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

58 Stat. 1242; Executive Agreement Series 401

The British Ambassador to the Secretary of State

BRITISH EMBASSY,
WASHINGTON, D.C.
March 10th, 1944

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, 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

2 Not printed.
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.*

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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             Secretary Sir Archibald Sinclair
Lord Macmillan              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, 1911, 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 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 & 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 re-
production or performance agrees to pay such compensation as, failing agree-
ment, may be determined by arbitration.

5. The Interpretation Act, 1889 *, 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 Com-
 mencement of this Order.

E. C. E. Leadbetter

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 Septem-
ber 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 King-

*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 acknowl-
edgment, 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 (ex-
cluding 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 Septem-
ber 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 Excel-
lenary'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 copy-
right on or after September 3, 1939, there existed and continues to exist such
disruption or suspension of facilities essential to compliance with the condi-
tions 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 *

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

* 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 can-
not 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 Copy-
right 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 under-
taking or enterprise lawfully undertaken prior to such date involving expendi-
ture 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 hun-
dred and sixty-eighth.

FRANKLIN D. ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.