COPYRIGHT IN HISTORICAL RETROSPECT

The notion that an author should have an exclusive "copyright" in his creation took firm shape at the beginning of the 18th century. But it is derived from a confusion of earlier strains and there was still a major evolutionary conflict to come before its modern form was finally fixed.

The history of copyright law may properly be divided in three major periods: The period which terminated in England with the Statute of Anne in 1709 and in much of Europe with the end of the 18th century, during which privileges were granted to individual publishers or authors; the period represented by the Statute of Anne of 1709 and the French Law of July 19, 1773, when authors' rights were protected by general legislation and the period which may be said to begin with the French Decree of March 28, 1852, which extended the protection of the law to foreigners as well as nationals, and marked the beginning of Conventions and treaties between various countries. This chapter examines the historical development of copyright law with reference to above stages of its evolution. The question of how copyright came to be recognised as an author's economic and moral rights have been discussed at length. The coming into being of International Union of Copyright and merits and shortcomings of such a Union are the other issues which are investigated here.
(A) **PERIOD OF PRIVILEGES**

This period started with the introduction of printing in the 15th century. It is believed that no recognition of legal rights of authors existed before that time. Speculation over the existence of such recognition in ancient Greece and Rome seems idle. There is no trace of any legal provision against copying a literary or artistic work, although plagiarism was undoubtedly condemned by public opinion. This rather than law was the agency of social control for the interests of authors at that time. The conditions of literary and artistic creation, with the long and costly work necessary for the production of each copy, and the lack of economic value in the work in itself did not bring about that pressure of interests for recognition and protection which is the prerequisite of the creation of a legal right. Authors were more conscious of the honour accruing to them by the circulation of their writings than of the possibility of profit through their sale. Their only solicitude was about the accuracy of the copies made by transcribers.

This does not mean, however, that large number of copies were not produced. The Roman booksellers did a flourishing business, and slave labour was employed to furnish copies promptly, cheaply, and on a large scale. It seems strange then that the idea of property in literary work, as distinguished from that in the manuscript, had not been developed at that time. With the discovery of printing in 1451, the work of reproduction of literary works became easy. An economic value was attached to a book now, since it may be reproduced in great numbers and distributed by the ordinary channels of trade. Authors have an economic
interest to be secured in the exclusive right of making or causing to be made copies of their work. They found themselves confronted with a situation in which they lost the actual physical control of the vehicle of their work, which in the old days they had maintained by the possession of the original manuscript. Now, the power to make copies was in the hands of any possessor of one of the printed copies. Yet the pressure of the interests of authors is not strong enough to obtain general recognition and protection. Personal privilages were alone granted. Original authors were rare in this time. Most of the books published were printings of the works of ancient authors and of the Fathers of Church. They required much expense and work of scholarship in comparing manuscripts and revising the texts. Printers employed the services of learned men. Theirs was a pioneer work. No wonder then that they were the first to obtain privileges or patents giving them a limited period of time. Even when the work published was one of a new writer, the stake of the publisher appeared greater than that of the author, and thus the protection was granted in the name of the former. An additional reason for this was that printers and publishers from an early time had formed guilds and corporations, and these, by their regulations, provided for the protection of the interests of their members.

The discovery of printing coincided with the Reformation and facilitated the later by expanding its doctrines. The intellectual and religious movement of the times caused anxities to the established monarchs. The control of the press seemed a necessity to them. Thus they came to organize censorship, and prohibit the printing and publica-
tion of any work without royal authorization. The declared object of the crown in organising the stationers company was to prevent the propagation of the reformed religion, and it seems to have been thought that this could most effectively be brought about by imposing the severest restrictions on the press. In this period there were several decrees and ordinances of the Star Chamber regulating the manner of printing, the number of presses throughout the kingdom, and prohibiting all printing against the force and meaning of any of the statutes or laws of the realm. It was for these reasons and for the encouragement of the printing of unobjectionable, privileges were granted individually in the name of the king. They were revokable at will and their term differed in each case.

In England, the royal grants of privilege to print certain books were not copyrights. They were not granted to encourage learning or for the benefit of authors; they were commercial monopolies, licenses to tradesmen to follow their calling. As gradually monopolies became unpopular, the printers sought to base their claims on other grounds, and called the "right of copy" not a monopoly, but a property right. The stationers company had a register in which its members entered the titles of the works they were privileged to print. A custom developed by which members refrained from printing the books with stood on the register in the name of another. Thus, members respected each others "copy", as it was called, and there grew up a trade recognition of "the right of copy" or copyright. This right was subsequently embodied in a by-law of the stationers company. The entry in the register was
regarded as a record of the rights of the individual named, and it was assumed that possession of a manuscript carried with it the right to print copies.

The assumption of control of all printing by the Star Chamber in 1637, and the Licensing Acts of 1641, 1642 and 1643 were all for the benefit of the booksellers and in the direction of strengthening the commercial monopoly in the art of printing which the company had so long enjoyed.*

In this period of individual, personal privileges, there can be no question of international protection of the author’s rights. Cases are referred to where privileges were granted to foreigners whose work was published within the country. Thus, Grotius, a Dutchman, published his famous treatise at Paris in 1625 and obtained a privilege for 15 years. As a general rule, during this period, books printed for the first time in one country could be freely reprinted in other countries, the foreign privileges not being recognised.

In Germany, where, with the discovery of printing, the book industry was most prosperous, the privileges were granted either by the Emperors of the Holy Roman Empire or by the Sovereigns of the various states. German cities, such as Leipzig and Frankfurt were great centres of book publishing and book selling, and many foreigners visited their famous fairs. They recognised the author’s or editor’s property right in a book, regardless of the existence of a privilege. A Decree of the Electors of Saxony dated February 28, 1686 appears to be the first enactment protecting foreign publications to the same extent as na-
tional. It even reduced the formalities to be complied with by the foreigners. 9

The fact that the works of certain eminent authors, such as Voltaire, could not be published in the author's country on account of the censorship, and were published in foreign countries gave a certain dignity to piracy. Thus liberty of thought was encouraged by the reprinting in Holland and Switzerland of works suppressed by the Royal censors in France.

(B) PERIOD OF GENERAL LEGISLATION :

The period of personal privileges granted by Sovereigns to individual authors and publishers came to an end with the restoration of the freedom of the press, the stronger pressure of the interests of authors and publishers, and the growth of a public sentiment that the rights of authors should be fully and adequately protected. In England all these causes operated earlier than in any other country. The Licensing Act of 1662 expired in 1694. Repeated attempts were made to renew it, as proprietors of copyright felt that they had no adequate protection under the common law, without the summary measures provided in the Act. Numerous petitions were presented to Parliament in 1703, 1706 and 1709. In the last year, there was passed the Act of 8 Anne, C.19 ("An Act for the encouragement of learning, by vesting of the copies, during the times therein mentioned) which is the first general legislative enactment in any country designed to protect the rights of authors.

This Act gave authors of books the sole right and liberty of
printing them for a term of 21 years from April 10, 1710, and of books not then printed the sole right of printing for 14 years, with a proviso that after the expiration of the said term of 14 years the sole right of printing or disposing of copies should return to the authors thereof, if they were then living for another term of 14 years. The titles to books had to be registered in the register book of the stationers company and 9 copies had to be delivered to certain libraries.\textsuperscript{10}

This Statute, passed with a view to giving a greater protection to copyright, had the unexpected result of curtailing it; for, in the case of \textit{Donaldson V. Beckett}, the House of Lords finally decided that the effect of the statute was to extinguish the common law copyright in published works, though leaving the common law copyright in unpublished works unaffected.

The Universities, alarmed at the consequence of this decision, applied for and obtained an Act of Parliament establishing in perpetuity their right to all the copies given or bequeathed to them or which might thereafter be given to or acquired by them theretofore.\textsuperscript{12}

After their independence, the United States of America were not long in adopting copyright legislation. In the meantime, Connecticut and Massachusetts had passed Acts in 1783, and Congress in the same year had recommended to the various states to grant copyright protection to authors and publishers who were citizen of the United States. Only the States of Virginia, New York and New Jersey followed this recommendation. In 1789 the constitution of the United States of America provided (Article I, Section 8, clause 8) that Congress was
authorised" to promote the progress of science and useful arts by securing for the limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." The Federal Copyright Act of May 31, 1790 was passed in accordance with this constitutional provision.13

The next country to legislate generally on the rights of authors was France, with the law of July 19, 1793,14 which followed the abolition of the privileges by the French Revolution. The French law of 1793 was extended to different European countries (Belgium, Holland, Italy and Switzerland), as they came gradually under Napoleon's sway. It forms the point of departure of copyright legislation in the civil-law countries.15

With regard to the rights of foreigners, the British Act of 1709 did not make any distinction between citizens and foreigners provided the work was published within the country. In Gurichard V. Mori16, it was held that anyone had the right to publish in England a work which had been first published in a foreign country. This situation was remedied in England by the passing of the International Copyright Act in 1837. This Act granted protection in England to the authors of books first published in foreign countries, on condition of reciprocity, namely, on condition that in such foreign countries authors of books first published in England were protected.

The United States Federal Act of 1790 protected citizens of the United States and foreigners resident therein. An amending Act of 183117 made it clear, in section 8, that "there was no prohibition to the
printing, publication, importation or sale of books, charts, dramatic and musical compositions, engraving, photographs, written, composed or made by anyone who is not a citizen or resident of the United States".

No protection under the common law could be availed of by foreigners, in view of the construction given to the Act by the United States Supreme Court in *Wheaton V. Peters*,

\(^{18}\) which declared that by the statute of 1790 congress didn’t affirm an existing right but created a right.

The French law of 1793 referred generally to "authors", and it might seems that foreigners as well as nationals were covered by its provisions. This seemed to be confirmed by a Decree of February 5, 1810, Article 40 of which dealt with the right of "authors", either nationals or foreigners" to assign their rights to a publisher or any other person. But the dominant opinion in France as well as judicial decisions upheld the view that works of foreigners were protected only if first published in French territory.

(C) **PERIOD OF INTERNATIONAL LEGISLATION**:

The nineteenth century brought profound changes in the conditions upon which the rights of authors were based. In the political field, the liberty of the press, the destruction of the division of social classes, the dissemination of education, the reinforcement of national unity by the use of national languages instead of separate dialects, in the social and economic field, new processes of reproduction of literary and artistic works, the expansion of the press, the creation of new universities, the development of bookselling and the wider circulation of
books, the learning of foreign languages and the more general travelling of people from one country to another - all these facts created new conditions for the works of authors and artists. As a result authors began to demand a fuller protection of their rights, and to raise much outcry against the injustice done to them by the pirating of their works in foreign countries. The treatment afforded by law to a bale of cotton shipped to St. Petersburg was compared with the fate of an author’s creation, of which he was robbed as soon as crossed the boundry of his home state. But at the same time conflicting interests appeared. Some peoples, who had no literature of their own, lived at the expense of those with a rich and prosperous literature. National industries had developed supplying the domestic market, and they were reluctant to yield their interests to those of foreign authors and foreign publishers. On the other hand, foreign works were badly adapted or mutilated for the domestic market, and another group of persons interested in art & literature organised and demanded that the social interest in the production and publication of the genuine works of foreign authors be secured and protected. Furthermore, national writers and artists found that their interests were prejudiced by the abundant publication and sale of unauthorised foreign works at cheap prices. It is from the conflict of these various interests and the attempt to harmonize them that the international protection of foreigners slowly evolved.

It has been noted above that in the previous period many countries provided in their law for the protection of foreign author’s rights on condition of reciprocity, or attempted to negotiate treaties for the
reciprocal protection of their citizens in this field. However, very few treaties were entered into up to 1852. Certain countries remained outside this effort. Belgium and the U.S. constituted outstanding illustration of this exception by refusing protection to foreign authors.

In the United States, the Copyright Act of 1790, as further amended by the Act of Feburary 3, 1831, protected only citizens and residents of the United States, and explicitly allowed the piracy of works written, exposed or made by persons who were neither citizens nor residents of the United States of America. In view of this state of the law, systematic piracy was committed in the U.S.A. of works published in all foreign countries, especially in England. Since immigrants came to the U.S. from all countries, piratical reprints of books in all languages were made. English books were most commonly pirated. Any work that was considered likely to sell, and of which the cost of reproduction was moderate, was reprinted in U.S. without any hesitation whatsoever. Committees of writers were set up in England and in the United States put to an end to this situation, without result, however, for a considerable time, because gradually there grew up vested interests in the reprinting of books, which could not be easily destroyed. The so called "courtesy copyright" among American publishers, protecting the first American reprinter, did not last long. Competition which ensued, resulted in the publication of English novels on bad paper, with bad print, at a cheap price, ten, fifteen or twenty five percents. For this reason, the most important publishers in U.S. took their place at the head of the movement to secure protection to foreign authors.
were joined by those American authors who could not find a publisher or a market for their books due to the disastrous prices of cheap reprints. This movement, which started with Henry Clay's Report of February 6, 1837\textsuperscript{21}, did not achieve success until 1891\textsuperscript{22}, when after a tremendous amount of educational work and strong pressure by publishers of American books and of American authors, the Chase Act was passed. This was only partially successful. It did away with the requirement that the author be a citizen or resident of the United States, but it qualified the protection of foreign authors by the stipulation that all books must be set up in the United States in order to acquire copyright\textsuperscript{23}, and by the requirement for reciprocity on the part of the state to which the author belonged.

The greatest impulse to general international recognition of author's rights was given by the French Decree of March 28, 1852, which constituted a landmark in this field. From 1840 to 1852 France attempted to secure copyright protection for French works by the conclusion of treaties granting reciprocal treatment. This effort had failed to a large extent. Treaties were secured with Sardinia in 1843 and with Portugal, Honover and Great Britain in 1851. It had not been possible to conclude treaties with Belgium or Holland, the two principal "hotbeds" of French piracies. Even the above four treaties were inadequate, especially with regard to the right of translation of an author's works\textsuperscript{24}.

In the meantime, the thought was being crystallized in France that bargaining was not the best method of securing international
protection of authors rights, and that if France should begin declaring that piracy of a foreign work in France was a crime punishable by the law, the other governments would be more willing to take the same step. This was done by the French Decree of March 28, 1852, promulgated by Louis Napolean, President of the Second French Republic. Thus, the counterfeiting in French territory of works published in foreign countries was prohibited and so was the sale, exportation and transportation of counterfeited works.

During the decade from 1852 to 1862 France was able to conclude twenty-three treaties for the reciprocal protection of author's rights, using to the best advantage the initiative taken by her in promulgating the law of 1852.

In the meantime, in 1858, the first Congress of Authors and Artists was held at Brussels. By its resolutions proclaiming the principle of international recognition of author's rights without the condition of reciprocity, and by calling for uniform legislation on literary and artistic property by all countries, this Congress started the movement which brought about the International Copyright Union of 1886.

(D) PROTECTION OF FOREIGN AUTHORS PRIOR TO 1886:

Before considering the Copyright Union and the protection of copyright after its enactment in 1886, it is of interest to look at the situation existing at that time under the municipal law of the various countries and the treaties concluded among them.
(i) **National Law**: 

At the time the International Copyright Union was organised in 1886, 24 countries including U.K. & U.S.A. possessed general legislation for the protection of copyright. These different legislative enactments were far from being uniform, nor did they offer a uniform solution to the various questions of copyright. A certain similarity existed only between the laws of countries, the legal traditions of which sprang from the same soil, or when one country consciously copied the law of another. Thus, the Belgian law of 1886 followed the principles of the French law. The Austrian law of 1886 had adopted the resolutions of the Diet of the German Confederation and was similar to the laws in force in the German States prior to the adoption of the Imperial Act of 1870. The Hungarian law of 1884 was modelled extensively on the German law. There was great similarity between the laws of Denmark, Sweden and Norway.

(ii) **By Conventions, Treaties etc.**: 

The first treaties for the reciprocal protection of authors rights were concluded between Prussia and other states of the German Confederation. These treaties, 32 in number, were entered into between 1827 and 1829.

England in the meantime passed the International Copyright Act of 1837, and on the basis thereof a Copyright Convention was entered into in 1846 with Prussia, to which ten German States acceded in 1847. This is the second example of a sort of multipartite agreement in this field.
It appears that in 1886 there were in force 43 bipartite agreements between 15 countries for the protection of copyright.  

(E) ORIGIN AND HISTORY OF THE INTERNATIONAL COPYRIGHT UNION:

(i) Brussels Congress of 1858:

The Origin of the movement for the creation of International Copyright Union may be traced to the Congress of Authors and Artists which met in Brussels in 1858, under the impetus given by the French Decree of 1852. It was a remarkable Congress for its time. The committee of organisation had listed the questions to be discussed, including the international protection of author's rights, with or without reciprocity, and with or without the necessity of complying with any formalities.

The Congress adopted five resolutions on International Copyright Law and other resolutions on rights in literary and artistic works in general, and in dramatic and musical works and designs in particular, as well as on economic questions such as tariffs on literary and artistic works. The resolutions on international copyright law were as follows:

(I) That the principle of international recognition of copyright in favour of authors must be made part of the legislation of all civilized countries

(II) This principle must be admitted regardless of reciprocity.

(III) The assimilation of foreign to national authors must be absolute and complete.

(IV) Foreign authors should not be required to comply with any
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particular formalities for the recognition and protection of their rights, provided they have complied with the formalities required in the country where publication first took place.

(V) It is desirable that all countries adopt uniform legislation for the protection of literary and artistic works.

(ii) **Artistic And Literary Congresses of 1878**

At the Universal Exposition of 1878 at Paris, among upwards of 30 International Congresses, there were assembled an International Literary Congress and an International Artistic Congress.

The Artistic Congress met from September 18 to 21, 1878. It voted 21 resolutions, the most important of which were the following. The artists right in his work is a property right. Its duration should be limited. It was desirable that the period should be fixed at one hundred years from the date of the publication of the work. No formality should be required for the protection of the copyright. Foreign artists should be dealt with as nationals, without the condition of reciprocity. The international treaties for the protection of copyright should be independent of treaties of commerce. It was desirable that a “general Union” be constituted among the various countries, which should adopt uniform legislation. The Congress appointed a committee to present the resolutions to the French Minister of Education and Fine Arts and request that he take the initiative of calling together an “official international commission” for the creation of the desired Union. This initiative was not taken by the French Government, which thus missed
the opportunity seized by the Swiss Government a little latter, of patronizing efforts towards the creation of the International Copyright Union.

The Literary Congress met from June 17 to June 29. It was presided over by Victor Hugo. After long discussions on the nature of author's rights and the proper legislation to ensure their protection in all countries, it voted the following five resolutions:

(I) The right of an author in his work does not constitute a grant of law, but one of the forms of property which the legislation must guarantee.

(II) The right of the author and of his heirs and legal representatives is perpetual.

(III) After the expiration of the period fixed for the duration of the author's right by the laws in force in the various countries, any person may freely reproduce a literary work, subject to payment of a royalty to the author or his legal representatives. The rights recognised in favour of heirs cannot prevent the publication of a new edition provided this is accurate, this new edition must be preceded by real offers of payment of an indemnity and two summonses repeated at intervals of six months. Nevertheless, the heir will be deemed bound by the wishes of the author whenever he may justify this

(IV) Every literary, scientific or artistic work shall be treated in the countries other than the country of origin in the same way as works of national origin. This shall also apply to the execution of
dramatic and musical works.

(V) In order that this protection be secured, it will be sufficient for the author to have complied with the ordinary formalities in the country where the work was first published.

(iii) **International Literary and Artistic Association**

At its meeting of June 28th 1879 the Literary Congress decided to create an International Association of which literary societies and authors of all countries could be members. This Association was organised at once and announced as its objectives "the propagation and defence of the principles of intellectual property in all countries, the study of international Conventions, and working towards their improvements." It held important meetings from 1879 on. At its Brussels meeting in 1884 the Association became *L'Association Litteraire et Artistique Internationale*, thus incorporating artists as well as authors, and extending its task to the protection of artistic as well as of literary property. It still exists today under this name.\(^{31}\)

At the Rome meeting of Association in 1882\(^{32}\), Dr. Paul Schmidt, representing the German publishers, caused a resolution to be adopted stating that the need for the protection of intellectual property was the same in all countries, and that complete satisfaction of this need could only be obtained by the Constitution of "a Union for literary property" similar to the Postal Union, and called upon the Executive Council of the Association to initiate a discussion of this matter by the Press of all countries and to cause "Conference to be convened in which there should
be represented all interested, with the view to preparing such a Union.

(iv) **Berne Conference of 1883**:

The International Association unanimously approved this proposal, and decided to call a Conference at Berne. It was convened on September 10, 1883.

The Conference appointed a Committee of seven members to prepare a project for the Union. The Committee prepared a draft of ten Articles, which, notwithstanding its many defects, was remarkable for the time. In particular, it contained the principle of national treatment and provided that no other formalities were to be required so long as those prescribed in the country of origin were complied with. It recognised translation rights during the entire term of the copyright in the original work, and provided for the establishment of an International Bureau of the Union.

(v) **Official Conference of 1884**:

As the proposal met with general approval on June 28, 1884, the Swiss Government addressed to the various Governments an official invitation to a Conference. This met at Berne on September 8, 1884. 14 countries were represented: Austria-Hungary, Belgium, Costa Rica, Paraguay, Salvador, Sweden and Norway and Switzerland. Numa Droz was elected as president.

At the first meeting of the Conference, the German delegation submitted the following important question for discussion:

Instead of concluding a Convention based on the
principle of national treatment, would it not be preferable to consider at this time a codification regulating in a uniform manner for the entire Union, and within the framework of a Convention, the whole of the provision relating to the protection of copyright.

The delegates generally expressed their sympathy with this ideal, but refused to admit its practicability. But the Conference before finishing its work adopted a resolution in the spirit of general proposal. It stated its conviction that the international codification of copyright law was bound to come in the future.

The Draft Convention adopted by this first Diplomatic Conference of delegates of the various states consisted of twenty-one articles. It was accompanied by a draft additional article maintaining existing Conventions which were not contrary to the general Convention, and by a draft Final Protocol.

An exception to the principle of full national treatment of foreign authors was admitted by the Conference with regard to the duration of copyright. It was provided that this could not exceed the term granted in the country of origin. Another limitation was made by the Conference with regard to the persons protected by the Convention. It protected only authors nationals of the Union and publishers of works published in the Union. Thus, it tended to compel authors of countries not belonging to the Union to contract with publishers in the Union for the publication of their works.
(vi) **Official Conference of 1885:**

On September 7, 1885, the new Conference met at Berne with delegates from twenty countries in attendance. The draft adopted in 1884 contained several provisions constituting a beginning of international codification in copyright law. This part of the work of previous Conference was now partly undone. Indeed, it appeared that an insistence on these provisions of the draft would alienate a number of countries, and the Union would have to be restricted to a smaller number. It was thought more practical to refer to the desire of certain countries not to derogate much from their national law, or to leave certain matters to the exclusive province of such law, in order to obtain their adherence, in the hope that future Conferences of Revision might be able to do more in the matter of codification.

(vii) **Final Conference of 1886:**

The Swiss Government communicated the Draft Convention to 55 countries, and invited them to sign the Convention at a new Conference. This Conference convened at Berne on September 6, 1886. All the countries that signed the Draft Convention in 1885 were represented at this new Conference, except Honduras, the Netherlands, Sweden and Norway. In addition, Belgium, Liberia, Japan and the U.S. sent delegates, the last two ad audiendum. The Conference was bound by the understanding reached at the previous Conference that it would not in any way change the draft Convention, and so had practically nothing to do except to sign the Convention, an Additional Article, and a Final
Protocol.

France and Spain declared that their accession included that of all their colonies. Great Britain’s accession meant the inclusion of all its colonies and possessions, subject to an understanding that the British Government could denounce the Convention subsequently for any or all of its the possessions including India. The Conference also received declarations from the signatory countries with regard to the class in which they desired to be placed from the point of view of contributions towards the expenses of the International Bureau established by the Convention. France, Germany, Great Britain and Italy were placed in the first class; Spain in the second; Belgium, Switzerland in the third, Haiti in the fourth, and Tunis in the fifth.

One year later, on September 5, 1887 delegates of the signatory countries met at Berne and exchanged ratifications of the Convention. Only Liberia was absent and failed to deposit its ratification. According to its Article 20, the Convention entered into effect three months later, viz, on December 5, 1887.

(viii) **Outline of Berne Convention of 1886**

The purpose of the Berne Convention as indicated in its preamble was to protect, in as effective and uniform manner as far as possible, the rights of authors in their literary and artistic works’. Article 1 laid down that the countries to which the Convention applied constitute a Union for protection of the rights of authors in their literary and artistic works.
The fundamental principle of the Convention was "national treatment", i.e., persons entitled enjoy in each country of the Union the advantages accorded by the law of such country to its own nationals. This was subject, however, to the limitation that the duration of copyright could not exceed in any country of the Union the term provided for in the country of origin.

Another important feature of this Convention was the principle of automatic protection, according to which such national treatment was not dependent on any formality; in other words protection was granted automatically and was not subject to any formality of registration, notice or deposit.

The Convention also contained a beginning of codification on copyright by provisions forming common legislation for the Union. Thus, translation rights formed the subject of the compromise solution by the fixation of the term of ten years from publication of the original work other provisions of the Draft Convention dealt with the reproduction of articles of newspapers and periodicals, and the reproduction of copyrighted works in publications intended for instruction, in works of a scientific character. It was provided that articles of newspapers or periodicals might be reproduced, provided the authors or editors had not explicitly forbidden reproduction. The reproduction of articles of political discussion, of daily news was unrestricted.

Article 9 dealt with the right of public presentation of dramatic or dramatical musical works, whether published or not. The national treatment principle of Article 2 was made applicable in this matter. No
compliance with any formalities was required except those prescribed in the country of origin. Authors were also protected against the presentation of a translation of such works during the term of protection of other translation rights accorded by the Convention. Article 2, also, applied to the public execution of unpublished musical works as well as of published musical works the author of which had explicitly forbidden public execution.

Further provisions of the Convention dealt with indirect appropriations of literary or artistic works, such as adaptations, musical arrangements, etc.; the presumption of authorship of works protected by the Convention; the seizure of piratical reproductions upon attempted importation; the measures which might be taken by the various countries to control the circulation, representation or exhibition of works; and the application of the Convention to works already created. The contracting countries were permitted to enter into special agreements among themselves, provided these conferred to authors larger advantages than those granted by the Convention.

An International Bureau was established for the Union at Berne, and provisions were made for periodical revisions of the Convention, for accession of new countries and of colonies to the Union, and for the indefinite duration of the Convention, subject to denunciation.

In addition to the Convention, an additional Article and a Final Protocol were signed and ratified. The former retained in effect the existing bipartite treaties which granted to authors broader rights than those secured by the Convention. The latter contained explanations of
various provisions in the Convention.

The Convention was an achievement when compared with the text now in force after the latest revision at Paris in 1971, the original Convention will, of course, appear inadequate. But when the state of the municipal law in the various countries in 1885 is taken into consideration, and the discussions at the Conferences of 1884 and 1885 are studied it must be admitted that the Berne Convention was a great step ahead in securing to authors and artists a more complete protection than they ever enjoyed up to that time in the international field.

(ix) Paris Conference of Revision 1896:

Paragraph 6 of the Final Protocol adopted in 1886 provided that the first Conference of revision was to meet within a period of from four to six years the coming into effect of the Convention on December 5, 1897. The French Government was to fix the date within these limits, after taking the advice of the International Bureau. It was subsequently felt that the time was short to attempt a revision of the Convention, and the French Government convened the Conference of Revision on April 15, 1896. A programme was prepared with the cooperation of the Bureau on the basis of resolutions adopted in the intervening years by the literary and artistic associations in various countries.

In the meantime, four new countries had acceded to the Union, Luxembourg, Monaco, Montenegro, and Norway. Thus, the members of the Union at the time of the Paris Conference of Revision of 1896 were 13. All were represented at the Conference. In addition, delegates
of 14 non-member countries including United States also attended.

The substance of the provisions adopted at the Conference of Paris is as follows: the fundamental principle of Article 2 was made clearer by redrafting its first paragraph and adding a new paragraph to the effect that posthumous works were included among the works protected. The Declaration interpreted the second paragraph of Article 2 by declaring its meaning to be that protection was secured under the Convention, subject exclusively to compliance with the conditions and formalities prescribed by the law of the country of origin.

The two most important amendments concerned Articles 3 and 5 of the Convention. The original Article 3 extended the protection of the Convention to publishers of works published in a country of the Union, the authors of which did not belong to a member country. The German, Belgian, and Swiss delegations proposed that this article be rewritten so that protection be extended to authors belonging to non-member countries who published their works for the first time in a country of the Union. Thus under the amended Article 3, these authors were protected under the Convention for their published works when first publication took place in a country of the Union. "Publication" was defined in the Declaration to mean "issue of copies", so that presentation of a dramatic or dramatico-musical work, the execution of a musical work, or the exhibition of a work of art is not to be deemed to constitute publication.

Article 5 of the original Convention granted translation rights only for a period of ten years. The revised Article 5 provided that
authors and their legal representatives were to enjoy exclusive translation rights for the whole term of copyright in the original work, provided that when the author failed to make use of his right for ten years from publication of the original work in the country where protection was claimed, his exclusive right of translation ceased.

(x) **Berlin Conference of Revision 1908:**

It was the view of the delegates of Paris that a new Conference of revision should meet after a period of between 6 to 10 years. Berlin was chosen as the place for that Conference. Four new countries were added to the Union prior to the convening of the new Conference of revision: Denmark, Japan, Liberia and Sweden.

The New Conference, postponed by common agreement, was called together on October 14, 1908. It was a long Conference, lasting until November 14, 1908.

All the members of the Union were represented at the Conference with exception of Haiti. In addition, delegates of the many countries attended the Conference including U.S.

It was proposed at the Conference that protection of the rights of authors be extended and simplified.

With these objectives in view, it was proposed to extend the protection of the Convention to works of art applied to industry, to extend to photographs, architectural works and choreographic works the same protection as to other artistic and literary works, to assimilate translation to other forms of reproductions and to grant translation
rights for the whole term of copyright; to deal with newspaper articles involving political discussion as with other literary articles; to recognise the exclusive right of execution of musical works as residing in their composers without the formality of their reserving their rights upon publication, lastly, to provide for the composer’s right to authorize the adaptation and execution of his works by mechanical instruments.

The objective of simplification was sought by abolishing the reference in Article 2 of the conditions of the law in the country of origin.

The new Convention was signed on November 13, 1908. The most important amendments adopted at Berlin were the following: The Convention defined more fully the literary and artistic works to be protected, and made it clear that the contracting countries were bound to afford protection by their law for all of these works. Photographic works were explicitly included. Protection was made subject to no formality whatsoever and independent of the existence of protection in the country of origin. The Convention provided that protection under it endured for the life of the author and 50 years after his death, subject, however, to different regulation by the law of each country. Translation rights were now recognised for the entire term of copyright without any restriction. Recognition was given to the right of authors of musical works to authorize the adaptation of their works to mechanical instruments, and the public execution of such works by such instruments. This principle was subject to the provision that the legislation of the contracting countries might determine the reservations and conditions
relative to its application. Likewise, the Convention recognised the exclusive right of authors to authorize the reproduction and public presentation of their works by cinematograph.

(xi) **Additional Protocol of 1914:**

On March 20, 1914, delegates of the 18 member countries of the Union signed at Berne an Additional Protocol to the revised Convention of 1908. The circumstances under which it came about are as follows: The revised Convention of 1908 granted to authors belonging to nonmember country where their work was first published, and unionist treatment in the other member countries. Thus, every member country was bound under the Convention to treat works of such authors published in its territory precisely as if they were works of national authors, without any regard to the existence of reciprocity in the country to which the author belonged. Specifically, Great Britain and the British dominions were bound to protect works of American authors published in their territory, as works of national authors published in their territory, as works of national authors, and they were further bound to extend to them Unionist protection if they were published in another country of the Union.

Under the Chase Act of 1891, which for the first time extended copyright protection in the United States to foreign authors not resident in the U.S. the onerous condition of manufacturing in the United States was imposed. In the case of a book, photograph, chrome or lithograph, it was necessary, as a condition to protection, that copies to be deposited
and the copies to be offered for sale in the U.S. "be printed from type set within the limits of the U.S. or from plates made thereunder or from negatives or drawings on stone made within the limits of the United States, from transfers made thereunder." thus a foreign author was prevented from following the natural and convenient course of having his work set up in his own country. The effect of this clause was to prohibit the foreign author from offering for sale in America a work printed outside U.S.

The Act of March 4, 1909 relieved foreign authors in general from the effects of this clause, but they were preserved as to works written in the English language. This amounted to a discrimination against Great Britain and its dominions and colonies.

On May 18, 1910 an Imperial Copyright Conference met at London to discuss the question of ratification of the revised Convention of 1908, and to consider the elaboration of an Empire Law on copyright. It terminated its work on July 10 with the adoption of a memorandum containing various resolutions.51

Subsequently, Great Britain passed the new Copyright Act, of 1911, in conformity with the revised Convention of 1908. This Act protected American authors without regard to any formality whatsoever, provided their works were first published in Great Britain or any other Union country.52 In 1912 Great Britain ratified the Convention of 1908 without any reservation. However, it proposed to the member countries of the Union the adoption of an Additional Protocol granting to each member country the right to restrict, within its territory, the
benefits of the Convention with regard to authors of a non-member country.

As a result all the member countries of the Union accepted the text of an Additional Protocol proposed by Great Britain and signed at Berne on March 20, 1914.

The Protocol constitutes a restriction of the regime of the Union by granting power to a member country to limit the protection of the works of authors, nationals of a non-member country, who at the time of publication were not domiciled in a country of the Union. This power could be exercised when the non-member country did not sufficiently protect works of authors belonging to the member country. The latter is free to determine the absence of "sufficient" protection for works of its authors in a non-member country. It may then retaliate but such a member country is bound to notify the Government of the Swiss Confederation by a written declaration of the restrictive measures taken by the country concerned. This government will then communicate the declaration to the member countries.

(xii) Rome Conference of Revision 1928:

At the Berlin Conference of 1908 it was agreed that the next Conference of Revision could be held at Rome between 1914 and 1918. The World War necessitated a postponement. In 1927 it was arranged to convene the Conference on May 7, 1928. The International Bureau Communicated to the member countries, as well as to non-members.

At the time the Conference convened on May 7, 1928, the Union
comprised 36 countries, 19 more than in 1914.

All the 36 members of the Union were represented at the Rome Conference with the exception of Haiti and Liberia. 21 non-member countries including United States also attended.

The programme of the Conference, as prepared by the International Bureau and the Italian government, proposed amendments in form and in substance of the Convention of 1908. The most important were the following. It was first proposed to abolish the liberty given by Articles 25 and 27 of the 1908 Convention to member countries and new acceding countries of making reservation with regard to the application of certain provisions of the Convention. It was pointed out that the situation created thereby was very confusing, and contravened the object of the Convention.

It was further proposed to make the period of copyright of 50 years *post mortem auctoris* compulsorily uniform for all countries of the Union, to extend the protection of the Convention to works of art applied to industry, to secure to authors and artists the exclusive right of authorizing the communication or execution of their works by radio and analogous means; and to perfect the provisions on mechanical musical instruments and movies. The Italian government submitted proposition for the recognition of the moral right of authors.

The Conference created a Plenary Committee, an editing committee, and sub-committees on the moral right of authors, radio, cinematographs and photographs, and mechanical reproduction of musical works.
The Rome Conference did not rewrite the Convention as its predecessor had done. The amendments were drafted on the existing text, or inserted in additional articles under *bis* or *ter* without disturbing the existing numeration of the Convention. The most important amendments adopted were the following:

Oral literary works, such as lectures, addresses, sermons, were included among the works to be protected under Article 2 of the Convention. An additional Article 2 bis reserved the liberty of each country to exclude totally or partially from protection, political discourses and discourses made in judicial debates, and to determine the condition under which lectures, addresses and sermons might be reproduced by the Press. The valiant efforts of France to have works of art applied to industry protected as artistic works, in general, failed again. Upon the proposal of Great Britain, the text of the Additional Act of Berne (1914) was inserted in Article 6 of the Convention. The Italian proposal for recognition of the *moral rights* of authors formed Article 6 bis of the New Convention. This provided that independently of the proprietary rights, and even after the assignment of these rights, authors possess the right to claim authorship of their works and to object to any deformation, mutilation or modification thereof prejudicial to their honour or reputation. The legislation of each country was left free to determine the conditions for the exercise of these rights of authors.

The proposition that the duration of copyright be made compulsorily uniform in all countries of the Union for 50 years *post mortem*
auctoris or that at least dependency upon duration in the country of origin be abolished, was not approved by the Conference. A new Article 7 bis was adopted regulating the period of protection of works of joint authorship. Minor amendments were made to Articles 13 and 14 dealing with articles of journals and periodicals, the retroactive application of the Convention, and cinematographic works.

Aside from the recognition of the moral rights of authors, the only important amendment to the Convention consisted in the insertion of a new Article II, bis, recognising the exclusive right of authors to authorize the communication of their works to the public by the radio.

On the whole, the results of the Rome Conference were rather mediocre. Many of the objectives of the programme were not accomplished. Discussions were lengthy and laborious. and the amendments adopted, aside from the recognition of the moral rights of the authors and of the exclusive right to authorize public communication of works by the radio, were of limited significance.

(xiii) Brussles Convention 1948 :

During the world war most of the countries party to the International Copyright Union were at war. There has been no contention either in this war or that of first world war on any side that the Convention was to be deemed abrogated by the war. In view of the fact that the Convention is of a juristic rather than a political nature, that it intended to establish a more or less permanent condition of things which need not pressure a state of peace, and that it concerns the interests of private
persons and not of states directly.

After the war was over, it was thought proper to take the long due revision of the Convention. Thus the Brussels Conference of 1948.

Some of the main features of the Brussels Convention are as follows: Article 4 provided that first publication in a Non-Union country would mean loss of protection. Further protection is to be afforded to nationals of Non-Union countries habitually resident in a Union country. It was also open to any country of the Union to restrict protection of works whose authors are nationals of a non-Union country which does not give reciprocal rights and are not habitually resident in a country of the Union.

The Brussels Convention omitted the provisions of Article 7 (2) of the Rome Convention which entitled countries of the Union to provide a shorter period of protection than those laid down in Article 7. This was a big achievement. The Rome Convention added, for the first time, provisions with regard to the minimum term of copyright in works of joint authorship, namely one expiring with the death of the author who dies last. However, the Brussels Convention dropped this provision, and instead, provided that, in the case of a work of joint authorship, the term of protection was to be calculated from the date of the death of the last surviving author. Then the Convention provided that the protection of the Convention was not to apply to news of the day nor to miscellaneous information having the character of mere items of news. Thus, no copyright protection is afforded by the Convention to news or facts constituting press information.
The Rome Convention, for the first time, introduced provisions intended to extend an author's rights beyond those generally comprehended in the term *copyright*. These provisions comprehended what is known as the author's *droit moral*. These provisions were extended by the Brussels Convention which provided first that, even after the assignment of his copyright, the author should have the right during his life-time to claim authorship of the work, and to object to any "distortion, mutilation or other alteration thereof or any other action in relation to the said work which would be prejudicial to his honour or reputation". Secondly, it was provided that the rights granted to the author as aforesaid should, after his death, be maintained at least until the expiry of the copyright. Thirdly, the means of redress was left to the national law.55

A further new right, which was introduced for the first time by the Brussels Convention, deals with what is known, on the continent, as the *droit de suite*. It provided that the author or, after his death, the persons or institutions authorized by national legislation are, with respect to original works of art and original manuscripts, to enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer thereof by the author thereof. This matter, however, is left to the legislation of individual members and can not be claimed in any country which does not have such legislation.56

(xiv) *Stockholm Convention of 1967*:

The Berne Convention was further revised at a Conference held in Stockholm on 11th July 196757 which closed on the 14th July 1967.
The Convention introduced a protocol regarding developing countries to satisfy the wishes and needs of some developing countries who considered the protection provided by the Berne Convention beyond their scope of interests.

The Protocol provided that any country regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations which ratified and acceded to the Convention might make reservations in respect of certain matters which would have the effect of giving less protection in that country than what was afforded in other countries of the Berne Union.

The adoption of the Protocol, despite opposition, led to a serious situation in the international copyright field. Thus, although Article 21 made the Protocol an integral part of the Berne Convention, Article 28 provided that any country ratifying or acceding to the Convention may declare that its ratification or accession is not to apply to the substantive provisions of the Convention and the Protocol. Thus none of the major developed countries ratified or acceded to the substantive provisions of Convention as also the Protocol with the result that Stockholm Revision became a dead letter.

(xv) Paris Revision of 1971:

The disagreement to the Stockholm Conference led to its revision at the Revision Conference held in Paris during the period from July 5 to July 24, 1971. India also participated in this Conference and signed the Convention. The Convention entered into force on 10th October 1974.
The situation created by Stockholm Conference was particularly unfortunate since it had been hoped that one of the results of the Stockholm Revision would be that U.S.A. would join the Berne Convention after undertaking revision of its national law. Thus, the Paris Convention assumed added importance.

In view of this situation, the very first change which Paris Revision brought in was the dropping of Article 21 of the Stockholm Convention relating to the Protocol Regarding Developing Countries and the Protocol itself and, instead provided for acceptable special provisions in favour of developing countries in Article 21. As a result many countries, including some of the major countries including U.S.A. (US as late as 1989), have now adhered to the Paris Convention. As to U.S. there is still difficulty, notwithstanding the United States Copyright Act, of 1976, in the sense that there are possible areas of conflict between the Convention and the Act. Similarly United Kingdom’s Copyright Act, 1956 is to be amended before U.K. can adhere to Paris Revision. The Copyright Committee of 1977 in England recommended that England should ratify the Paris Convention.

Two systems are possible for an International Copyright Convention. Theoretically the most satisfactory system would be a complete copyright code to be applied in each country of the Union both for nationals and subjects of other countries. A less satisfactory system is one which merely requires each member state to give to the nationals of other member states the same protection as it gives to its own nationals with the result that the measure of protection will vary from state to
state. The system in fact adopted in the Berne Convention represented a compromise of the two systems and the revisions of the Convention alluded to above have tended to extend the principle of the common code. Infact the Paris Act embodies a reasonably complete code but, as will be seen, specifically reserves to members the right to deal with certain matters by their own legislation.62

Thus Article 3 which contains the general criteria for eligibility for protection provides:

(I) The protection of this Convention shall apply to:

(a) Authors who are nationals of one of the countries of the Union, for their works, whether published or not;

(b) Authors who are not nationals of one of the countries of the Union, for their works first published in one of those countries, or simultaneously in a country outside the Union and in a country of the Union.

(II) Authors who are not nationals of one of the countries of the Union but who have their habitual residence in one of them shall, for the purposes of this Convention, be assimilated to nationals of that country.”

This article is certainly wider in scope than the Brussels Convention, since works of nationals of Union countries are to be protected, even if first publication takes place in a non-Union country. But even the Paris Act provides, in a similar way to the Brussels Convention, that it is open to any country of the Union to restrict protection of works whose authors are nationals of a non-Union country which does not give
reciprocal rights and are not habitually resident in a country of the Union.

The Paris Revision contains special criteria of eligibility for protection in respect of cinematographic works and works of architecture. It provides:

"The protection of this Convention shall apply, even if the conditions of Article 3 are not fulfilled, to:

(a) Authors of cinematographic work the maker of which has his headquarters or habitual residence in one of the countries of the Union;
(b) Author of works of architecture erected in a country of the Union or of other structure located in a country of the Union or of other structure located in a country of the Union.

Article 3 (3) provides that the expression "published works" is to mean works published with the consent of their authors, whatever may be the means of manufacture of the copies, provided that the availability of such copies had been such as to satisfy the reasonable requirement of the public, having regard to the nature of the work. But the performance of dramatic or musical work, the exhibition of a work of art and the construction of a work of architecture do not constitute publication. How then can such works be published? In the case of a dramatic work and a musical work, by printing and publishing the text or score. In the case of a work of art, such as a picture, presumably by publishing sketches, photographs and so on of the work.

Article 5 of the Convention deals with the extent of protection. It
provides:

"Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.

(III) Protection in the country of origin is governed by domestic law. However, when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors."

It is interesting to note that there is disparity in the extent of protection in the country of origin and in other countries of the Union, since protection in the country of origin is governed by the domestic law, but in countries other than the country of origin, the author is given, not only the rights which are given under their domestic laws, but also the rights granted by the Convention. Thus, an author can be worse off in the country of origin than in other countries of the Union.

As to the term of protection, the basic term of protection is still to be the life of the author and 50 years after his death. However, unlike the Brussels Convention, minimum terms of protection have now been laid down for cinematographic works, photographic works and works of applied art. Thus, in the case of cinematographic works the countries of the Union may provide that the term of protection is to expire 50 years after the work has been available to the public with the consent of the author, or failing such as event within 50 years from the
making of such a work, 50 years after the making. The case of photographic works and works of applied art in so far as they are protected as artistic works, it is to be a matter for legislation in the countries of the Union to determine the term of protection thereof; however, this term is to last at least until the end of a period of 25 years from the making of such a work. In the case of anonymous or pseudonymous works where the identity of the author remains undisclosed, the period is 50 years after the work has been lawfully made available to the public. But the Convention also provides that the countries of the Union are not required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for 50 years.

The Paris Act further provides that the countries of the Union may grant a term of protection in excess of those provided by article.

As far as the works protected by the Paris Convention are concerned Article 1 states that the countries to which the Convention applies are constituted into a Union for the protection of rights of authors in their "literary and artistic works". Article 2(1) then provides that the expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets, and other writings lectures, addresses, sermons and other works of the same nature, dramatic or dramatico-musical works, choreographic works and entertainments in dumb show, musical compositions with or without words; cinematographic works to which are assimilated works ex-
pressed by the process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and assimilated works expressed by a process analogous to photography; works of applied art, illustrations; maps, plans, sketches, and three-dimensional works relative to geography, topography, architecture or science.

The Paris Revision, however, expressly provides, that the protection is not to apply to news of the day, nor to miscellaneous facts having the character of mere items of press information.

As to translation, adaptation etc. the Paris Act provides.\(^7\)
Translations, adaptations’ arrangements of music and other alterations of literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

But the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such is to be determined by the countries of the Union.\(^3\)

The provisions of Article 2 as to adaptations must be read in conjunction with Article 12, which lays down that authors of literary or artistic works are to enjoy the exclusive right of authorizing adaptations, arrangements and other alterations of their work. It is a matter of domestic legislation as to how far works of applied art and industrial designs and models are protected\(^4\), subject to, of course, Article 7(4) which provides for a minimum term of protection of 25 years from the making of a work of applied art.

With regard to broadcasting rights, the Paris Revision has con-
ferred upon authors following distinct rights:

(a) The right to restrict the original broadcasting.
(b) The right to restrict any diffusion of the broadcasting by an independent receiving authority.

(xvi) The Universal Copyright Convention of 1952:

The desire to bring the United States within a general network of international copyright relations and to create a bridge between the Berne Union on the one hand and that of Pan-American countries on the other was truly strong. So was also the wish to maintain the basic tenets of the Berne Convention, indeed its Brussels revision was directed towards this aim only. After the Brussels Revision, UNESCO took the initiative by promoting the Universal Copyright Convention which was signed at Geneva on September 6, 1952. India also participated in this Conference.

Recommendations were made for the holding of a Revision Conference in 1971 for the purpose of revising this Convention and in fact the Universal Copyright Convention, like the Berne Convention, was revised in Paris in 1971.

The effect of the revised Convention is that each contracting state undertakes to give to the unpublished works of the nationals of all other contracting states the same protection as it gives to the unpublished works of its own nationals as well as the protection specially granted by the Convention and further provides with the right to restrict the public performance of the broadcast at the receiving end.
It is further provided, that a permission to broadcast is not to imply permission to record the broadcast, but then there is a confusing and ambiguous kind of the paragraph.

It shall, however, be a matter for legislation in the countries of the Union to determine the regulations for ephemeral recordings made by a broadcasting organisation by means of its own facilities and used for its own broadcast. The preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be authorised by such legislation.

Then the notion of *droit moral* and that of *droit de suite* have been repeated with amendments.

India participated in this Convention and signed the Final Act. on November 10, 1973, it made a Declaration under Article 38 of the Paris Act that it would exercise the rights provided under Articles 22 to 26 of the Stockholm Act, (which related to administrative matters). By a note dated October 7, 1974, India has deposited its instrument of ratification with the declaration that the said ratification doesn’t apply to Articles 1 to 21 and the Appendix thereto with a further declaration that India doesn’t consider itself bound by Article 33 (i) of the Paris Revision. It shall be entitled to calculate the term of protection from the date of the "first publication" of the work or from its registration prior to publication, provided the term of protection is not to be less than 25 years from the date of its first publication or registration. "Publication" as used in this Convention, means the reproduction in tangible form and the general distribution to the public of copies of a work from which it
can be read or otherwise visually perceived. But the Convention shall not apply to works or rights in works which, at the effective date of this Convention in contracting state where protection is claimed, are permanently in the public domain in the said contracting state.

As to the nature of the protection to be afforded, the Convention provides that each contracting state shall give adequate and effective protection to the rights of authors and other copyright proprietors in literary, scientific and artistic works, including writings, musical, dramatic, and cinematographic works, and paintings, engraving and sculpture. It is further provided that these rights are to include the basic rights enduring the author's economic interests, to give to the published works of nationals of the other contracting states wherever first published, and to published works of the nationals of any country if first published in one of the contracting states rights it gives to works first published in its own territory as well as the protection specially granted by Convention. Authors are to enjoy such protection without any formality of registration or deposit of copies etc, subject to the condition that from the time of first publication, all copies published bear the symbol (c) accompanied by the name of the copyright proprietor and the year of first publication, placed in such manner as to give reasonable notice of claim of copyright.

The Convention provides for copyright to endure the life time of the author and 25 years after his death. It is to be noted that the duration of the term is binding and obligatory upon all the contracting states. In case of any contracting state which, upon the effective date of the
Convention in that state, does not compute that date of protection on the basis including the exclusive right to authorize reproductions by any means, public performance and broadcasting, and are to extend to the work either in original form or in any form recognisably derived from the original. But any contracting state may make exceptions that do not conflict with the spirit and provisions of the Convention, to such rights but shall nevertheless accord a reasonable degree of effective protection to each of rights to which exception has been made.

It is clear from the above provisions that while promising general copyright protection, the Convention does not describe the details of protection which are to be afforded by the contracting states and substantially leaves the mode and extent of protection to the separate legislation of each state. It only extended further than the Berne Convention in requiring protection to be given to published works, not only if first published in a contracting state, but if first published anywhere, if the author is a national of a contracting state.\textsuperscript{84}

The 1971 Convention came into force on July 10, 1974 three months after the deposit of 12 Instruments of Ratisfication.

(xvii) \textbf{Pan American Conventions}:

There are certain American Conventions - the Montevideo Convention and the various Pan-American Conventions, to none of which neither United Kingdom nor India is a party.

The Pan-American Conventions are those of Mexico City (1902), Rio de Janeiro (1906), Bouenos Aires (1910) and Havana (1928)\textsuperscript{85}. The
later of these Conventions are both modifications of the original Convention of 1902, and all adopt the Berne Convention & principle of according national protection to works published in any of the countries of the Union.

But the Montevideo Convention (January 11, 1889) adopted a wholly different priciple to that of the Berne Convention, conferring upon an author belonging to one country of the Union in other countries of the Union the rights which he enjoys in the country where he first publishes, not the rights which authors enjoy in the country where the infringement takes place, so that under this Convention the law of the country of origin follows the work into the other countries of the Union.

The Convention of 1910 has been ratified by U.S., Gautemala, Casta Rica, Honduras, Panama, Nicaragua, Ecorodor, Dominica, Brazil, Peru, Paraguay, Haiti, Colombia, Argentina, Bolivia, Chile and Mexico. And the Convention of 1928 has been ratified by Costa Rica, Gautemala, Nicaragua and Panama.

Another Pan-American Convention was concluded at Washington in 1946 under the terms of which rights of copyright set out in some detail are to be conferred as between the signatory countries without any formality. This Convention has been ratified by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Guatemala, Haiti, Honduras, Mexico, Nicaragua and Paraguay.
(F) COPYRIGHT PROTECTION IN INDIA:

(i) Pre-Independence:

The question whether or not India, as a civilised nation had prior to the colonisation any notions or institutions for legal protection of creative artists has not even been asked for; this makes even tentative approaches to answers quite ambitious at this stage. Legal and social historians of ancient and medieval India have yet to attend to this aspect.86

After the East India Company established in sway in the Territories of India, an Act of the Parliament87 entitled “An Act for effecting an arrangement with the East India company for the better Government of His Majesty” was passed in 1698. In the middle of the 18th century, English common law was introduced into those parts of Indian Territories subject to the Government of the East India Company, where, by a charter from the Crown, courts of judicature were established which, inter alia, administrated the copyright law of England with regard to matters relating to copyright. In other parts of the Indian territories principles of equity and good conscience seem to have prevailed.

In 1842, the Literary Copyright Act, 184288 was passed to amend and consolidate the law of copyright in the United Kingdom. It extended throughout the British Dominions. It was extended to British India as well.

From the middle of the 18th century up to the time of the enactment of the Literary Copyright Act, 1842, copyright protection in India, if at all afforded, was by the common law of England or by virtue of the principles of equity and good conscience. After the enactment of
Literary Copyright Act, 1842, copyright in published books could be enforced under the said Act in British India. "Books", under the said Act, included every volume, pamphlet, letter and presssheet music-sheet, map, chart, and plan. It directed registration of every book at the stationer's hall in London. Musical and dramatic compositions were held to be books and protected by Copyright Acts, relating to literary works the English Act of 1842 also afforded protection by its Section 20 to performing rights in both dramatic and musical works.

The Governor-General of India got passed on 18 December, 1847 an Act, for the encouragement of learning in the territories subject to the government of the East India Company by defining and providing for the enforcement of copyright therein. Its preamble speaks of doubts which exist or which may exist concerning recognition and enforcement of copyright as a part of the common law or administration of justice on the basis of "justice, equity and good conscience" or as regards the application of British Statutes to territories then administered by the East India Company.

The term of copyright under the 1847 Act was for the lifetime of the author plus seven years after the death of author. But in no case the total term of Copyright was to exceed 42 years. The government was given the power to issue licence for the purposes of publication of the book if the owner of copyright upon the death of the author refused to allow its publication. The Act further laid down that under a contract of service copyright in "any encyclopaedic review, magazine, periodical work or work published in a series of books or parts shall vest in the
Unauthorised printing of copyright work for "sale, hire or exportation" or "for selling, publishing or exposing to sale or hire" constituted infringement. Infringing copies were deemed to be copies of the proprietor of copyrighted work. Suit or action for infringement was to be instituted in the "highest local court exercising original civil jurisdiction." The formality of registration with the home office was the condition precedent for the enforcement of copyright under the Act, but the proviso to section 14 specifically reserved the subsistence of copyright in the author, and his right to sue for its infringement to the extent available in law other than the 1847 Act.

The question of amending the Act of 1847 was considered on several occasions since 1864 on the ground that the said Act was incomplete as it did not provide, among other matters, for the protection of copyright in photographs, translations, newspaper, telegrams, etc. But legislation had been deferred in view of the possibility of amendment of the English Act on the subject of copyright.

In order to consider the question of ratification by England of the Berlin Revision of Berne Convention (1908), a departmental committee was appointed by the Board of Trade in 1901. The Committee came to the conclusion that Berlin Convention should be accepted by Britain with as few reservations as possibly.

Subsequently, in 1910, an Imperial Copyright Conference was convened in London to consider the recommendations of the said Board of Trade Committee. Representatives of self-governing Dominions, the
India office and the colonial office took part in the said Imperial Conference. The Conference endorsed the recommendations of the Board of Trade Committee and recommended:

(a) That an Act dealing with the essentials of the Imperial Copyright Law should be passed by the Imperial Parliament.

(b) That this Act should be expressed to extend to all British Possessions subject to rights of self-governing dominions and possessions to modify or add to its provisions by legislation certain cases affecting only procedure and remedies.

A Bill, giving effect to these recommendations, was prepared and introduced in both the houses of Parliament and after several modifications, was eventually passed into laws which came to be known as the Copyright Act, 1911. It came into operation in the United Kingdom on 1st July, 1912.

The Government of India considered that the early introduction of the Imperial Copyright Act, 1911 into India was desirable and consulted various local Governments regarding modifications and alterations that might be necessary to make it suitable for the local conditions of India.

In view of difficulties that were experienced in Great Britain because of non-application of the Copyright Act of 1911 to India and having regard to serious hardship and loss which might be inflicted on English authors thereby, the said Copyright Act of 1911 was brought into force in India by a proclamation in the Gazette of India on 31st October, 1912.
In the meantime, the question of modification or additions to the said Act was postponed for subsequent consideration on receipt of views of various local Governments. Later, the Government of India, after the receipt of the views of local governments, concurred with them and by virtue of powers conferred by Section 27 of the Copyright Act of 1911, prepared a Draft Bill embodying modifications in and addition to the Imperial Copyright Act of 1911 which were considered desirable together with certain formal and necessary alterations due to difference between English and Indian administration and procedure. This Bill was eventually passed into law which came to be known as Indian Copyright Act, 1914.92

The 1914 Act was a short Act in the sense that it had only 14 Sections which annexed the whole of the Imperial Copyright Act of 1911 as its first schedule.

According to professor Upendra Baxi, the 1914 Act introduced two major changes:

First, it introduced criminal sanctions for copyright infringement.93

Secondly, it modified the scope of the term copyright under Section 4 the "sole right" of the author to "produce, reproduce, perform or publish a translation of the work shall subsist only for a period of ten years from the date of publication of the work."94 The author, however, retained her "sole right" if within the period of ten years she published or authorised publication of her work a translation in any language in respect of that language.
The modification of term of copyright for translation rights can’t be explained by any reference to dominant characteristics of colonial policy. The language of the Act might suggest a laudable policy of promoting wider diffusion of Indian works from one language to other Indian languages, a consideration which might have appeared distinctive to India as compared with U.K. There might also have been the desire to promote the growth of publication industry in numerous Indian languages.95

But even if the intention of the Britishers in enacting 1914 Act was laudable, the Act proved to be of disastrous consequences and disadvantageous to the authors and a real boon to the publishers. This is proved by the following assessment of the said Act in a note of dissent when the joint select committee of the Parliament in 1956 was considering the recommendation for the continuation of the 1914 Act.96 R.D. Sinha “Dinker” strongly argued that the Act has “worked to the utter detriment of the authors”. In a hard-hitting argument, he observed:

Most of the novels by Sarat Chandra Chatterjee... were translated in Hindi, while the author was yet alive. The author’s novels, in translation sold thousand of copies, but the author did not get a pie out of the sale - proceeds... something like this happened in the case of Gurudeva. Publishers in Hindi and other languages were making good money out of the translations of his works, but the poet, severed by the nation, was in his extremely old age
touring the country for money to support the Shanti-Niketan.⁹⁷

It seems that publishers of Hindi language were the major beneficiaries from the modification of the term of copyright regarding translations. But then this fact is of great political importance as Hindi was now emerging as a dominant language in North. Infact, ultimately it became the national language as well.

The Act continued with minor modifications till 24 January, 1958 when the copyright Act, 1957 came into force.

(ii) Post Independence :

(a) Copyright Act of 1957 :

The 1914 Act had become outdated and thus a bill to revise the copyright law in India was introduced in the Council of States on October 1, 1955. The bill was passed in about 18 months time which also included its processing by the Joint Select Committee of the Parliament on June 4, 1957.

It was a remarkable achievement of Independent India's legislature that it attached so much of importance to intellectual property rights in general and that of copyright in particular. Infact, there were number of factors which necessitated the early revision of the copyright law:

First, it was clear that continued existence of the 1911 Act through the 1914 was unbecoming to the changed constitutional status of India.
Secondly, the 1914 Act did not accord with 1948 Brussels Act of the Berne Convention and the 1952 Universal Copyright Convention. Thirdly, the new and advanced methods of communication rendered modernization of the law necessary. The need for an 'independent self-contained law' was also felt in the light of the experience of the "working" of the 1911 Act, and more important, of "the growing public consciousness of the rights and obligations of the authors".

Reports of many committees and deliberations of International Copyright Conventions were taken into account while considering the Draft of 1957 Bill. The Joint Select Committee was also benefitted by the evidence of many Indian and foreign organisations such as Indian Institute of Education and Cultural Freedom, All India Centre of PEN, The Indian Council for Culture: Freedom, The All India Hindi Publishers Association, Indian Phonographic Industry, All India Radio, British Copyright Council, International Confederation of Societies of Authors and Composers (Paris), Performing Right Society (London) and Columbia Gramophone Company Ltd. Interestingly, the satsangis of Radhaswami Faith, a purely religious organisation also came with its suggestions and gave evidence before the Select Committee. But despite such a lengthy deliberations, the report of the Select Committee was brief report of just ten pages of majority report and seven pages of dissent by six members.

All the major recommendations of the select committee were ultimately accepted such as its definitions of 'authors', 'artistic works', 'dramatic works'. Its recommendations as to enhanced prison sen-
tences, Independence of Copyright Board, were also accepted. It also defined civil jurisdiction for the infringement proceedings and the same was approved by the Parliament while enacting Act. The original proposal to reduce the term of copyright for life of the author and twenty five years post-mortem was not accepted by the Select Committee on the ground that India must fall in line with International Conventions. The committee also negatived the Bill’s proposal on similar grounds making the formality of registration a pre-condition for infringement. Perhaps the only significant matter on which committee’s proposals were not accepted in view of powerful dissents, pertained to a ten year term of copyright for translations.

The Act, as it was finally passed, was not in any sense a replication of the English legislation proposals. In this sense, the Act was the first truly Indian legislation after more than 200 years of the subjection to the Imperial law.

The Act is divided into 15 chapters and contains 79 sections. In addition to this, the government has been empowered to enact copyright rules by virtue of Section 78 of the Act. The Government has thus enacted Copyright Rules which deal with matters of procedure for application of licences for translations, performing rights societies, relinquishment and registration of copyright and related matters.

Chapter I, III, IV and V deal with copyright and its ownership; chapter XI with infringement; chapter IX with International Copyright; chapter X with registration of Copyright & remedies and chapter II, VI, VII and X with powers and functions of the Registrar of Copyrights and
Copyright Board. Chapter VIII deals with the rights of Broadcasting authorities.

Despite all this, the Act was not sufficiently far-sighted. For instance, it does not protect the right of the performers adequately. But the fact remains that the country had its own law of copyright for the first time in contemporary history; and, for weal or woe, it represented the law-policy choices made by its independent legislature.100

(ii) The 1983 and 1984 Amendments:

Despite the leading role which India played in the revision of the Berne Convention and Universal Copyright Convention leading to the Paris Act of 1971, it was not until 1983 that the Indian legislature could take up the revision of the 1957 Act. The new Sections 32 A and 32 B which were inserted by these amendements provided for ‘compulsory licences’ for publication of copyrighted foreign works in any Indian language for the purposes of systematic instructural activities at a low price with the permission of the copyright Board on certain conditions. Another significant change which the amendment brought in was the insertion of Section 19 A, which empowered the Copyright Board, upon a complaint, to order revocation of the assigned copyright where either the terms are ‘harsh’ or where the publication of the work is unduly delayed. The Board has been given the power to publish unpublished Indian works and for the protection of ‘oral works’. The 1984 amendment also provides for the stringent punishments for piracy and effective procedures to inhibit it.
(iii) **Amendment Act of 1994**:

To cope with new challenges of technology, the revision of Copyright Act 1957 was necessary. With this object, a Bill to amend the Act was introduced in 1992 in the Loksabha along with Copyright Cess Bill. The Bill had become necessary because it has become much easier for anyone to copy sound recordings, films and printed works through photocopy than in the past. The Bill was referred to Joint Select Committee & was finally passed & assented to in 1994.

The important features of the amendment are, for instance, under the present law a "musical work" has to be written in a notation (as used in western music") This requirement is being done away with as in practice it denied any protection to most of the Indian composers.

The amendment provides protection against making films, video tapes or audio tapes of a performance without the performer’s permission with few exceptions where the recording is for private use or for news reporting. These rights will be enjoyed not only by singers and actors but also jugglers and snake charmers.

The law will also regulate hire or resale of any copies of films including videotapes or sound recording or computer programs. Under this law a video shop will have to take permission before hiring out any tape to consumers from owners of the same. It is proposed that copyright society will be responsible for collective administration of copyrights in line of performing rights society.

The Copyright (Amendment) Act, 1994 has also enlarged the scope of protection of computer programs. Prior to the amendment, the
copyright holder enjoyed the exclusive right to reproduce the work, issue copies, perform the work in public, to make any cinematograph film or sound recording in respect of the work, to make any translation of the work or to make any adaptation of the work. The Amendment Act confers the copyright holder with the additional exclusive right to sell, give on hire any copy of the computer program regardless of whether such copy has been sold or given on hire on earlier occasions. In other words, even the legitimate owner (e.g. a purchaser) of a copyrighted work can not sell or rent his copy of the work. The Amendment effectively eliminates the ‘‘first sale’’ doctrine, developed in American jurisprudence under which a legitimate owner of a copyrighted work could further sell, transfer, lease or rent the work to another. Taking advantage of the ‘‘First Sale’’ doctrine, many rental companies used to purchase software programs and offer them for short-term rentals - a practice which resulted in wide spread reproduction of copyrighted works.¹⁰¹

The 1994 Amendment brings Indian law in conformity with the Uruguay Round Agreement on Trade - related Intellectual Property Rights (TRIPs) which requires countries to provide authors and their successors in title the right to authorise or to prohibit the commercial rental of originals or copies of their copyright works. However, it is to be noted that the TRIPs agreement is less stringent than the amended Indian law in that it allows a purchaser of a copyrighted work to sell his copy and adds the coveat that, in respect of computer programs, this obligation does not apply to rentals where the program itself is not the essential object of the rental.
A traditional exclusion from infringement allows use of a copyrighted work for research criticism or private use, known as "fair dealing". The 1994 Amendment eliminated the "fair dealing" exclusion with respect to computer programs. This is an unusual step as "fair dealing" has been a long standing exclusion which is part of well settled copyright law.

At the same time, a new exclusion from copyright infringement of computer programs has been added. A lawful possessor of a copy of a computer program may make back up copies purely as a temporary protection against loss, destruction or damage in order to use the computer program for the purposes for which it was supplied. Such acts will not constitute either copyright infringement or violation of moral rights of author.

Another significant aspect of the 1994 Amendment is narrowing down of author's moral right. Now, an author may restrain or claim damages in respect of any distortion, mutilation or modification of the work if it is done before the expiration of the term of copyright and if such acts would be prejudicial to his honour or reputation. However, an exception has been carved out in the law for adaptation of computer programs for the purposes of debugging.

According to the Statement of Objects and Reasons of the Amendment Act, moral rights have been narrowed down because the prior provisions whereby even distortion, mutilation and modification of the work which are not prejudicial to the author's honour or reputation would violate the author's moral rights were in excess of the
requirements of the Berne Convention. It should be noted, however, that the provision of moral rights under Indian law goes well beyond the requirements of the TRIPS Agreement which exempts countries from any rights or obligation arising from the provisions of the Berne Convention on moral rights. In fact, the exclusion of moral rights from the purview of the TRIPS Agreement reflects the lack of moral rights under American Copyright jurisprudence.

In addition to the moral rights mentioned above, a new *droit de suite* (resale share right) has been created by the 1994 Amendment. This gives authors of original copies of paintings, sculptures or drawings or the original manuscripts of literary, dramatic or musical works the right to share in the resale proceeds of such original copies where the proceeds exceed Rs. 10,000. The share of proceeds shall be as the Copyright Board may fix but it may not exceed 10 percent of the resale price. The *droit de suite* ceases to exist on the expiration of the term of copyright. Infringement of the *droit de suite* does not, however, give rise to any criminal liability because of the bonafide difficulties which may exist in locating the author at the time of the subsequent sale.

Provisions of the *droit de suite* is optional for member countries under the Berne Convention. The TRIPS Agreement, in turn, incorporates the Berne Convention by reference and does not impose any additional requirements with respect to *droit de suite*.

The penalty for copyright infringement is imprisonment for a minimum of six months and a maximum of three years and a fine ranging from Rs. 50,000 to Rs. 2 lakh. The 1994 amendment creates a new *de
minimus punishment of imprisonment for less than six months or a fine of less than Rs. 50,000 where the infringement has not been made for gain in the course of trade or business. The Amendment also creates a de minimus punishment for second and subsequent convictions of imprisonment for less than one year or a fine of less than one lakh rupees where infringement has actually not been made for gain in the course of trade on business.

A radical new penalty has been devised which punishes even the users of an infringing computer program. Any person who knowingly makes use on a computer of an infringing copy of a computer program shall be punishable with imprisonment of at least seven days which may extend to three years and with fine which shall not be less than Rs. 50,000 but which may extend to 2 lakh rupees.

It can, therefore, be said by way of conclusion that the copyright law is of relatively recent origin. The need for protection of authors' right came to be firmly realised only after the advent of printing press. Since then the copyright has seen many ups and down. Yet it is heartening to note that with every passing decade, more and more countries are realising the danger of not giving adequate protection to creators of intellectual property and are thus joining the Copyright Union and bringing changes in their National laws. The Indian law after the 1994 amendment is an excellent piece of example in this context though it is also true that in certain aspects under the U.S. influence and in order to comply with the TRIPS agreement, the amendment has an effect of narrowing down the copyright protection as well.

2. Plagiarism has existed from the earliest times. It appears that Martial was the first to apply the term to intellectual property in speaking of his verses as his children and of him who stone them as plagiarius, a term which in Roman Law was derived from plagium the crime of stealing a human being. See RENOUARD, TRAITE DES DROIT D'AUTEUR, p. 16, quoted in LADAS, P. STEPHEN, THE INTERNATIONAL PROTECTION OF LITERARY AND ARTISTIC PROPERTY, VOL I (1938), New York, P. 13.

3. FRIEDLANDER, ROMAN LIFE AND MANNERS UNDER THE EMPIRE, III, 36.

4. The Roman law secured to the owner of the material used the property in the writing; "And therefore, if Titius has written a poem, a history or an oration, on your paper or parchment, you, and not Titius are the owner of the written paper." The Institutes, Book II, Title I, Section 33.

5. In England for instance in 1556, Mary & Philip granted the stationer's company a charter. This gave a power in addition to the usual supervisory authority over the craft, to search out and destroy books printed in contravention of statute or proclamation. The company was thus enabled to organise what was in effect a licensing system by requiring lawfully printed books to be entered in its Register. Books were entered on the Register of the company as the property of particular printers.


7. The oldest grant of privilege on record was made in 1469 by the Senate of Venice to Gior. Spira, a printer, at Venice. See, BOWKER, COPYRIGHT, ITS LAW AND ITS LITERATURE (New York, 1886), P.4.
8. DRONE, A TREATISE ON THE LAW OF PROPERTY IN INTELLECTUAL PRODUCTIONS IN GREAT BRITAIN AND THE UNITED STATES (Boston, 1879) p.54.


10. COPINGER, Supra note 6, P. 30.

11. (1774) 4 Burr. 2408.

12. COPINGER, Supra note 6, P. 30.


14. Prior to this law, France passed the laws of January 13-14, 1791, July 19 - August 6, 1791 and August 30, 1792 on the protection of dramatic and musical works.

15. LADAS, Supra note 2, P. 19.

16. (1831) 9 L.J. Ch. 227.


18. 8 Peters (1831) 591.

19. Cases are referred to of very enterprising reprintings, such as the cabling from England of a book published by Queen Victoria so that it was put on sale in the U.S. twelve hours after the receipt of the last words of the cable. American printers used to set up the type of English works on the steamers from England to New York so that the books were published in America within a week of their appearance in England see DARRAS, Supra note 9, P. 143.

20. George Haven Pitnam was an outstanding leader of this movement, having issued in 1879 his first pamphlet for International copyright and having continued his fight up to the passage of the Act of 1891 and thereafter. See his compilation, THE QUESTION OF COYRIGHT 2nd ed., 1896.

21. Ibid., P. 33.


23. An Amending Act of March 3, 1905 allowed authors of works, first published abroad in any language other than English, to gain an interim protection for twelve months upon complying with certain conditions (33 stat. L; 1000)

24. This right was protected for five years, provided an authorized translation appeared within a period which varied for each treaty
between one and three years.
25. LADAS, Supra note 2, P. 28.
26. September 27th to 30th, 1858.
27. LADAS, Supra note 2, P. 30.
28. Ibid., P. 49.
29. Ibid., P. 72.
30. See Annales, 1858, P. 452.
32. The questions of international protection of author’s rights were discussed at length at the congresses of Lisbon (1880) and Vieana (1881).
33. The Conference approved this Draft on September 13, 1883.
34. The only countries to reply unfavourably were; the Dominican Republic, Greece, Mexico, Nicaragua and the United States of America. LADAS, Supra note 2, P 77.
35. This country did not ratify the Convention of 1886. Subsequently it acceded to the Union on Oct. 16, 1908.
36. Articles 2 and 3.
37. Article 5.
38. Article 7.
39. Article 8.
40. Article 10 to 14.
41. June 20, 1888.
42. May 30, 1889.
43. July 1, 1893.
44. April 13, 1896.
45. Article 4 of the Additional Act of May 4, 1896 and last paragraph of the Declaration.
46. Montenegro had in the meantime denounced the Convention on April 1, 1899.
47. July 1, 1903.
49. October 16, 1908.
50. August 1, 1904.
51. See, Report of Imperial Copyright Conference 1910 (Cd - 5272).
52. However, Section 23 of the Act enabled the Government by Order in Council to direct that protection shall be refused to non-resident citizens of a country which does not give adequate protection to works of British authors.

53. Article 7 bis.

54. Article 9 (3).

55. Article 6 bis.

56. Article 14 bis.


58. WHALE, R.F. PROTOCOL REGARDING THE DEVELOPING COUNTRIES.


61. See Report of the 1977 Copyright Committee, cmnd. 6732, Paras 50-60 and 85.

62. COPINGER, Supra note 6, P. 566.

63. Article 6.

64. Article 4.

65. COPINGER, Supra note 6, P. 568.

66. Article 7 (1).

67. Article 7 (2).

68. Article 7 (4).

69. Article 7 (3).

70. Ibid.

71. Article 7 (6).

72. Article 2 (3).

73. Article 2 (4).

74. Article 2 (7).

75. Article 2 (2).

76. Article 11 bis (3).
77. Article 4 (2) (b).
78. Article 6.
79. Article 1.
80. Article 2 (1).
81. Article 3 (1); The positioning of such notice on various types of works is considered in the UNESCO Copyright Bulletin, 1957, Vol X, No at PP. 225 and 247.
82. Article 4 (2) (a).
83. Article 4 bis.
84. But see now Article 3 of the Paris Revision of Berne Convention.
85. For the text of these Conventions, see "Copyright Laws and Treaties of the world", prepared by UNESCO.
87. 3 & 4 William V, Ch. 85.
88. 5 & 6 Vict, Ch 45.
89. Act XX of 1847.
90. Upendra Baxi, Supra note 86, P. 499.
91. 1 & 2 Geo. V, Ch. 46.
92. III of 1914.
93. Sections 7 to 12.
94. Upendra Baxi, Supra note 86.
95. Ibid.
96. This recommendation was not accepted.
98. See the statement of objects and reasons to the bill, Report of the Joint Select Committee, Ibid., Upendra Baxi, Supra note 86, P 502.
100. Baxi, Upendra, Supra note 86, P. 503.