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**Copyright (Works of Art) Bill.**

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**ARRANGEMENT OF CLAUSES.**

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Copyright in Paintings, Drawings, and Photographs; Sect. 1.

Not to prevent the Representation of Scenes or Objects previously represented; 2.

Copyright Personal Property. Assignments and Licences, &c. to be in Writing; 3.

Penalties for infringing Copyright; 4.

Penalties on certain Frauds in the Production and Sale of Works of Fine Art, whether Copyright or not; 5.

Pecuniary Penalties how to be recovered; 6.

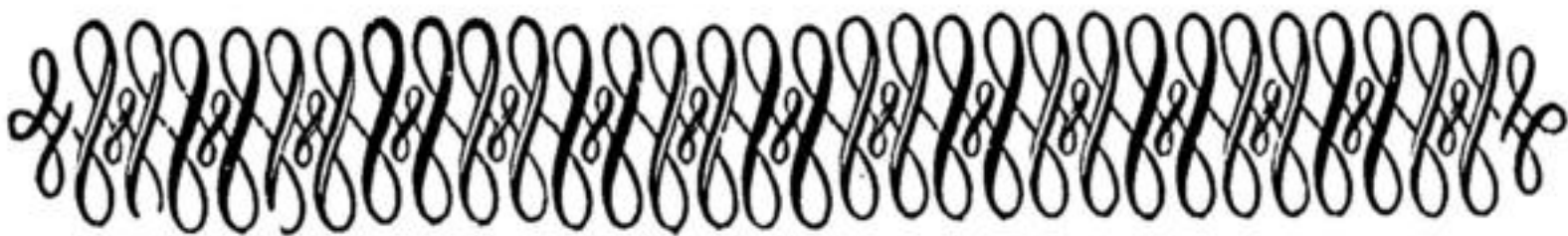
Importation of pirated Copies prohibited; such Copies to be seized at Customs; 7.

Saving of Action for Damages; 8.

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# B I L L

FOR

Amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

**W**HEREAS by Law, as now established, the Authors of Preamble, Paintings, Drawings, and Photographs have no Copyright in such their Works, and it is expedient that the Law should in that respect be amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. The Author of every Painting, Drawing, and Photograph which shall be made, or for the First Time sold or disposed of, either in the British Dominions or elsewhere, after the *Commencement of this Act*, and his Assigns, shall have the sole and exclusive Right of copying, reproducing, and multiplying such Painting, Drawing, or Photograph, and the Design thereof, by any Means and of any Size, for the Term of the natural Life of such Author, and *Seven Years* after his Death; provided that when any Painting or Drawing shall be for the First Time sold or disposed of after the *passing of this Act*, the Person

Copyright in Works hereafter made or sold to vest in the Author for his Life and Seven Years.

so selling or disposing of the same shall not retain the Copyright thereof unless it be expressly reserved to him by Agreement in Writing, signed at or before the Time of such Sale or Disposition, by the Vendee or Assignee of such Painting or Drawing.

Copyright not to prevent the Representation of the same Subjects in other Works.

2. Nothing herein contained shall prejudice the Right of any Person to copy or use any Work of Fine Art in which there shall be no Copyright, or to represent any Scene or Object, notwithstanding that there may be Copyright in a Copy or Imitation previously made of such Work, or in some Representation of such Scene or Object. 5

Assignments Licences, &c. to be in Writing.

3. All Copyright under this Act shall be deemed Personal or Moveable Estate, and shall be assignable at Law, and every Assignment thereof, and every Licence to use or copy by any Means or Process the Design or Work which shall be the Subject of such Copyright, shall be made by some Note or Memorandum in Writing, or by Indorsement in Writing upon some prior Instrument, to be signed by the Proprietor of the Copyright, or by his Agent appointed for that Purpose in Writing. 10 15

Penalties on Infringement of Copyright.

4. If the Author of any Painting, Drawing, or Photograph in which there shall be subsisting Copyright, after having sold or disposed of such Copyright, or if any other Person, not being the Proprietor for the Time being of Copyright in any Painting, Drawing, or Photograph, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply for Sale, Hire, Exhibition, or Distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or, knowing that any such Repetition, Copy, or other Imitation has been unlawfully made, shall import into any Part of the British Dominions, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to be imported, sold, published, let to Hire, distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of the said Work, or of the Design thereof, or of any Part thereof, made without such Consent as aforesaid, such Person for every such Offence shall forfeit to the Proprietor of the Copyright for the Time being a Sum not exceeding *Ten Pounds*; and all such Repetitions, Copies, and Imitations made without such Consent as aforesaid, and all Negatives of Photographs and other Things which shall be exclusively applicable for obtaining such Copies, shall be forfeited to the Proprietor of the Copyright, who shall forthwith destroy the same. 20 25 30 35 40

5. No

5. No Person shall do or cause to be done any or either of the following Acts; that is to say, Penalties on fraudulent Productions and Sales.

First, no Person shall fraudulently sign or otherwise affix, or fraudulently authorize to be signed or otherwise affixed, any Name, Initials, or Monogram upon any Work of Fine Art:

Secondly, no Person shall fraudulently sell, publish, exhibit, or dispose of, or offer for Sale, Exhibition, or Distribution, any Work of Fine Art, having thereon the Name, Initials, or Monogram of a Person who did not execute or make such Work:

Thirdly, no Person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any Copy or colourable Imitation of any Work of Fine Art, whether there shall be subsisting Copyright therein or not, as having been made or executed by the Author or Maker of the original Work from which such Copy or Imitation shall have been taken:

Fourthly, where the Author or Maker of any Work of Fine Art, made either before or after the passing of this Act, shall have sold or otherwise parted with the Possession of such Work, if any Alteration shall afterwards be made therein by any other Person, by Addition or otherwise, no Person shall be at liberty, during the Life of the Author or Maker of such Work, without his Consent, to make or knowingly to sell or publish, or offer for Sale, such Work or any Copies of such Work so altered as aforesaid, or of any Part thereof, as or for the unaltered Work of such Author or Maker:

Every Offender under this Section shall, upon Conviction, forfeit to every Person aggrieved a Sum not exceeding *Ten Pounds*, or not exceeding *double* the full Price at which all such Copies, Engraving, or Imitations shall have been sold, published, or offered for Sale, Publication, or Exchange. Penalties.

6. All pecuniary Penalties which shall be incurred, and all such unlawful Copies, Imitations, and all other Effects and Things as shall have been forfeited by Offenders, pursuant to this Act, may be recovered by the Person herein-before empowered to recover the same respectively, and herein-after called the Complainant, or the Complainer, as follows: Recovery of pecuniary Penalties.

In England and Ireland, either by Action against the Party offending, or by summary Proceeding before Two or Three Justices having Jurisdiction where the Party offending resides: In England and Ireland.

In Scotland by Action before the Court of Session in ordinary Form, or by summary Action before the Sheriff of the County where the Offence may be committed or the Offender resides, who, upon Proof of the Offence or Offences, either by Confession

of the Party offending, or by the Oath or Affirmation of One or more credible Witnesses, shall convict the Offender, and find him liable to the Penalty or Penalties aforesaid, as also in Expenses, and it shall be lawful for the Sheriff, in pronouncing such Judgment for the Penalty or Penalties and Costs, to insert 5 in such Judgment a Warrant, in the event of such Penalty or Penalties and Costs not being paid, to levy and recover the Amount of the same by Poinding: Provided always, that it shall be lawful to the Sheriff, in the event of his dismissing the Action and assoilzicng the Defender, to find the Complainer liable in 10 Expenses, and any Judgment so to be pronounced by the Sheriff in such summary Application shall be final and conclusive, and not subject to Review by Advocation, Suspension, Reduction, or otherwise:

In other Parts of the British Dominions.

In any other Part of the British Dominions, by Action or Suit, 15 or by summary Proceeding before any Court, Judge, Justices, or any Person having Judicial Authority, as nearly as may be in manner herein-before provided with respect to Actions and Proceedings in England and Ireland.

Importation of pirated Works prohibited.

7. All Repetitions, Copies, or Imitations of Works of Fine Art, 20 wherein or in the Design whereof there shall be subsisting Copyright under this Act, and all Repetitions, Copies, and Imitations of the Design of such Work, or of any Part of such Work or Design, which, contrary to the Provisions of this Act, shall have been made in any Foreign State, or in any Part of the British Dominions, are hereby 25 absolutely prohibited to be imported into any Part of the British Dominions, except by or with the Consent of the Proprietor of the Copyright thereof, or his Agent, authorized in Writing; and if imported contrary to this Prohibition, the same and the Importers thereof shall be subject to the Enactments in force relating to Goods 30 prohibited to be imported by any Act for the Time being relating to the Customs.

Application in such Cases of Customs Acts.

Saving of Right to bring Action for Damages.

8. If the Author of any Work of Fine Art in which there shall be subsisting Copyright, after having sold or otherwise disposed of such Copyright, or if any other Person, not being the Proprietor for the 35 Time being of such Copyright, shall, without the Consent of such Proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for Sale, Hire, Exhibition, or Distribution, any such Work or the Design thereof, or any Part of such Work or 40 Design, or shall import or cause to be imported into any Part of the British Dominions, or sell, publish, let to Hire, exhibit, or distribute, or offer for Sale, Hire, Exhibition, or Distribution, or cause or procure to

*Copyright (Works of Art).*

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to be sold, published, let to Hire, exhibited, or distributed, or offered for Sale, Hire, Exhibition, or Distribution, any Repetition, Copy, or Imitation of such Work, or the Design thereof, or of any Part of such Work or Design, made without such Consent as aforesaid, then every  
5 such Proprietor, in addition to the Remedies hereby given for the Recovery of any such Penalties, and Forfeiture of any such Things as aforesaid, may recover Damages by and in a Special Action on the Case, to be brought against the Person so offending, and may in such Action recover and enforce the Delivery to him of all unlawful  
10 Repetitions, Copies, and Imitations, or may recover Damages for the Retention or Conversion thereof: Provided that nothing herein contained, nor any Proceeding, Conviction, or Judgment, for any Act hereby forbidden, shall affect any Remedy which any Person aggrieved by such Act may be entitled to either at Law or in  
15 Equity.

# Copyright (Works of Art).

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## B I L L

For amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

*(Prepared and brought in by  
Mr. Massey, Mr. Solicitor General, and  
Mr. Attorney General.)*

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*Ordered, by The House of Commons, to be Printed,  
27 February 1862.*

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[Bill 26.]

*Under 1 oz.*