left in Committee for the purpose of reconsidering certain clauses but owing to the dissolution of Parliament in that year no further progress was made with the Bill. The main provisions of the said Bill Number 184, are set out in the printed memorandum which is hereto annexed, together with a copy of the Bill.

At the time the Bill was introduced and considered, the understanding was that Canada would have power to adhere to the Berlin Convention with a reservation enabling her to require that subjects or citizens of a non-unionist country should comply with such printing and manufacturing conditions as such non-unionist country might exact from Canadians seeking to obtain Copyright in that country. The article of the Convention which Canada was not prepared to accept, enables non-unionist subjects or citizens to obtain Copyright protection upon making first publication of a work in a unionist country, in the same manner as if they were subjects or citizens of a unionist country. It was subsequently ascertained that the power sought for by Canada could not be obtained by means of a reservation, but could only be afforded by an additional protocol requiring the unanimous acceptance of the countries belonging to the union, and negotiations were therefore entered into and such a protocol was signed at Berne on March 20, 1914. The despatch transmitting the copy of the protocol was received on June 5, 1914, and the outbreak of war in the month of August of that

year has prevented further action being taken with regard to the introduction of Copyright legislation.

The signature of the additional protocol to the Berlin Copyright Convention of 1908 places Canada in a position to introduce legislation so as to admit of the Convention, as modified by the protocol, being applied to Canada.

The most important point remaining to be considered with regard to such legislation is the attitude which Canada should adopt towards the United States, which is a non-unionist country, concerning the requirements of printing in Canada.

There is no information available to show what the probable effect would be of requiring citizens of the United States to print in Canada in order to obtain Canadian Copyright protection, as at present citizens of the United States are, with very few exceptions, relying upon the protection afforded to them in Canada under their British Copyright which does not require the printing to be done there.

An inquiry would doubtless show that the printing and publishing interests in Canada would strongly oppose the relaxation or abandonment of the printing requirements on the part of citizens of the United States.

In drafting a Copyright Bill it would be practicable to leave the rights of non-unionist subjects and citizens to be dealt with by Order in Council, which would permit of modifications from time to time, as experience might prove to be necessary.

It is to be noted that while the United States manufacturing clauses comprise typesetting, printing and binding, these requirements are confined to books and periodicals in the English language. The present Canadian printing condition, while involving neither typesetting nor binding, extends to all Copyrighted works. The particular works to which United States manufacturing requirements would not extend and to which the Canadian printing requirements would extend are books in a language other than the English language and musical compositions.

No action has been taken to suspend or cancel subsisting Copyright registrations standing in the names of alien enemies, but no Copyrights have been registered in favour of alien enemies since the outbreak of the present war, nor have any Assignments of Copyright either to or from alien enemies, been registered.

In reply to a despatch of the Secretary of State for the Colonies inquiring whether Canada would be prepared to pass legislation enabling her to vest in some public officer, all Copyrights standing in the names of alien enemies, it was pointed out that should occasion arise for the Canadian Government to take action with regard to subsisting Copyrights owned by alien enemies, that such action could be taken by Order in Council, under the authority of "The War Measures Act."

2nd February, 1917.

P. E. RITCHIE,

Registrar of Copyrights and Trade Marks.

MEMORANDUM on Heads of the Copyright Bill, 1911,
(printed in italics) with corresponding provisions of
the present Copyright Act, R.S., 1906, Chap. 70
(printed in Roman type).

1. *Subject to the provisions of the Act copy shall subsist in every original, literary, dramatic, musical and artistic work the author of which was at the date of making the work a bona fide resident in Canada.* Who may have Copyright.

SUBJECTS AND CONDITIONS OF COPYRIGHT.

4. Any person domiciled in Canada or in any part of the British possession, or any citizen of any country which has an international copyright treaty with the United Kingdom, who is the author of any book, map, chart or musical composition, or of any original painting, drawing, statue, sculpture or photograph, or who invents, designs, etches, engraves or causes to be engraved, etched or made from his own design, any print, cut, or engraving, and the legal representatives of such person or citizen, shall for the term of twenty-eight years, from the time of recording the copyright thereof in the manner hereinafter directed, have the sole and exclusive right and liberty of printing, reprinting, publishing, reproducing and vending such literary, scientific or artistic work or composition, in whole or in part, and of allowing translations of such work from one language into other languages to be printed or reprinted and sold. R.S., c. 62, s. 4. For twenty-eight years. Translations.

See also clauses,

9. "Imperial Reciprocity,"

and

11. International.

2. *The work shall before publication be registered in the register established for registration of copyrights and assignments, and every copy of the work published shall be made in Canada; in the case of a book, "making" includes printing.*

REGISTERS OF COPYRIGHTS.

3. The Minister shall cause to be kept at the Department, books to be called the Registers of Copyrights, in which proprietors of literary, scientific and artistic works or compositions, may have the same registered in accordance with the provisions of this Act. R.S., c. 62, s. 3. Minister shall cause to be kept.

6. The condition for obtaining such copyright shall be that the said literary, scientific or artistic works shall be printed and published or reprinted and republished in Canada, or in the case of works of art that they shall be produced or reproduced for the first time, or contemporaneously with or subsequently to publication or production elsewhere. R.S., c. 62, s. 5. Conditions for obtaining copyright.

3. *One registration of a newspaper or other periodical publication shall suffice to protect all future issues.* [New.] Registration of periodicals.

4. *Copyright means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever and in any language; to perform, or, in the case of a lecture, address, speech or sermon, to deliver the work or any sub-* Meaning of copyright.