worth reprinting, a sale would be found for these remaining copies, and he could not refuse to sell.

The foregoing objections are entirely to matters of detail, which may be easily remedied, and do not in any way interfere with the main principle of the bill.

Therefore we doubt not that a measure, so imperatively one of national justice; which has for its object the benefit of the good and the great, and tends to make the reward of merit proportionally greater than that of fortune; which allows genius and learning to pursue their labours in the face of death, secure in the knowledge that the fame which posterity will confer on their name, will not be unaccompanied by substantial benefits to their family, and that they have not to blame themselves for pursuing an empty vanity, and neglecting the provision of a competence for those they leave to bewail their loss; but have obtained the one by the same efforts as the other, and fulfilled at the same time their aspirations for fame and their duties as members of society—will receive the unqualified sanction of the legislature—and we shall then at least have done something to avoid that eloquent reproach of Dryden,—" that it continues to be the ingratitude of mankind, that they who teach wisdom by the surest means, shall generally live poor and unregarded, as if they were born only for the public, and had no interest in their own well-being, but were to be lighted up like tapers, and waste themselves for the benefit of others."

APPENDIX,

CONTAINING

THE STATE OF COPYRIGHT IN FOREIGN COUNTRIES.

"C'est surtout par la législation comparée que la question de propriété littéraire peut avancer vers sa solution ; car c'est en combinant les systèmes adoptés par des peuples aussi divers par leurs institutions que par leurs mœurs, qu'on reconnaîtra quelle est sa véritable essence et jusqu'à quel point elle peut se constituer par elle-même, sans le secours de l'autorité civile, ou bien si effectivement les droits de chacun sur l'œuvre livrée à tous, ne peuvent se trouver réglés que par la puissance publique."

M. Victor Foucher.

LIST OF COUNTRIES,

A NOTICE OF THE LAW OF COPYRIGHT IN WHICH IS CONTAINED IN THE APPENDIX.

AMERICA.

FRANCE.

HOLLAND AND BELGIUM.

States of the GERMANIC CONFEDERATION, Collectively.

Separately I. AUSTRIA.

——— II. PRUSSIA.

——— III. BAVARIA.

——— IV. WURTEMBERG.

——— V. BADEN.

——— VI. HESSE CASSEL.

——— VII. SAXE COBURG GOTHA.

——— VIII. SAXE MEININGEN.

——— IX. HAMBURGH.

——— X. OTHER STATES.

RUSSIA.

DENMARK.

NORWAY AND SWEDEN.

SPAIN.

THE TWO SICILIES.

APPENDIX.

THE UNITED STATES.

Before the separation of the American colonies from the mother country, a Law of Copyright there was equally unnecessary and unknown. But the intellectual activity which the struggle for their independence created, and their success increased, soon called for some protection of its labours; and different laws were passed for this purpose by the legislatures of the several States. But as no effectual remedy could be had by these means, since the work protected in one State might be re-printed immediately in the adjoining one, it was made one of the articles in the Constitution of the United States that Congress should have power, "to promote the progress of science and the useful arts, by securing for limited times, to authors and inventors the exclusive right to their respective writings and discoveries." *

In pursuance of this power, Congress as early as the second session, 1790, passed an act framed on the model of the 8 Anne, c. 19, by which an absolute term of 14 years was given to the author, with a contingency of another 14 years, should he survive the first 14. † This was amended by a subsequent act, ‡ in 1802; but they are now both repealed by an act passed the 3rd of Feb. 1831, ‖ which is the existing regulation on the subject.

By this act, the Copyright in a work is secured to an author being a citizen of the United States, or resident therein, *for the term of* 28 *years;* and if either he, his wife, or children, survive that period,

* Sec. 8. Story on Const. of U. S. vol. 3. p. 48.

† Passed May 31, 1790. ‡ April 29, 1802.

‖ Gordon's Dig. of Amer. Laws. A supplementary law to this was passed in 1834, respecting certain formalities to be observed in assigning Copyright.

then *for a further term of* 14 *years.* * The proceedings necessary to be taken to secure the Copyright, &c., are also much simplified and amended.

The penalty for piracy, besides the confiscation of the pirated edition for the use of the party aggrieved, is fifty cents for every sheet found in the possession of the offender.

The report of the Judiciary Committee, on which the above act was founded, was couched in terms which would have led one to expect a greater boon to authors, than it affords. They say :—

"Your committee believe that the just claims of authors require from our legislation, a protection not less than what is proposed in the Bill reported. Upon the first principles of proprietorship in property, an author has an exclusive and *perpetual* right, in preference to any other, to the fruits of his labour. Though the nature of literary property is peculiar, it is not the less real and valuable. If labour and effort in producing what before was not possessed or known will give title, then the literary man has title, perfect and absolute, and should have his reward : he writes and he labours as assiduously as does the mechanic or husbandman. The scholar who secludes himself, and wastes his life, and often his property to enlighten the world, has the best right to the profits of those labours : the planter, the mechanic, the prefessional man cannot prefer a better title to what is admitted to be his own. Nor is there any doubt what the interest and honour of the country demand on this subject. We are justly proud of the knowledge and virtue of our fellow-citizens. Shall we not encourage the means of that knowledge, and enlighten that virtue, so necessary to the security and judicious exercise of civil and political rights? We ought to present every reasonable inducement to influence men to consecrate their talents to the advancement of science. It cannot be for the interest or honour of our country that intellectual labour should be depreciated, and a life devoted to research and laborious study terminate in disappointment and poverty." †

A legal American writer of some repute, ‡ thus accounts for the difference between the Bill reported and the language of the report :

"It will be seen," says he, "by the above extract, that a respectable committee of the House of Representatives assert, that an author, according to all the

* "Whether this contingent term be assignable before the expiration of the first term, seems uncertain." Nicklin on Lit. Prop. p. 76.

† In the Amer. Jurist. vol. x, p. 79, 80.

‡ The writer of the article on Lit. Prop. in the Amer. Jurist. vol. x, is so spoken of by Mr. Nicklin, p. 68.

rules of law, has a perpetual Copyright; and it is evident that that committee would have reported a Bill to this effect, if they had thought the *public mind prepared* for so great a change *at one stride*. But *the time*, we venture to augur, *is not far distant* when authors will be placed upon an equality with their fellow men in the enjoyment of what they earn by their labour. The public are growing more and more disposed to admit, that if there be one description of property which merits more protection, or one which it is more politic to favour than another, it is literary property; and certainly if there be any sum which the public are more free in paying than another, it is the trivial extra sum put upon a book, which is intended for the author's pocket."

On the 16th of Feb. 1837, a report was made, and a Bill subsequently brought in, to extend to authors of Great Britain the same privileges as American authors enjoyed; but I do not find that anything was done to follow up these steps. The report was brought in by Mr. Clay, and from the liberality and justness of its sentiments, does honour to its framers: but it is a difficult task to persuade a nation to forego a benefit, merely because it is just to do so; and America will ever be unwilling to extend to British authors a protection, while she cannot claim from Great Britain an equivalent advantage, having comparatively few or no authors to profit by a similar protection to American authors in England.

In the meantime, however, an amendment of the law of 1831, by a further extension of the term of Copyright, is much talked of in America.

FRANCE.

In France, as in England, the first protection that literary property received, was by means of privileges: but with this difference, that the infringement of those privileges in the former country, was visited with much heavier penalties, than in the latter. For the printing a work, the sole right to which belonged to another, was looked on as little better than theft, and punished accordingly. Indeed, it was said, that such conduct was worse than to enter a neighbour's house and steal his goods: for negligence might be imputed to him for permitting the thief to enter: but in the case of piracy of Copyright, it was stealing a thing confided to the public honour.

And in this light did Louis XIV. treat it, when he issued an edict dated the 27th of February, 1682, by which he prohibited all booksellers and printers of Lyons, and others, from printing any books, the sole privilege of printing which, had been granted to another; on pain of corporal punishment.

The severity of this law, was somewhat softened by a subsequent edict of August, 1686; according to which, the penalty of corporal punishment was only incurred by a second offence: but the party so offending twice, was for ever disabled from exercising his trade of bookseller or printer.

These injunctions were renewed by an order of the 28th of February, 1723, Art. 109: but notwithstanding, piracies of books so much increased, that it was found necessary to put some heavier penalties on parties offending. An edict of council was accordingly passed,* by which all printers printing a pirated book, and all booksellers in whose possession copies of such pirated edition should be found; were liable, each, to a penalty of 6,000 *livres*: and for a second offence in addition to the above fine, were rendered incapable of ever again exercising their respective trades. Besides this, they were held liable in a demand for damages, at the suit of the parties injured; and by a subsequent edict,† this demand might be enforced by bill and information.

The protection that these edicts afforded to literary property, was, however, taken away by the famous decree of the National Assembly, by which all *privileges* of whatever kind they might be, were abolished.‡ But as amidst the tumult and confusion that attended

† 30th August, 1777. There were two edicts of the same date. Mr. Okey, the counsel to the British Embassy at Paris, in a communication obligingly furnished to the author, thus states the effect of the other:—"By a decree of the Council in 1777, (under Louis XVI.) when a privilege was granted to the author of a work, it was vested in him and his heirs for ever, until he assigned it. Upon assignment, the privilege lasted only during the life of the author. When leave to print, was granted to booksellers or printers, it could not be for less than ten years; and held good, during the life of the author, if he survived that period, or any other period fixed: the privilege could be renewed, when the work was increased by one fourth.

* 30th July, 1778.

‡ 4th of August, 1789.

the civil wars in England, this property was not long suffered to remained unprotected: so even amidst the horrors of the French revolution, measures to secure and preserve the rights of authors were not neglected. A decree was passed on the 19th of July, 1793, by which it was declared, that authors should enjoy exclusively, during their lives, the emoluments of their works; and that their heirs or assigns, should enjoy the same, for the term of ten years after their death, on penalty of a fine equivalent in value to three thousand copies of the original edition.*

It is, as Chancellor Kent well remarks,† 'A singular fact in the history of mankind, that the French National Convention in 1793, should have busied themselves with a law of this kind, when the whole Republic was at that time in the most violent convulsions; when the combined armies were invading France, and besieging Valenciennes; and when Paris was one scene of sedition, terror, proscription, imprisonment, and judicial massacre.'

The next law that was passed on the subject, and which is the one now in force, is a government decree under the empire, dated the 5th of February, 1810; by which the property in a work, is secured to the author *for his life*, to his widow *for her life*, and *after their death*, to their children *for twenty years*.‡ And besides an action for damages given to the author and his assigns, and the copies confiscated for his profit, a penalty is imposed of not more than 2,000 or less than 100 fr. against the party offending.‖

This law is, however, far from being considered satisfactory; both on account of the shortness of the term of Copyright

* This decree was introduced by Lakanal, who in making the report, thus ostentatiously described literary property. "De toutes les propriétés, la moins susceptible de contestation, c'est, sans contredit, celle des productions du génie; et, si quelque chose peut étonner, c'est qu'il ait fallu reconnaître cette propriété, assurer son libre exercice par une loi positive; c'est qu'une aussi grande révolution que la nôtre ait été nécessaire pour nous ramener sur ce point, comme sur tant d'autres, aux simples éléments de la justice la plus commune."

† 2 Kent's Comm. 378.

‡ Art. 39 and 40. "If there are no children," says M. Victor Foucher, Rev. Etr. de legisl. tom iv. p. 338, "then the other heirs or assignees, only enjoy the exclusive privilege for a period of ten years from the death of the author."

‖ Code pénal, 1810, Art. 427.

in particular cases, and of a distinction created by it, between dramatic and other writers. A commission was appointed as early as in 1825, with M. le vicomte de la Rochefoucauld at its head, to examine into, and remedy these evils. They submitted a project, by which the term of Copyright was to extend to fifty years from the death of the author, for the benefit of his widow, his heirs, legatees, or donees; and in case of posthumous works, for a period of fifty years to the proprietor of the same. And if the author in his life-time should have assigned away his interest to a third party; that then such party, should pay by consent, or by force of law,* a further sum to his heirs, by way of compensation.

This report was only agreed on, after numerous meetings, and long and grave deliberations; and from the high scientific and literary character of those who assisted at its discussions, seemed to merit both attention and success. However, no steps appear to have been taken in consequence of their recommendation.

In 1837, a commission was again appointed, under the presidency of M. le comte de Ségur, to determine the nature of the rights of authors, and to fix their duration; and they came to a resolution in the same spirit with that of 1825:—that the existing regulations should still be preserved, but that the term after the author's death should be for fifty years, to the widow and representatives of the author.

In this report, the noble president says, that

'The commission had no difficulty in deciding that published works of art, of science, or of letters, ought to be considered as absolute property, of which the author has the right to preserve the entire disposal; and that this property is transmissible with the same rights, in the hands of his heirs or assigns; at the same time acknowledging that after the death of the author, the right of property in his heir undergoes a modification: that it is mixed up with the right which society has acquired to its publication, a right, which the heir of the author has no longer the power to deny them.'

A commission was also charged, in 1837, to consider the state of Copyright as respects the works of French authors reprinted abroad;

* "payer à l'aimable, ou judiciairement."

and in the report they presented,* they recommend the following articles ;—

1st. That as any measure having for its object the protection of French Copyrights abroad, must offer to foreigners the same security for their Copyrights in France, the following provisions shall be passed :—

That no works, published for the first time in a foreign country, shall be reprinted in France either during the life of the author, or for a certain period after his death, to be fixed by treaty, without the consent of the author or his representative ; and that every work so printed shall be reputed a piracy, and subject to all its penalties.

That this provision shall apply only to the works of those countries, in which a similar protection shall be afforded to French works first published in France.

And that no books printed abroad in the French tongue, shall be permitted to be imported into France, except at certain frontier towns therein named, unless such as are clearly for the personal use of the possessor.

These provisions were chiefly aimed at Belgium, from whose capital all Europe is supplied with the best productions of French literature at half the price of the French editions; but unluckily for the authors of France, Belgium is little likely to enter into any reciprocal treaty on the subject, for she does not hesitate to assign to France, as a reason for her refusal, as America has assigned to England, that she would thus be depriving herself of a lucrative branch of trade, without having any authors to reap a consequent advantage by the protection of their Copyrights in France.

In the beginning of last year, 1839, a Bill was introduced into the French legislature, by M. de Salvandy, (most probably originating from the report of M. le Comte de Ségur above noticed), having for its object the prolongation of the term of Copyright to 30 years after the death of the author ; but in the angry and tumultuous debates which that short session produced, the Bill was lost sight of, and subsequently abandoned.

In the King's speech, on opening the Chambers this year, (January 1840), allusion is made to a projected measure for the amendment of the law of literary property ; but I am informed that this refers more particularly to the state of international law between France and Belgium, and not to any intention of lengthening the present term of Copyright.

* Printed in the '*Moniteur*' of 20 Feb. 1837.

In the meantime, however, several pamphlets have appeared on the subject, strongly advocating an alteration, and forcibly exposing the injustice of the present law in some instances. In one of these, the author, Mons. Bossange, an eminent French bookseller, even goes the length of advocating the principle of perpetuity. He says :—

"La justice, le bon sens, et l'équité, veulent que la propriété littéraire ne soit plus un mensonge sous forme de concession temporaire. Il faut qu'elle soit une propriété garantie par les lois, *inviolable et toujours*."

The same writer also proposes the adoption of a new species of Copyright, which is not unworthy of consideration. After a certain period, according to his scheme, every work shall be open to any to print, on payment of a certain fixed sum to the proprietor of the Copyright, (which shall be perpetual) according to the number of copies sought to be printed.

HOLLAND AND BELGIUM.

When Belgium ceased, in 1814, to be a portion of the French Empire, a decree was issued* repealing all the French laws on printing and books, and enacting that in future, the author of every original work should have the exclusive right of printing and selling it, throughout the government of Belgium, during the life of the author, and his widow and heirs, after his death, for their respective lives. And any one importing or printing the same without the consent of such parties, during the above periods, should forfeit all the copies and a sum equivalent in value to three hundred copies of the original edition, both for the use of the party aggrieved; excepting always that a single copy of a work which a person might bring for his own use into Belgium, should not subject such person to the fine, but only to the confiscation of the copy.

Not long afterwards a law was passed,† which being made for the whole kingdom of the Netherlands, embraced likewise Belgium, and repealed the foregoing decree wherever the enactments contained were contradictory.

* 23 Sept. 1814. † 25 Jan. 1817.

It limits the duration of Copyright to the author *for his life*, and to his heirs or representatives, *for twenty years after his death*, on penalty of confiscation of all the unsold pirated copies in the kingdom to the use of the proprietor of the Copyright; of a fine equivalent in value to 2000 copies of the original edition, also to the use of the proprietor; besides a fine of not more than a thousand, nor less than an hundred florins, to be given to the poor of the district where the offender resides; and in case of a second offence, the offender to be disabled from the exercise of his trade of printer or bookseller, the whole without prejudice to the provisions and penalties, imposed or to be imposed by the general laws respecting piratical printing.

Although Holland and Belgium are now separate kingdoms, I understand this law is the one still in force in both countries. It has been styled the Act of *habeas animam*, on account of the protection which its accumulation of penalties confers on the productions of authors in those countries.

GERMANY.

In looking at the state of Copyright in Germany, it may be as well to regard first, the general protection given to it throughout the thirty-eight States, composing the Confederation, and afterwards the particular protection afforded to it in each State.

The 18th Article of the Act of the Germanic Confederation, of the date of the 8th of June, 1815, is thus expressed :—

"The Diet shall take into consideration, at its first meeting, some plan for uniform legislation on the liberty of the press, and also what steps are necessary to be taken to secure authors and publishers from invasion of their copyrights."

It appears, that notwithstanding the expediency thus acknowledged, of some measure on the subject, the Diet could not, after frequent deliberations, succeed in coming to any satisfactory conclusion; and matters thus remained until the 6th of September, 1832, when they issued the following decree :—

"In conformity to the 18th article of the Act of the Germanic Confederation, and to preserve the rights of authors, publishers, and booksellers, from piracy of works of literature, or objects of art, the Sovereign Princes and Free Cities of

Art. 1169 declares, that the rights of authors respecting the reprinting of their works *shall not descend to their heirs.*

And Art. 1171 refers to the political laws † *(les lois politiques)* for the penalties to be inflicted in cases of invasion of literary property.

II. Prussia.

This country took an early interest in the protection of Copyright. On the 16th of August, 1827, the king of Prussia addressed to his Minister of State an Order of Council, couched in the following terms :—

"The deliberations of the Diet of Francfort, to arrive at a uniform legislation for the protection of authors and publishers from literary piracies, in conformity to the 18th article of the Act of Confederation, not having been attended with any satisfactory result, I approve of the conclusion of your report of the 23 of July. In consequence of which, and until some definite conclusion shall be arrived at, by a decree of the Diet, negociations shall be entered into with all the German States, in which Copyright is protected, to agree provisionally upon this principle :—that in the application of the existing laws, all distinctions betwixt natives and foreigners shall be abolished as respects the subjects of the contracting States; so that the subjects of one State shall have the same protection in another, as if they were born in the latter. These treaties, when entered into, shall be published in 'the Bulletin des lois.'"

In consequence of this order, treaties for this purpose were concluded, in 1827, 1828, and 1829, with the governments of Anhalt-Bernburg, Anhalt-Dessau, Anhalt-Coethen, Baden, Bavaria, Brunswick, Bremen, Denmark, (as far as regarded the Duchies of Holstein, Lauenburg, and Schleswig,) Hamburg, Hanover, the Grand Duchy of Hesse, and the Electorate of Hesse, Hohenzollern-Hechingen, Hohenzollern-Siegmaringen, Lippe-Detmold, Lübeck, Mecklenburg-Schwerin, Mecklenburg-Strelitz, Nassau, Oldenburg, Reuss-Lobenstein, Reuss-Plau, (the elder branch), Reuss-Schleitz, Saxony, Saxe-Altenburg, Saxe-Coburg, Saxe-Gotha, Saxe-Meiningen, Saxe-Weimar, Schauenburg-Lippe, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Waldeck, and Wurtemberg.

† I have not been able to meet with these laws.

An ordonnance of the King of Prussia, dated the 12th of February, 1833, extended to those provinces of his Kingdom, which do not form part of the Germanic Confederation, the benefits resulting from an uniform system of laws on literary property. This ordonnance is couched in the following terms :

" In the application of the legislative provisions and measures taken with regard to piracies of literary works, and works of art, we abolish all distinction between the subjects of the provinces of our Monarchy, which do not form a part of the Germanic Confederation, and the subjects of the States of that Confederation ; always however on the understanding of reciprocity : therefore the publishers, booksellers, and authors of the Confederated States shall enjoy in our provinces, situated beyond the limits of the Confederation, the same legal protection as is there established, against piratical invasions of their Copyright."

The laws in Prussia, with respect to Copyright, till amended by the law of 1837, were to be found in the 'Code général pour les Etats Prussiens,' partie 1, tit. 11, § 10, 26, et suiv. § 1032 et suiv. partie 2, tit. 20, §. 1294 et suiv : ; a French translation of which was published, 'en l'an IX, à l'imprimerie royale.'

This code treats very largely upon questions arising as to the right of copying or editing works. It would appear from articles 1020, 1021, 1022. 1029, and 1030, that as a general rule, the right of an author did not descend to his heirs, except by an express agreement and in writing : but that even where the right of the author expired for want of such agreement, and every one was free to print his work ; yet if the author had left children in the first remove or degree, the editor, or publisher of the new edition was obliged to make terms with them : so that although the right of editing did not belong to the children of the author, nor could they prevent the reprinting of their parent's works ; yet at least they participated in the profit gained by booksellers, in their re-impression.

But now by an ordonnance of the date of the 11th of July, 1837, the law of Copyright throughout Prussia, is put on a more favourable and juster basis.

Sect. 5 declares that an author shall enjoy the sole right of printing his work *for his life.*

Sect. 6 confers on the heirs of the author the same right *for a period of thirty years,* to be reckoned *from his death :* the same in the case

of a posthumous publication as in any other: and that after that period every work shall be open to any to print.

Sect. 35 gives a retrospective effect to the foregoing clauses.

And Sect. 38 extends the protection of this law to works first published in a foreign state, in the same proportion as works first published in Prussia are protected in that foreign state.

A project of a law has been lately prepared by the government of Prussia, to prevent the introduction into Germany of piratical editions of German works printed abroad, in France, Belgium, and Switzerland; which up to this time was not prohibited by any legislative enactments: and this law was to be submitted for adoption to the rest of the Germanic States.

III. Bavaria.

The Code civil of Bavaria, which contains the regulations for the protection of Copyright in that country, has not yet been published; but it would appear from the terms of the following article of the Code penal, that literary property descends to the heir or representative of the author in that country; but for how long, does not appear.

Art. 397. "The regulations relative to the protection which literary property enjoys, are contained in the Code civil. Every person who shall, without the consent of the author, *his heirs, or representatives*, publish by printing or otherwise, a work of science or art, without having so altered it as to make it a work of his own, shall be liable, independently of a claim for damages, to the penalties contained in the privileges accorded to publishers; or where there are no particular penalties enjoined, then to the punishments established by the law relative to offences against the police.

IV. Wurtemberg.

In Wurtemberg, an ordonnance of the date of the 21st of February, 1815, prohibited any from reprinting a work, the sole printing of which had been granted by a privilege from the King.

On the 11th of July, 1836, was presented to the Chamber of Deputies, the following project of a provisional law on Copyright.

'Until a general law can be made with respect to literary property, the following regulations shall be observed: Art. 1. Authors and publishers, subjects of one of the Germanic States, shall enjoy, with respect to all works already printed or hereafter to be printed, the sole right of re-printing them *for six years from their first publication*, without any payment, and with the same protection against piracy, as if they had obtained a special privilege, in conformity to the law of the 21st of Feb. 1815. Art. 2 permits unauthorized copies already printed at the passing of this law, to be sold, on bringing them to be stamped within a month after the passing of the law, for which no charge shall be made. Art. 3 saves the rights of all those, who under the existing law enjoy a more extensive privilege than would be conferred on them by this law.'

This law was passed on the 22nd of July, 1836.

V. Baden.

The law of Literary Property in the Grand Duchy of Baden, forms eight additional articles to the title "Propriété" in the Code civil;* and from them, it would appear that an author's right to the sole reprinting of his works *descends to his heirs*, and is not extinguished by his death; unless he has parted with his interest to a publisher; when it is open to all to print, if the bookseller has not obtained a special privilege.†

VI. Hesse-Cassel.

In Hesse Cassel an ordinance has been published, that after the 1st of July, 1829, no work first printed and published in a state of the Germanic Confederation, where the author, printer, and publisher, reside in the state where it is published, shall be reprinted within the

* Art. 577, d-a- to 577, d-h-

† I am not sure that the above is the correct construction of these articles: for I have only been able to meet with them in a French translation, and any inference that may be drawn from the use of one word instead of another, is, when applied to a translation, liable to great error.

Electorate of Hesse, *during the life time* of the author, or *for a term of ten years after his decease*: provided that in such State, where the work is first published, copyright be acknowledged and protected.

VII. Saxe-Coburg-Gotha.

In this Duchy, an ordinance has also been published (in 1827), against literary piracy. It directs that after *thirty years* have elapsed *from the death* of an author, all rights that have descended to his heirs shall cease, as well as those which have been acquired by booksellers.

VIII. Saxe-Meiningen.

An ordonnance of the Duke of Saxe-Meiningen, of the date of the 23rd of April, 1829, declares the duration of Copyright to be *for the life* of the author, and *for twenty years after his death*.

IX. Hamburgh.

The Senate published, in July 1828, a provisionary decree for the protection of literary property, till the Diet should determine the question finally, giving the exclusive privilege of reprinting, *for two years*, within the city and its territory, to all works first printed in one of the States of the Confederation: such term to date from the date of publication.

X. Other States.

In *Saxony*, an edict of 1773 prohibits literary piracy; in *Hanover*, one of the 17th of September, 1827; in *Nassau*, one of the 4th and 5th of March, 1814; in *Reuss*, one of the 24th of December, 1827; and in *Anhalt-Coethen*, one of 1829; but I am not able to state the periods for which Copyright endures in these countries. Enough, however, has been shown, to prove that the greater part of Germany

is favourable to the principle, *which extends the property in a work for a certain period beyond the death of the author for the benefit of his heirs;* and it must not be forgotten that, independent of the peculiar privileges which an author enjoys in his own State, he participates in the benefit of the Act of the diet of 1837, which gives him an exclusive privilege over a vast tract of country, comprising many independent kingdoms and principalities, speaking the same common language, for the space of ten years; and that there is great probability that ere long even this term will be increased.

RUSSIA.

When we come to look at the Russian laws, we find an enlightened liberality of conduct with regard to the rights and privileges of authors, which should make governments that boast of more freedom and civilization, shrink from the comparison.

In the Russian Code, we shall find what is not to be found in any other state, an enactment conferring on certain degrees of literary success, certain titles of rank and honour;* and although I may be told, that without the ostentatious formality of a law to that effect, other nations confer as substantial and as flattering marks of distinction on their men of genius and learning,—I will answer, that yet it cannot fail to be a favourable sign of the legislation of a country, when the claims of genius and learning to an honourable situation are thus publicly acknowledged and secured by the statutes of the country which they enlighten and adorn. But this is not the proper place to discuss this question, our object now being to show the difference in the protection afforded to Copyright under different governments.

A law passed in January, 1830, repealed a former law on the 4th of May, 1828, and enjoins the following provisions, which form the present law on the subject.

The author or translator of a work shall have the sole right of printing and disposing of it *during his lifetime*, and his heirs and assigns shall enjoy the same *for the term of twenty-five years after his de-*

* See the extracts given in the Rev. Etr. de Legisl. tom. iv.

cease; and for a *further term of ten years,* if they shall publish an edition within five years before the expiration of the first term.

The Copyright of a work which the author has not parted with, cannot be taken in execution by his creditors, no matter whether it has been published or not; nor in cases of bankruptcy of booksellers, can the creditors avail themselves of any benefit to which the bookseller might have been entitled by any contract with an author, unless they fulfil the same engagements with the author which the bankrupt had bound himself to perform.

In every case, the party guilty of piracy shall pay to the proprietor of the work the difference between the actual cost of the pirated edition, and the selling price of the original edition; and shall forfeit to the use of the proprietor all the copies of such unlawful reprint. And until definitive judgment shall be pronounced, the edition accused of being pirated shall be restrained from being sold. The judgment shall determine the amount of damages resulting from the offence.

Such is a brief outline of the present law of Copyright in Russia, which, for the protection it affords literary property, may safely challenge comparison with the legislative enactments of most countries in Europe.

DENMARK.

Mr. Nicklin, the American bookseller, in his little pamphlet on Literary Property, Pref. p. vi., says that he had the following information "from the best authority." "The Copyright of publications in Denmark is *perpetual.* The reprinting of foreign works is generally permitted, with the exception of those of foreign countries protected by treaty stipulations, to which Denmark more particularly has acceded with the German States." As to the treaty stipulations, see ante p. 124, by which it appears that they only apply to the Duchies of Holstein, Lauenburg, and Schleswig.

NORWAY AND SWEDEN.

"In these countries," says a learned writer, in the Amer. Jurist. vol. x, p. 69, "the Copyright is *perpetual.*"

SPAIN.

Victor Foucher is of opinion that the proper construction to be put upon a law of 1805, is, that Copyright is *perpetual* in this country. He refers to "Novissima Recopilatione, 1805, liv. 8, tit. 15, 16, 17, 18, and 19."*

THE TWO SICILIES.

Articles 322 and 323 of the penal code of the Kingdom of the Two Sicilies,† punish literary piracy with a fine of not less than one third, nor more than the double of the sum awarded as damages to the proprietor of the Copyright, two thirds of which fine are to go in addition to damages and the confiscated copies to the proprietor; and besides these punishments, imprisonment for one month is added when the damages exceed 500 ducats (£85).

Respecting the duration of Copyright, and the privileges of authors, Victor Foucher says, "that although he is not able to affirm it, he believes that they are *the same as in France*, the Sicilies having retained, as he understands, the 'lois civiles' of that country.‡

* Rev. Etr. de Legisl. tom. iv. p. 370, *bis*.

† There is a French translation of this code in the 'Coll. des lois civ. et crim. des Etats Modernes' — A l'imprim. Roy. Paris, 1834—7.

‡ Rev. Etr. de Legisl. tom. iv. p. 370, *bis*.

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