

COPYRIGHT

*Exchange of notes at Washington March 10, 1944, with British Order
in Council and proclamation by the President of the United States
Entered into force March 10, 1944
Terminated December 29, 1950, by proclamation of May 26, 1950,¹
and exchange of notes of July 26, 1950²*

58 Stat. 1242; Executive Agreement Series 401

The British Ambassador to the Secretary of State

BRITISH EMBASSY,
WASHINGTON, D.C.

March 10th, 1944

No. 144

MR. SECRETARY OF STATE,

The attention of His Majesty's Principal Secretary of State for Foreign Affairs has been invited to the Act of Congress of the United States of America approved 25th September, 1941,³ which provides for extending, on a reciprocal basis, the time for the fulfilment of the conditions and formalities prescribed by the copyright laws of the United States in the case of authors or proprietors of works first produced or published abroad who are temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential for their compliance.

By direction of Mr. Eden, I write to inform you that, by reason of the existing emergency, British authors and copyright proprietors of certain of His Majesty's dominions, colonies and possessions and citizens of Palestine (excluding Trans-Jordan) do at present lack, and since the outbreak of the war between the United Kingdom and Germany on September 3rd, 1939, have lacked the facilities essential to compliance with and to the fulfilment of the conditions and formalities established by the laws of the United States relating to copyright.

It is the desire of His Majesty's Government in the United Kingdom that, in accordance with the procedure provided in the said Act of September 25th, 1941, the time for fulfilling the conditions and formalities of the copyright

¹ 15 *Fed. Reg.* 3443.

² Not printed.

³ 55 Stat. 732.

laws of the United States be extended for the benefit of (1) British nationals of the United Kingdom of Great Britain and Northern Ireland and of the British territories named in the annexed list, and (2) citizens of Palestine (excluding Trans-Jordan), whose works are eligible to copyright in the United States.

With a view to assuring the Government of the United States of America of reciprocal protection for authors and proprietors of the United States, His Majesty the King has made an Order in Council, the text of which is annexed hereto, which will come into effect from the date on which the President of the United States shall proclaim, in accordance with the said Act of September 25th, 1941 that by reason of the existing emergency, British nationals of the United Kingdom of Great Britain and Northern Ireland and of the British territories named in the annexed list, and citizens of Palestine (excluding Trans-Jordan), who are authors or copyright owners of works first produced or published outside the United States and now subject to copyright, *ad interim* copyright or renewal of copyright under the laws of the United States, are at present and since the outbreak of war between the United Kingdom and Germany on September 3rd, 1939, have been temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States.

His Majesty's Government in the United Kingdom are prepared if this proposal is acceptable to the Government of the United States of America, to regard the present note and Your Excellency's reply to the same effect as constituting an agreement between the two Governments, which shall take effect this day.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

HALIFAX

The Honourable

CORDELL HULL,

*Secretary of State of the United States,
Washington, D.C.*

British India	Ceylon
British Burma	Cyprus
Southern Rhodesia	Falkland Islands and Dependencies
Aden Colony	Fiji
Bahamas	Gambia (Colony and Protectorate)
Barbados	Gibraltar
Basutoland	Gilbert and Ellice Islands Colony
Bechuanaland Protectorate	Gold Coast
Bermuda	(a) Colony
British Guiana	(b) Ashanti
British Honduras	(c) Northern Territories
British Solomon Islands Protectorate	Hong Kong

Jamaica (including Turks and Caicos Islands and the Cayman Islands)	Palestine (excluding Trans-Jordan)
Kenya (Colony and Protectorate)	St. Helena and Ascension
Leeward Islands	Seychelles
Antigua	Sierra Leone (Colony and Protectorate)
Montserrat	Somaliland (Protectorate)
St. Christopher and Nevis	Straits Settlements
Virgin Islands	Swaziland
Malta	Trans-Jordan
Mauritius	Trinidad and Tobago
Nigeria	Uganda Protectorate
(a) Colony	Windward Islands
(b) Protectorate	Dominica
Northern Rhodesia	Grenada
Nyasaland Protectorate	St. Lucia
	St. Vincent

THE COPYRIGHT (UNITED STATES OF AMERICA) ORDER, 1942

No. 1579

At the Court of Buckingham Palace, the 6th day of August, 1942.

PRESENT,

The King's Most Excellent Majesty.

Lord President
Lord Macmillan

Secretary Sir Archibald Sinclair
Mr. Williams

Whereas by reason of conditions arising out of the war difficulties have been experienced by citizens of the United States of America in complying with the requirements of the Copyright Act, 1911¹, as to first publication within the parts of His Majesty's dominions to which the Act extends of their works first published in the United States of America during the war:

And whereas His Majesty is advised that the Government of the United States of America has undertaken to grant such extension of time as may be deemed appropriate for the fulfilment of the conditions and formalities prescribed by the laws of the United States with respect to the works of British subjects first produced or published outside the United States and subject to copyright or to renewal of copyright under the laws of the United States including works subject to ad interim copyright:

And whereas by reason of the said undertaking of the Government of the United States of America His Majesty is satisfied that the said Government has made, or has undertaken to make, such provision as it is expedient to require for the protection of works first made or published during the

¹ 1 & 2 Geo. 5. c. 46. [Footnote in original.]

period commencing on the 3rd day of September, 1939, and ending one year after the termination of the present war within the parts of His Majesty's dominions to which this Order applies and entitles to copyright under Part I of the Copyright Act, 1911:

And whereas by the Copyright Act, 1911, authority is conferred upon His Majesty to extend, by Order in Council, the protection of the said Act to certain classes of foreign works within any part of His Majesty's dominions, other than the self-governing Dominions, to which the Act extends:

And whereas by reason of these premises it is desirable to provide protection within the parts of His Majesty's dominions to which this Order applies for literary or artistic works first published in the United States of America during the period commencing on the 3rd day of September, 1939, and ending one year after the termination of the present war which have failed to accomplish the formalities prescribed by the Copyright Act, 1911, by reason of conditions arising out of the war:

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority conferred upon Him by the Copyright Act, 1911, and of all other powers enabling Him in that behalf, is pleased to direct and doth hereby direct as follows:

1. The Copyright Act, 1911, shall, subject to the provisions of the said Act and of this Order, apply to works first published in the United States of America during the period commencing on the 3rd day of September, 1939, and ending one year after the termination of the present war, which have not been republished in the parts of His Majesty's dominions to which this Order applies within fourteen days of the publication in the United States of America, in like manner as if they had been first published within the parts of His Majesty's dominions to which the said Act extends:

Provided that the enjoyment by any such work of the rights conferred by the Copyright Act, 1911, shall be conditional upon publication of the work within the parts of His Majesty's dominions to which this Order relates not later than one year after the termination of the present war, and shall commence from and after such publication, which shall not be colourable only, but shall be intended to satisfy the reasonable requirements of the public.

2. The provisions of Section 15 of the Copyright Act, 1911, as to the delivery of books to libraries, shall apply to works to which this Order relates upon their publication in the United Kingdom.

3. Nothing in this Order shall be construed as depriving any work of any rights which have been lawfully acquired under the provisions of the Copyright Act, 1911, or any Order in Council thereunder.

4. Where any person has, before the commencement of this Order taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work which at the time was lawful, or for the purpose of or with a view to the reproduction or perform-

ance of a work at a time when such reproduction or performance would, but for the making of this Order, have been lawful, nothing in this Order shall diminish or prejudice any rights or interest arising from or in connexion with such action which were subsisting and valuable at the said date, unless the person who by virtue of this Order becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

5. The Interpretation Act, 1889⁵, shall apply to the interpretation of this Order as if it were an Act of Parliament.

6. This Order may be cited as the Copyright (United States of America) Order, 1942.

7. This Order shall come into operation on the date of its publication in the London Gazette, which day is in this Order referred to as the Commencement of this Order.

E. C. E. LEADBITTER

The Secretary of State to the British Ambassador

DEPARTMENT OF STATE

WASHINGTON

March 10, 1944

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of today's date in which you refer to the Act of Congress approved September 25, 1941 which authorizes the President to extend by proclamation the time for compliance with the conditions and formalities prescribed by the copyright laws of the United States of America with respect to works first produced or published outside the United States of America and subject to copyright under the laws of the United States of America when the authors or proprietors of such works are unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential to such compliance.

You state that by reason of the existing emergency authors and copyright proprietors who are British nationals and authors and proprietors who are citizens of Palestine (excluding Trans-Jordan) do at present lack, and since the outbreak of the war between the United Kingdom and Germany on September 3, 1939, have lacked the facilities essential to compliance with and fulfilment of the conditions and formalities established by the laws of the United States of America relating to copyright.

You express the desire of His Majesty's Government in the United Kingdom that, in accordance with the procedure provided in the Act of Septem-

⁵ 52 & 53 Vict. c. 63. [Footnote in original.]

ber 25, 1941, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of (1) authors and copyright proprietors who are British nationals of the United Kingdom of Great Britain and Northern Ireland and of the British territories named in the list annexed to Your Excellency's note and (2) authors and copyright proprietors who are citizens of Palestine (excluding Trans-Jordan), whose works are eligible to copyright in the United States of America. You add that with a view to assuring the Government of the United States of America of reciprocal protection for authors and copyright proprietors of the United States of America, His Majesty the King has made an Order in Council, the text of which accompanies your note under acknowledgment, which will come into effect from the date on which the President of the United States of America shall proclaim, in accordance with the Act of September 25, 1941 that by reason of the existing emergency British nationals of the United Kingdom of Great Britain and Northern Ireland and of the British territories named in the said list and citizens of Palestine (excluding Trans-Jordan) who are authors or copyright proprietors of works first produced or published outside the United States of America and which are subject to copyright, *ad interim* copyright or renewal of copyright under the laws of the United States of America, are at present and since September 3, 1939 have been temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America.

You further state that His Majesty's Government in the United Kingdom are prepared, if this proposal should be accepted by the Government of the United States of America, to regard the note under acknowledgment and this Government's reply thereto to that effect as constituting an agreement between the two Governments which shall take effect this day.

I have the honor to inform Your Excellency that, with a view to giving effect to the commitment proposed in the note under acknowledgment, the President has issued today a proclamation, a copy of which is annexed hereto, declaring and proclaiming pursuant to the provisions of the aforesaid Act to September 25, 1941 on the basis of the assurances set forth in Your Excellency's note and the Order in Council annexed thereto, that as regards (1) works subject to copyright under the laws of the United States of America, including works eligible to *ad interim* copyright, which were first produced or published outside the United States of America on or after September 3, 1939 by British nationals of the United Kingdom of Great Britain and Northern Ireland and of the British territories named in the aforesaid list, and by the citizens of Palestine (excluding Trans-Jordan); and (2) works of the same authors or copyright proprietors which were entitled to renewal of copyright on or after September 3, 1939, there existed and continues to exist such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright

laws of the United States of America as to bring such works within the terms of the said Act of September 25, 1941 and that accordingly the time within which compliance with such conditions and formalities may take place is extended in respect of such works until the day on which the President of the United States of America shall, in accordance with the said Act, terminate or suspend the said declaration and proclamation, it being understood that the term of copyright in any case is not and cannot be altered or affected by the President's action and that the extension is subject to the proviso of the said Act of September 25, 1941 that no liability shall attach to persons having made lawful use of any work to which the proclamation relates prior to the effective date of that proclamation.

The Government of the United States of America accordingly considers the agreement in regard to such extension of time to be in effect as of today's date.

Accept, Excellency, the renewed assurances of my highest consideration.

CORDELL HULL

Enclosure:

Copy of Proclamation

His Excellency

The Right Honorable

The Viscount HALIFAX, K.G.,

British Ambassador.

COPYRIGHT EXTENSION: UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (INCLUDING CERTAIN BRITISH TERRITORIES) AND PALESTINE

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION ⁶

WHEREAS by the act of Congress approved September 25, 1941, c. 421, 55 Stat. 732, the President is authorized, on the conditions prescribed in that act, to grant an extension of time for the fulfilment of the conditions and formalities prescribed by the copyright laws of the United States of America with respect to works first produced or published outside of the United States of America and subject to copyright or to renewal of copyright under the laws of the United States of America, including works subject to *ad interim* copyright, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

WHEREAS His Britannic Majesty has issued an Order in Council, effective from this day, by the terms of which treatment substantially equal to that authorized by the aforesaid act of September 25, 1941, is accorded, within the British dominions, colonies, protectorates, and mandated territories to

⁶ 58 Stat. 1129.

which that order applies, to literary and artistic works first produced or published in the United States of America; and

WHEREAS the aforesaid Order in Council applies to the United Kingdom of Great Britain and Northern Ireland, British India, British Burma, Southern Rhodesia, Aden Colony, Bahamas, Barbados, Basutoland, Bechuanaland Protectorate, Bermuda, British Guiana, British Honduras, British Solomon Islands Protectorate, Ceylon, Cyprus, Falkland Islands and Dependencies, Fiji, Gambia (Colony and Protectorate), Gibraltar, Gilbert and Ellice Islands Colony, Gold Coast ((a) Colony, (b) Ashanti, (c) Northern Territories), Hong Kong, Jamaica (including Turks and Caicos Islands and the Cayman Islands), Kenya (Colony and Protectorate), Leeward Islands (Antigua, Montserrat, St. Christopher and Nevis, Virgin Islands), Malta, Mauritius, Nigeria ((a) Colony, (b) Protectorate), Northern Rhodesia, Nyasaland Protectorate, Palestine (excluding Trans-Jordan), St. Helena and Ascension, Seychelles, Sierra Leone (Colony and Protectorate), Somaliland Protectorate, Straits Settlements, Swaziland, Trans-Jordan, Trinidad and Tobago, Uganda Protectorate, and Windward Islands (Dominica, St. Vincent, Grenada, St. Lucia); and

WHEREAS the aforesaid Order in Council is annexed to and is part of an agreement embodied in notes exchanged this day between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland; and

WHEREAS by virtue of a proclamation by the President of the United States of America dated April 9, 1910 (36 Stat. 2685), subjects of Great Britain and her possessions are, and since July 1, 1909, have been, entitled to the benefits of the act of Congress approved March 4, 1909, 35 Stat. 1075, relating to copyright, other than the benefits of section 1(e) of that act; and

WHEREAS by virtue of a proclamation by the President of the United States of America dated January 1, 1915 (38 Stat. 2044), the subjects of Great Britain and the British dominions, colonies, and possessions, with the exception of Canada, Australia, New Zealand, South Africa, and Newfoundland, are, and since January 1, 1915, have been, entitled to all the benefits of section 1(e) of the aforesaid act of March 4, 1909; and

WHEREAS by virtue of a proclamation by the President of the United States of America dated September 29, 1933 (48 Stat. 1713), citizens of Palestine (excluding Trans-Jordan) are, and since October 1, 1933, have been, entitled to all the benefits of the aforesaid act of March 4, 1909:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of September 25, 1941, do declare and proclaim:

That with respect to (1) works subject to copyright under the laws of the United States of America, including works eligible to *ad interim* copyright, which were first produced or published outside of the United States of America on or after September 3, 1939, by British nationals of the United Kingdom

of Great Britain and Northern Ireland and of the British territories to which the aforesaid Order in Council applies, or by citizens of Palestine (excluding Trans-Jordan); and (2) works of the same authors or copyright proprietors which were entitled to renewal of copyright under the laws of the United States of America on or after September 3, 1939, there existed and continues to exist such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America as to bring such works within the terms of the aforesaid act of September 25, 1941; and that accordingly the time within which compliance with such conditions and formalities may take place is hereby extended with respect to such works until the day on which the President of the United States of America shall, in accordance with that act, terminate or suspend the present declaration and proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation, and that, as provided by the aforesaid act of September 25, 1941, no liability shall attach under the Copyright Act for lawful uses made or acts done prior to the effective date of this proclamation in connection with the above-described works, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this tenth day of March, in the year of our Lord one thousand nine hundred and forty-four, and of [SEAL] the Independence of the United States of America the one hundred and sixty-eighth.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.