# THE LAW
## OF
# PUBLIC ENTERTAINMENTS

**Theatres, Music and Dancing, Stage Plays,
Cinematographs, Copyright,
Sunday Performances, Children,
Theatrical Cases and Specimen Contracts**

BY
ALFRED TOWERS SETTLE
AND
FRANK H. BABER

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# THE LAW

OF

# PUBLIC ENTERTAINMENTS

THEATRES, MUSIC AND DANCING, STAGE PLAYS,

CINEMATOGRAPHS, COPYRIGHT,

SUNDAY PERFORMANCES, CHILDREN,

THEATRICAL CASES AND SPECIMEN CONTRACTS


BY

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# CONTENTS.


| | PAGE |
|---|---|
| Theatres Act, 1843 | 1 |
| Disorderly Houses Act, 1751 | 16 |
| Music and Dancing Licences (Middlesex) Act, 1894 | 27 |
| Metropolis Management and Building Act Amendment Act, 1878 | 31 |
| Public Health Acts Amendment Act, 1890 | 39 |
| Public Health Acts Amendment Act, 1907 | 45 |
| Baths and Washhouses Act, 1899 | 46 |
| Theatre Licences for Music Halls | 47 |
| Sunday Observance Act, 1781 | 48 |
| Sunday Observance Prosecution Act, 1871 | 53 |
| Remission of Penalties Act, 1875 | 55 |
| Copyright in Dramatic and Musical Works | 55 |
| Copyright Act, 1911 | 57 |
| Cinematograph Act, 1909 | 89 |
| Children's Dangerous Performances Act, 1879 | 97 |
| Dangerous Performances Act, 1897 | 99 |
| Prevention of Cruelty to Children Act, 1904 | 100 |
| Children Act, 1908 | 111 |
| Cases on Theatrical Contract, &c.: | |
| Customs and Usages | 113 |
| Illegality; Unlicensed Theatre | 114 |
| Contracts of Personal Service; Death of One Party | 115 |
| Death of Member of a Troupe | 115 |
| Risk to Life | 116 |
| Assignment | 116 |
| Engagement; Opening the Part | 116 |
| Inadequacy of Actor | 116 |
| Illness | 117 |
| Meaning of "Actor" | 117 |
| Understudy | 117 |
| Exclusive Engagement | 118 |
| Injunctions | 119 |
| Colourable Imitation | 119 |
| Condition Precedent | 119 |
| Bill-Matter | 120 |
| Rehearsals | 120 |

Cases on Theatrical Contract, &c. (*continued*)— PAGE

Salary . . . . . 120
Period of Engagement; Tour . . . . . 121
Rules and Regulations . . . . . 122
Destruction or Closing of Theatre. Impossibility . 122
Agents' Commission; Future Engagements . . . 123
Liquidated Damages . . . . . 123
Fines . . . . . 123
Liability of Third Parties . . . . . 124
Contracts with Infants . . . . . 124
Rights of the Public. Applause; Hisses . . . . 125
Purchase of a Ticket . . . . . 125
Safety of Audience . . . . . 125
A Queue . . . . . 126
Right to Admission; Lease . . . . . 126

## APPENDIX.

Specimen Contract . . . . . 128
Music Halls Award, 1913 . . . . . 130
Metropolitan Police Act, 1839 . . . . . 139
Public Entertainments Act, 1875 . . . . . 140
Remission of Penalties Act, 1859 . . . . . 141
Refreshment Houses Act, 1860 . . . . . 142
Metropolitan Board of Works (Various Powers) Act, 1882 . 142
Local Government Act, 1888 . . . . . 145
Army (Annual) Act, 1889 . . . . . 148
Uniforms Act, 1894 . . . . . 149
Shops Act, 1911 . . . . . 149
Regulations of Lord Chamberlain as to Theatres . . . 149
Form of Manager's Bond and Lord Chamberlain's Licence . 152
Lord Chamberlain's Regulations under Cinematograph Act, 1909 . . . . . 154
L.C.C. Regulations for Music, Dancing, and Stage Play Licences . . . . . 159
L.C.C. Rules for Licensed Premises . . . . . 164
L.C.C. Regulations for Protection of Theatres &c. from Fire . . . . . 169
L.C.C. Regulations under Metropolis Management and Building Acts Amendment Act, 1878 . . . . 181
L.C.C. Regulations Respecting Use of Limelight . . . 192

# TABLE OF CASES.

## A.


PAGE

Airey *v.* Smith, (1907) 2 K.B. 273; 76 L. J. K.B. 766; 96 L. T. 691; 71 J. P. 285; 5 L. G. R. 713; 23 T. L. R. 447 . . . . 93
Allman *v.* Hardcastle, (1903) 89 L. T. 553; 67 J. P. 440; 2 L. G. R. 13; 20 Cox C.C. 567 . . . . . 21, 92
Apothecaries Co. *v.* Jones, (1893) 1 Q.B. 89; 5 R. 101; 67 L. T. 667; 41 W. R. 267; 17 Cox C.C. 588; 57 J. P. 56 . . . . 26
Appleby *v.* Myers, (1867) L. R. 2 C.P. 651; 36 L. J. C.P. 331; 16 L. T. 669 . . . . . 122
Archer *v.* Willingrice, (1802) 4 Esp. 185; 6 R. R. 851 . . . . 18
Arnold v. Stratton, (1898) 14 T. L. R. 537 . . . . . 121
Astley *v.* Weldon, (1806) 2 B. & P. 346; 5 R. R. 618 . . . . 123
Attorney-General *v.* Shoreditch Corporation, (1915) W. N. 184 . 47
——— *v.* W. H. Smith & Son, Lim., (1910) 103 L. T. 96; 74 J. P. 313; 8 L. G. R. 679; 26 T. L. R. 482 . . . . . 126
——— *v.* Vitagraph Co., Lim., (1915) 1 Ch. 206; 84 L. J. Ch. 142; 13 L. G. R. 148; 31 T. L. R. 70; 59 S. J. 160 . . . . . 89
——— *v.* Walthamstow U.D.C., (1910) 1 Ch. 347; 79 L. J. Ch. 267; 102 L. T. 64; 74 J. P. 147; 54 S. J. 306; 26 T. L. R. 261 . . . . . 47
Auckland and Bonnetti *v.* Collins, (1898) 14 T. L. R. 348 . 123, 126
Avery *v.* Wood, (1891) 3 Ch. 115 . . . . . 26


## B.


Barber *v.* Penley, (1893) 2 Ch. 477; 62 L. J. Ch. 623; 68 L. T. 662 126
Barrasford *v.* MacNaghten, (1910) *Times*, July 15, 16, 30; Dec. 17 . . . . . 121, 124
Barrett *v.* Johnson, (1836) 2 J. Ex. Ir. 197 . . . . . 50
Bartlett *v.* Vinor, (1720) Carth. 252 . . . . . 114
Baxter *v.* Langley, (1868) L. R. 4 C.P. 21; 38 L. J. M.C. 1; 19 L. T. 321; 17 W. R. 254 . . . . . 50
Bellis *v.* Beale, (1797) 2 Esp. 592 . . . . . 17, 19
——— *v.* Burghall, (1798) 2 Esp. 722 . . . . . 18
Bettini *v.* Gye, (1876) 1 Q.B. D. 183; 45 L. J. Q.B. 209; 34 L. T. 246; 24 W. R. 551 . . . . . 117, 120
Blow *v.* Lewis, (1902) 19 T. L. R. 127 . . . . . 122
Boast *v.* Firth, (1868) L. R. 4 C.P. 1; 38 L. J. C.P. 1; 19 L. T. 264; 17 W. R. 29 . . . . . 117
Bohn *v.* Bryne, (1846) 10 Jur. 420 . . . . . 61
Bonell *v.* Twickenham L.B., (1887) 20 Q.B. D. 63; 57 L. J. M.C. 1; 58 L. T. 299; 36 W. R. 50; 52 J. P. 356 . . . . . 34
Branwell *v.* Halcomb, (1836) 3 My. & Cro. 738 . . . . 58, 59
Brearley *v.* Morley, (1899) 2 Q.B. 121; 68 L. J. Q.B. 722; 63 J. P. 582; 47 W. R. 574; 80 L. T. 801; 15 T. L. R. 292 . . . 19

PAGE

Broemal *v.* Myer, (1913) 29 T. L. R. 148; 57 S. J. 145 . . . 58
Brown *v.* Nugent, (1871) L. R. 6 Q.B. 693; affirmed (1872) L. R. 7 Q.B. 588; 41 L. J. M.C. 166; 26 L. T. 880; 20 W. R. 989 . 20
Bruce *v.* McManus, (1915) W. N. 170 . . . . . 92

C.

CAIRD *v.* Syme, (1887) 12 App. Cas. 326; 57 L. J. P.C. 2; 57 L. T. 634; 36 W. R. 199 . . . . . 61
Calcroft *v.* West, (1845) 2 Jo. & Lat. 123; 8 Ir. Eq. R. 74 . . 4
Chandler *v.* Webster, (1904) 1 K.B. 493; 73 L. J. K.B. 401; 52 W. R. 290; 90 L. T. 217; 20 T. L. R. 222 . . . . . 122
Chappel & Co. *v.* Columbia Gramophone Co., (1914) 2 Ch. 245 . 61
——— *v.* Harrison, (1910) 103 L. T. 594; 75 J. P. 20; 27 T. L. R. 85 . . . . . 114
Charnock *v.* Merchant, (1900) 1 Q.B. 474 . . . . . 105
Chatterton *v.* Cave, (1878) 3 App. Cas. 483; 47 L. J. C.P. 545; 38 L. T. 397; 26 W. R. 498 . . . . . 58, 61
Chepstow Electric Light Co., Lim. *v.* Chepstow Gas &c. Co., Lim., (1905) 1 K.B. 198 . . . . . 93
Clarke *v.* Searle, (1792) 1 Esp. 25 . . . . . 19
——— *v.* Rice, (1818) 1 B. & Ald. 694; 19 R. R. 422 . . 23, 118
Clements *v.* L. & N. W. Rly. Co., (1894) 2 Q.B. 482; 9 R. 223; 42 W. R. 338; 58 J. P. 816 . . . . . 124
Clifford *v.* Brandon, (1810) 2 Camp. 358; 11 R. R. 731 . . . 125
Cole *v.* Coulton, (1860) 2 E. & E. 695; 29 L. J. M.C. 125; 6 Jur. N.S. 698; 2 L. T. 216; 8 W. R. 412 . . . . . 3
Coleman *v.* Foster, (1856) 1 H. & N. 37; 4 W. R. 489 . . . 126
Corelli *v.* Gray, (1913) 30 T. L. R. 116 . . . . . 61
Corn *v.* Matthews, (1893) 1 Q.B. D. 310; 62 L. J. M.C. 61; 4 R. 240; 68 L. T. 480; 41 W. R. 261; 57 J. P. 407 . . 124
Cotton *v.* Sounes, (1902) 18 T. L. R. 456 . . . . . 113
Cowan *v.* Milburn, (1867) L. R. 2 Ex. 230; 36 L. J. Ex. 124; 16 L. T. 290; 15 W. R. 750 . . . . . 114
Cox *v.* Coulson, (1915) *Times*, April 17 . . . . . 125
Croft *v.* Lumley, (1858) 6 H.L. Cas. 672; 27 L. J. Q.B. 321; 4 Jur. N.S. 903; 6 W. R. 523 . . . . . 126
Cuckson *v.* Stones, (1858) 28 L. J. Q.B. 25; 1 E. & E. 248; 5 Jur. N.S. 337; 7 W. R. 134 . . . . . 117
Cutter *v.* Powell, (1794) 6 T. R. 320 . . . . . 121

D.

D'ALMAINE *v.* Boosey, (1835) Y. & C. Ex. 288 . . . . . 58
Dauney *v.* Chatterton, (1875) 45 L. J. C.P. 293; 33 L. T. 628 125, 126
Davenport *v.* Farraday, (1912) *Times*, Nov. 15; (1913) *Times*, April 25 . . . . . 121
Davis *v.* Forman, (1894) 3 Ch. 654; 64 L. J. Ch. 187; 8 R. 725; 43 W. R. 168 . . . . . 118
Davys *v.* Douglas, (1859) 4 H. & N. 180; 28 L. J. M.C. 193; 7 W. R. 327 . . . . . 3, 11, 14
Day *v.* Simpson, (1865) 18 C.B. (N.S.) 680; 34 L. J. M.C. 149; 11 Jur. N.S. 487; 12 L. T. 386; 13 W. R. 748 . . . 16, 20
De Begnis *v.* Armistead, (1833) 10 Bing. 107; 3 M. & Scott 511; 2 L. J. C.P. 214 . . . . . 114

PAGE

De Francesco *v.* Barnum, (1890) 45 Ch. D. 430; 60 L. J. Ch. 63; 63 L. T. 438; 39 W. R. 5 . . . . . 124
Dodd *v.* Pearson, (1911) 2 K.B. 383; 80 L. J. K.B. 927; 105 L. T. 108; 75 J. P. 343; 27 T. L. R. 376; 22 Cox C.C. 528; 9 L. G. R. 646 . . . . . 92
Duck *v.* Bates, (1884) 13 Q.B. D. 487; 53 L. J. Q.B. 338; 50 L. T. 778; 32 W. R. 813; 48 J. P. 501 . . . . . 61
Duncan *v.* Dowding, (1897) 1 Q.B. 575; 66 L. J. Q.B. 362; 76 L. T. 294; 45 W. R. 383; 18 Cox C.C. 527; 61 J. P. 280 . . 93
——— *v.* Toms, (1887) 56 L. J. M.C. 81; 56 L. T. 719; 35 W. R. 667; 16 Cox C.C. 267; 51 J. P. 631 . . . . . 92

E.

Edwardes *v.* Haines (De Sousa), (1912) *Times*, April 27 . . 119
Elen *v.* London Music Hall, Lim., (1906) *Times*, June 1 . . 120
Ellis *v.* North Metropolitan Theatres, (1915) 2 K.B. 61; 31 T. L. R. 201 . . . . . 91
Erskine, *In re*, (1893) 10 T. L. R. 32; 38 S. J. 144 . . . 95
Ewing *v.* Osbaldistone, (1837) 3 My. & Cro. 53; 6 L. J. Ch. 161; 1 Jur. 50 . . . . . 114

F.

Fay *v.* Bignell, (1883) 1 Cab. & El. 112 . . . . . 19
Farndale *v.* Bainbridge, (1898) 42 Sol. J. 192 . . . . . 44
Fechter *v.* Montgomery, (1863) 33 Beav. 22 . . . . . 116, 118
Fenning Film Service, Lim. *v.* Wolverhampton, Walsall & District Cinemas, Lim., (1914) 3 K.B. 1171; 83 L. J. K.B. . . . 59
Flight *v.* Glossop, (1835) 2 Bing. N.S. 125 . . . . . 126
Frailing *v.* Messenger, (1867) 31 J. P. 423; 16 L. T. 494 . 18, 19
Fredericks *v.* Howie, (1862) 1 H. & C. 381; 31 L. J. M.C. 249; 8 Jur. N.S. 750; 6 L. T. 544; 10 W. R. 796 3, 17
———— *v.* Payne, (1862) 32 L. J. M.C. 14; 1 H. & C. 584; 8 Jur. N.S. 1109; 7 L. T. 329; 11 W. R. 36 . . . 3, 10, 13

G.

Gadd *v.* Thompson, (1911) 1 K.B. 304; 80 L. J. K.B. 272; 103 L. T. 836; 27 T. L. R. 113; 55 S. J. 156 . . . . . 124
Gaiety Theatre Co. *v.* Loftus, (1893) *Times*, Aug. 11 . . . 119
Gallini *v.* Labone, (1793) 5 Term R. 242 . . . . . 17, 22, 114
Gambart *v.* Ball, (1863) 14 C. B. (N.S.) 306; 32 L. J. C.P. 166; 9 Jur. N.S. 1059; 8 L. T. 426; 11 W. R. 699 . . . 15
Garland *v.* Ahrbeck, (1888) 5 T. L. R. 91 . . . . . 23
Garrett *v.* Messenger, (1867) L. R. 2 C.P. 583; 36 L. J. C.P. 337; 16 L. T. 414; 15 W. R. 164; 10 Cox C.C. 498 . . 18, 26
Giebler *v.* Manning, (1906) 1 K.B. 709; 75 L. J. K.B. 463; 70 J. P. 181; 54 W. R. 527; 94 L. T. 580; 22 T. L. R. 416; 4 L. G. R. 561; 21 Cox C.C. 160 . . . . . 92
Gilbert *v.* Workman, (1910) *Times*, Jan. 19 . . . . . 59
Girdlestone *v.* Brighton Aquarium Co., (1879) 4 Ex. D. 107; 48 L. J. Ex. 373; 40 L. T. 473; 27 W. R. 523 . . . 50

PAGE
Glinsinetti *v.* Rickards, (1907) *Times*, Jan. 26 . . . . . 115
Golders Green Amusement &c. Lim. *v.* Ralph, (1915) 31 T. L. R. 343 . . . . . 123
Graddon *v.* Price, (1827) 2 C.P. 610; 31 R. R. 704 . . 114, 122
Grant *v.* Maddox, (1846) 15 M. & W. 737; 16 L. J. Ex. 227 113, 121
Graves *v.* Legg, (1854) 9 Ex. 709; 2 C. L. R. 1266; 23 L. J. Ex. 228 120
Gray *v.* Oxford, Lim., (1905) 21 T. L. R. 664; (1906) 22 T. L. R. 684 . . . . . 115
Green *v.* Botheroyd, (1828) 3 C. & P. 471) . . . . 17, 18, 20
——— *v.* Thompson, (1899) 2 Q.B. 1; 68 L. J. Q.B. 719; 63 J. P. 486; 48 W. R. 31; 80 L. T. 691 . . . . . 124
Gregory *v.* Brunswick (Duke of), (1843) 1 C. & K. 24; 6 Maw. & G. 205; 2 H.L. Cas. 415 . . . . . 125
——— *v.* Travenor, (1833) 6 C. & P. 280 . . . . . 18
——— *v.* Tuffs, (1833) 6 C. & P. 271; 1 M. & Rob. 313 . 17, 22
Griffith *v.* Tower Publishing Co., (1897) 1 Ch. 21; 75 L. T. 330; 45 W. R. 73 . . . . . 116
Grimston *v.* Cunningham, (1893) 1 Q.B. 125 . . . . 116, 118

## H.

Haines *v.* Busk, (1814) 5 Taunt. 521; 1 Marsh 191 . . . 115
Hall *v.* Green, (1854) 9 Ex. 247; 2 C. L. R. 427; 23 L. J. M.C. 15 19
Hall *v.* Smallpiece, (1890) 59 L. J. M.C. 97; 54 J. P. 710 . . 95
Hall *v.* Wright, (1859) 29 L. J. Q.B. 43; E. B. & E. 746 . . 116
Hardie *v.* Balmain, (1902) 18 T. L. R. 539 . . . . . 122
Harley *v.* Henderson, (1884) *Times*, Feb. 19. . . . . 117
Harmer *v.* Cornelius, (1858) 5 C.B. (N.S.) 236; 28 L. J. C.P. 85; 4 Jur. N.S. 1110; 6 W. R. 749 . . . . . 117
Harrington, *Ex parte*, (1888) 4 T. L. R. 435 . . . . . 5
Harrison's Case, (1777) 1 Leach, 180 . . . . . 21
Harvey *v.* Tivoli (Manchester), Lim., (1907) 23 T. L. R. 592 . . 115
Haufstaengl *v.* Empire Palace Co., (1895) A.C. 20 . . . 59
Helling *v.* Lumley, (1858) 3 De G. & J. 493; 28 L. J. Ch. 249; 5 Jur. N.S. 301; 7 W. R. 152 . . . . . 115, 126
Hoffman *v.* Bond, (1875) 40 J. P. 5; 32 L. T. 775 . . . . . 45
Hole *v.* Bradbury, (1879) 12 Ch. D. 886; 48 L. J. Ch. 673; 41 L. T. 153, 250; 28 W. R. 39 . . . . . 116
Hornsey Local Board *v.* Davis, (1893) 1 Q.B. 756 . . . . . 34
Hospital for Paralysed and Epileptic, *In re*, (1913) *Times*, Oct. 11 93, 95
Howell *v.* Coupland, (1876) 1 Q.B. D. 258; 46 L. J. Q.B. 147; 33 L. T. 832; 24 W. R. 470 . . . . . 122
Howes *v.* Inland Revenue Commissioners, (1877) 1 Ex. D. 385; 46 L. J. M.C. 15; 35 L. T. 584; 24 W. R. 897; 41 J. P. 423 142
Huish *v.* Liverpool Justice, (1914) 1 K.B. 109; 83 L. J. K.B. 133; 110 L. T. 38; 78 J. P. 45; 30 T. L. R. 25; 58 S. J. 83; 12 L. G. R. 15 . . . . . 94
Hurst *v.* Picture Palaces, Lim., (1915) 1 K.B. 1; 83 L. J. K.B. 1837; 30 T. L. R. 642; 58 S. J. 739; 111 L. T. 972 . 125, 126

## I.

Irvine *v.* Reddish, (1882) 5 B. & A. 796 . . . . . 26

## J.

PAGE
JAEGER'S Sanitary Woollen Co. *v.* Walker, (1897) 77 L. T. 180 . 116
James *v.* Newington Justices, (1900) 64 J. P. 489 . . . 90
Jamieson *v.* Trevelyan, (1855) 10 Ex. 748 . . . . . 26
Jay *v.* New Bedford Palace, Lim., (1910) *Times*, June 30 . . 125

## K.

KARNO *v.* Pathé Frères, Lim., (1908) 100 L. T. 260; 53 S. J. 228; 25 T. L. R. 242, C.A. . . . . 58
Kellaway *v.* Macdougall, (1881) 45 J. P. 207 . . . . . 142
Kelly *v.* London Pavilion, Lim., (1897) 77 L. T. 215 . . 118, 119
——— *v.* New Tivoli, Lim., (1897) 77 L. T. 215 . . . 118, 119
——— *v.* Oxford, Lim., (1897) 77 L. T. 215 . . . . 118, 119
Kemble *v.* Keen, (1829) 6 Sim. 333 . . . . . 118
——— *v.* Farren, (1829) 6 Bing. 141; 3 M. & P. 425; 7 L. J. (o.s.) C.P. 258 . . . . . 123
Kimberley *v.* Jennings, (1836) 6 Sim. 340; 5 L. J. Ch. 115 . . 118
Kirschner *v.* Gruban, (1909) 1 Ch. 413; 78 L. J. Ch. 117; 99 L. T. 932 . . . . . 118
Kitson *v.* Ashe, (1899) 1 Q.B. 425; 68 L. J. Q.B. 286; 63 J. P. 325; 80 L. T. 323; 15 T. L. R. 172; 19 Cox C.C. 257 . . . 3
Kruse *v.* Johnson, (1898) 2 Q.B. 91 . . . . . 92

## L.

LACY *v.* Osbaldiston, (1837) 8 Car. & P. 80 . . . . . 114
Langton *v.* Hughes, (1813) 1 M. & S. 593 . . . . . 114
Leader *v.* Moody, (1875) L. R. 20 Eq. 145; 32 L. T. 422 . 115, 126
Leary *v.* Patrick, (1850) 15 Q.B. 266; 19 L. J. M.C. 211; 14 Jur. 932 . . . . . 4, 14
Leeson *v.* General Council Medical Education, (1890) 43 Ch. D. 379; 59 L. J. Ch. 233; 61 L. T. 849 . . . . . 6
Lennox *v.* Curzon, (1906) 22 T. L. R. 532 . . . . . 123
Leicester (Corporation of) *v.* Brown, (1892) 62 L. J. M.C. 22; 67 L. T. 686; 57 J. P. 70 . . . . . 95
Levy *v.* Yates, (1838) 3 N. & P. Q.B. 249; 8 A. & E. 129; 7 L. J. Q.B. 138 . . . . . 5
Lewis *v.* Arnold, (1830) 4 C. & P. 354; L. J. M.C. 68; L. R. 10 Q.B. 245; 32 L. T. 553 . . . . . 125
Loftus *v.* Roberts, (1902) 18 T. L. R. 532 . . . . . 120
L.C.C. *v.* Bermondsey Bioscope Co., (1911) 1 K.B. 449; 80 L. J. K.B. 141; 103 L. T. 760; 75 J. P. 53 . . . . 89, 91
——— *v.* Humphreys, Lim., (1894) 2 Q.B. 755; 71 L. T. 201; 58 J. P. 734 . . . . . 95
London Music Hall *v.* Austin, (1908) *Times*, Dec. 16 . . . 122
London Theatre of Varieties *v.* Evans, (1914) 30 T. L. R. 258; 31 T. L. R. 75 . . . . . 61, 116, 119
Lumley *v.* Gye, (1853) E. & B. 216; 22 L. J. Q.B. 463; 17 Jur. 827 124
——— *v.* Wagner, (1852) 1 De G. M. & G. 604; 21 L. J. Ch. 898; 16 Jur. 871 . . . . . 118
Lyons, Son & Co. *v.* Gulliver, (1913) 83 L. J. Ch. 281; 1 Ch. 631; 110 L. T. 284; 29 T. L. R. 428; 78 J. P. 98 . . . . . 126

M.

PAGE
MALONE *v.* Harris, (1859) 11 Ir. Ch. R. 33 . . . . . 126
——— *v.* Lingard, (1898) 42 S. J. 193 . . . . 4, 19, 126
Manchester Palace of Varieties *v.* Manchester Corpn., (1898) 62 J. P. 425 . . . . . 9, 20
Mapleson *v.* Bentham, (1871) 20 W. R. 177 . . . . . 121
——— *v.* Sears, Moss Empire Garnishees, (1911) 105 L. T. 639; 56 S. J. 54; 28 T. L. R. 30 . . . . . 121
Marks *v.* Benjamin, (1839) 2 M. & Rob. 225 . . . . . 18
McVittie *v.* Oldham (Chief Constable of), (1914) J. P. N. 582 . 93
Metropolitan Board of Works *v.* Anthony & Co., (1885) 54 L. J. M.C. 39; 33 W. R. 166; 49 J. P. 229 . . . . . 93
Mitchell *v.* Cockburne, (1792) H. Bk. 379 . . . . . 114
Montague *v.* Flocton, (1873) L. R. 16 Eq. 189; 42 L. J. Ch. 677; 28 L. T. 580; 21 W. R. 668 . . . . . 118, 121
Monro [professionally Hale] *v.* Hicks, (1909) *Times*, June 9, 10; (1909) *Times*, Nov. 27 . . . . . 113, 121
Morris *v.* Colman, (1812) 18 Ves. 437; 11 R. R. 230 . . 118, 119
Muir *v.* Keay, (1876) 40 J. P. 694; L. R. 10 Q.B. 594; 44 L. J. M.C. 143; 23 W. R. 700 . . . . . 142

N.

NEWMAN *v.* Gatti, (1907) 24 T. L. R. 18 . . . . . 117
Nicholl & Knight *v.* Ashton, Eldridge & Co., (1901) 2 K.B. 126; 70 L. J. K.B. 600; 49 W. R. 513; 84 L. T. 804; 17 T. L. R. 467; 6 Com. Cas. 151 . . . . . 122
Nordenfelt *v.* Maxim Nordenfelt Co., (1894) A.C. 535; 63 L. J. Ch. 908; 11 R. 1; 71 L. T. 489 . . . . . 118

O.

O'REILLY, *Ex parte*, (1790) 1 Ves. 112 . . . . . 4

P.

PALACE Theatre Co. *v.* Clensy and Hackney &c. Palaces, Lim., (1909) 26 T. L. R. 28 . . . . . 119
Parsons *v.* Chapman, (1831) 5 C. & P. 33; 7 T. R. 659 . . 10
Patrick *v.* Wood, (1905) 8 F. (S. C.) 4; 4 Adam, 648 . . . 44
Peddell *v.* Kiddle, (1798) 7 T. R. 659 . . . . . 26
Phillips *v.* Alhambra Palace Co., (1911) 1 K.B. 59 . . . . 115
Potter *v.* Watt, (1914) 84 L. J. K.B. 398; 31 T. L. R. 84 . . 92
Poussard *v.* Spiers & Pond, (1876) 1 Q.B. D. 410; 45 L. J. Q.B. 621; 34 L. T. 572; 24 W. R. 819 . . . . . 117, 120

Q.

QUAGLIENI *v.* Matthews, (1865) 6 B. & S. 474 . . . . . 19
Quinn *v.* Leatham, (1901) A.C. 495; 70 L. J. P.C. 76; 65 J. P. 708; 50 W. R. 139; 85 L. T. 289; 17 T. L. R. 749 . . 124, 125

R.

PAGE

Rees *v.* Melville, (1914) *Times*, Sept. 25 . . . . . 61
Reichardt *v.* Sapte, (1893) 2 Q.B. 308 . . . . . 58
Reid *v.* Wilson, (1895) 1 Q.B. 315; 64 L. J. M.C. 60; 71 L. T. 739; 59 J. P. 516 . . . . . 50
Renard *v.* Carl Rosa Opera Co., (1906) *Times*, Feb. 15 . . . . 120
Reynolds *v.* Bridge, (1857) 6 E. & B. 540; 26 L. J. Q.B. 12; 4 W. R. 640 . . . . . 123
Rex *v.* Adamson, (1876) 1 Q.B. D. 201 . . . . . 6
—— *v.* Barrett, (1862) L. & C. 263 . . . . . 18
—— *v.* Camden Theatre, (1908) 72 J. P. 318 . . . . . 5, 20
—— *v.* Dharma, (1905) 2 K.B. 335; 74 L. J. K.B. 450; 92 L. T. 700; 69 J. P. 198; 21 T. L. R. 353 . . . . . 110
—— *v.* Dobbins, (1884) 48 J. P. 182 . . . . . 93
—— *v.* Halkett, (1910) 1 K.B. 50 . . . . . 54
—— *v.* Hallinan, (1909) 73 J. P. N. 458 . . . . . 19
—— *v.* Handy, (1795) 6 Term Rep. 286 . . . . . 15
—— *v.* Hannay, (1891) 2 Q.B. 709 . . . . . 36
—— *v.* Higginson, (1762) 2 Burr. 1232 . . . . . 26
—— *v.* Inland Revenue Commissioners, (1888) 21 Q.B. D. 569 . 21
—— *v.* L.C.C., *Ex parte* Akkersdyk, (1892) 1 Q.B. 190 . . . 6
—— *v.* —————— Edwards, (1895) 71 L. T. 638 . . . 6
—— *v.* ——————; *In re* Empire, Lim., (1894) 71 L. T. 638 6
—— *v.* —————— Fermenia, (1892) 1 Q.B. 190 . . . 6
—— *v.* —————— London & Provincial Electric Theatres, Lim., (1915) 31 T. L. R. 249; affirmed on appeal, 31 T. L. R. 329 . . . . . 92
—— *v.* Morrish, (1863) 32 L. J. M.C. 245 . . . . . 126
—— *v.* Neville, (1830) 1 B. & Ad. 489 . . . . . 20
—— *v.* Oldham Licensing Justices; *Ex parte* Mellor, (1909) 73 J. P. 390 . . . . . 44
—— *v.* Rand, (1866) L. R. 1 Q.B. 230 . . . . . 6
—— *v.* Rosenthal, (1865) L. R. 1 Q.B. 93; 30 J. P. 101 . . 3, 8
—— *v.* St. Martin's-in-the-Fields (Inhabitants), 1842) 3 Q.B. 204 . 127
—— *v.* Sheerness U.D.C., (1898) 62 J. P. 563; 14 T. L. R. 533 . 9
—— *v.* Slade; *Ex parte* Saunders, (1895) 2 Q.B. 247 . . . 93
—— *v.* Stannard, (1863) 33 L. J. M.C. 61 . . . . . 18
—— *v.* Strugnell, (1865) L. R. 1 Q.B. 93; 30 J. P. 101 . . . 3
—— *v.* Sylvester, (1862) 26 J. P. 151 . . . . . 9
—— *v.* Tucker, (1877) 2 Q.B. D. 417; 46 L. J. M.C. 197; 36 L. T. 478; 25 W. R. 697; 13 Cox C.C. 600 . . . . . 19
—— *v.* Viasani, (1866) 30 J. P. 758 . . . . . 107
—— *v.* Wallace, (1797) 1 East P.C. 186 . . . . . 54
—— *v.* Wisbeach Justices, (1890) 54 J. P. 743 . . . . . 105
—— *v.* Wolfe, (1849) 13 J. P. 428 . . . . . 20
—— *v.* Yorkshire (W.R.) C.C., (1896) 2 Q.B. 386 . . . 9, 20, 92
Richards, *Ex parte*, (1904) 68 J. P. 536 . . . . . 9
Roberts *v.* Gray, (1912) 57 S. J. 143 . . . . . 124
Robey *v.* Arnold, (1898) 14 T. L. R. 220, 537 . . . . . 121
Robinson *v.* Davison, (1871) L. R. 6 Eq. 269; 24 L. T. 755; 19 W. R. 1036 . . . . . 116, 117
Robson *v.* Drummond, (1831) 2 B. & Ad. 303; 9 L. J. (o.s.) K.B. 187 . . . . . 115
Rodwell *v.* Ridge, (1824) 1 C. & P. 220 . . . . . 114
Royal Albert Hall *v.* L.C.C., (1911) 27 T. L. R. 362 . . . . 4
Royal Aquarium &c. *v.* Parkinson, (1892) 1 Q.B. 431; (1892) 1 Q.B. 431; 61 L. J. Q.B. 409; 66 L. T. 513; 56 J. P. 404 . . 6
Russell *v.* Notcutt, (1896) 12 T. L. R. 195 . . . . . 120

## S.


PAGE

St. James' Hall Co. *v.* L.C.C., (1901) 2 K.B. 251; 70 L. J. K.B. 610; 84 L. T. 568 . . . . . 34
St. Leonard's (Shoreditch), Guardians of, *v.* Franklin, (1878) 3 C.P. D. 377 . . . . . 21
Sales *v.* Crispi, (1913) 29 T. L. R. 491 . . . . . .
Scott *v.* Howard, (1881) 6 App. Cas. 285 . . . . . 126
—— *v.* Lennox, (1906) 22 T. L. R. 611 . . . . . 123
—— *v.* MacNaughton, (1908) Times, Nov. 25 . . . . . 115
Sharpe *v.* Wakefield, (1891) A.C. 173; 60 L. J. M.C. 73; 64 L. T. 180; 55 J. P. 197 . . . . . 20
Shears *v.* Mendeloff, (1914) 30 T. L. R. 342 . . . . . 124
Shelley *v.* Bethell, (1883) 12 Q.B. D. 11; 53 L. J. M.C. 16; 49 L. T. 779; 48 J. P. 244 . . . . . 3
Shutt *v.* Lewis, (1804) 5 Esp. 128; 8 R. R. 140 . . . . . 18
South Wales Miners' Federation *v.* Glamorgan Coal Co., (1905) A.C. 239; 74 L. J. K.B. 525; 53 W. R. 593; 92 L. T. 710; 21 T. L. R. 441 . . . . . 124
Spiers *v.* Brown, (1858) 6 W. R. 352 . . . . . 58
Stevens *v.* Benning, (1855) 6 De G. M. & G. 223; 3 Eq. Rep. 457; 24 L. J. Ch. 153; 1 Jur. N.S. 74 . . . . . 116
Sutton Cinema Theatres, Lim., *In re*, (1911) 75 J. P. N. 245 . 90
Syers *v.* Conquest, (1873) 37 J. P. 342; 28 L. T. 442; 21 W. R. 524 18


## T.


Tarling *v.* Fredericks, (1873) 28 L. T. 814; 21 W. R. 785 . . 10
Tasker *v.* Shephard, (1861) 6 H. & N. 575; 30 L. J. Ex. 207; 4 L. T. 19; 9 W. R. 476 . . . . . 115
Taylor *v.* Caldwell, (1863) 3 B. & S. 826; 32 L. J. Q.B. 164; 8 L. T. 356 . . . . . 117, 122
——— *v.* Oram, (1863) 27 J. P. 8; H. & C. 370; 31 L. J. M.C. 252; 7 L. T. 68; 10 W. R. 800 . . . . . 142
——— *v.* Waters, (1816) 2 Marsh, 551; 5 M. & S. 103 . . . 126
Terry *v.* Brighton Aquarium Co., (1875) 10 Q.B. 306; 44 L. J. M.C. 173; 32 L. T. 458 . . . . . 50
——— [professionally Vesta Victoria] *v.* Moss's Empire, (1914) *Times*, Dec. 10 . . . . . 114
Theatre de Luxe (Halifax) *v.* Gledhill, (1915) 2 K.B. 49 . . . 91
Thomas *v.* Gatti, Lim., and Frohman, (1906) *Times*, Feb. 2 . . 117
Thorne *v.* Colson, (1861) 25 J. P. 101 . . . . . 16
——— *v.* St. Clair, (1861) 25 J. P. 101 . . . . . 16
Thorpe *v.* Priestnall, (1897) 1 Q.B. 159 . . . . . 54
Tivoli (Manchester), Lim. *v.* Colley and others, (1904) 52 W. R. 632; 20 T. L. R. 437 . . . . . 118
Tuck *v.* Priester, (1887) 19 Q.B. D. 629; 56 L. J. Q.B. 553; 36 W. R. 93; 52 J. P. 213 . . . . . 58


## V.


Victoria Pier (Folkestone) Synd., Lim. *v.* Reeve, (1912) 28 T. L. R. 443; 76 J. P. 374 . . . . . 89

## W.

PAGE

WADE *v.* Robert Arthur Theatre Co., (1907) 24 T. L. R. 77 . . 121
——— *v.* Waldron, (1909) S. C. 571 . . . . . 120
Wallis *v.* Smith, (1882) 21 Ch. D. 243; 47 L. T. 389 . . . 123
Warner *v.* Brighton Aquarium Co., (1874) 10 Ex. 291; 44 L. J. M.C. 175, n. . . . . 50
Waugh *v.* Morris, (1873) L. R. 8 Q.B. 202; 42 L. J. Q.B. 57; 28 L. T. 265; 21 W. R. 438 . . . . . 115
Weavers Co. *v.* Forrest, (1746) 2 Str. 1240 . . . . . 21
Webster *v.* Dillon, (1857) 3 Jur. N.S. 432; 5 W. R. 867 . . 118
Welsh and wife *v.* Canterbury and Paragon, Lim., (1894) 10 T. L. R. 478 . . . . . 126
White *v.* Henderson, (1885) 2 T. L. R. 119 . . . . . 116
Whitwood Chemical Co. *v.* Hardman, (1891) 2 Ch. 416; 60 L. J. Ch. 428; 64 L. T. 716; 39 W. R. 433 . . . . . 118, 121
Wigan *v.* Strange, (1865) L. R. 1 C.P. 175; 35 L. J. M.C. 31; 12 Jur. N.S. 9; 13 L. T. 371; 14 W. R. 103 . . . . . 15
Wigglesworth *v.* Dallinson, (1779) 1 S. L. C., 11th ed., 545; 1 Dougl. 207 . . . . . 113
Wilkins *v.* Aikin, (1810) 17 Ves. 422; 11 R. R. 118 . . . 58
Williams *v.* Wright, (1897) 13 T. L. R. 551 . . . . . 50
Willson *v.* Love, (1896) 1 Q.B. 626; 65 L. J. Q.B. 474; 74 L. T. 580; 44 W. R. 450 . . . . . 123
Winter German Opera, Lim., *In re*, (1908) 23 T. L. R. 662 . . 117
Wood *v.* Leadbitter, (1845) 13 M. & W. 838; 14 L. J. Ex. 161; 9 Jur. 187 . . . . . 125, 127
Worthington *v.* Kyne, (1905) 3 L. G. R. 1098; 93 L. T. 546; 69 J. P. 390; 54 W. R. 185 . . . . . 92
Wyatt *v.* Phipps, (1896) 40 Sol. J. 781 . . . . . 121

## Z.

ZAMCO *v.* Hammerstein, (1913) 29 T. L. R. 217 . . . . 116

# PREFATORY NOTE.

I.

FROM Plantagenet times players have been regarded as persons of doubtful moral character and influence. From the fourteenth to the eighteenth century they were generally branded as rogues and vagabonds in legislative enactments, and frequently exercised their arts at the risk of severe punishment, even mutilation. Common players acting without the licence of two Justices at least were liable to brutal and degrading punishment. James the First granted a licence under the Privy Seal to certain dramatists which graciously conferred a recognition of comparative respectability upon them. It suggests that a Royal licence was required to make them respectable, although the King and Queen frequently performed in masques at Court. The licence directed Justices and Mayors within and without all boroughs and cities to suffer and permit them to play "for the recreation of our loving subjects." "Know ye that we have licensed and authorised these our servants, Lawrence Fletcher, William Shakespeare, Richard Burbage and the rest of their associates freely to use and exercise the art and faculty of playing comedies, tragedies, histories, interludes, morals, pastorals, stage plays and such like. . . ."

With the Puritan period came the almost total suppression of all plays and the destruction of playhouses. The punishment meted out to players was savage, and even the audience incurred penalties.

When theatrical entertainments were revived after the Restoration the irregularities of the stage became so grave and, notwithstanding the efforts of the Lord Chamberlain, became

so uncontrollable that it was at length thought expedient to include all common players of interludes in THE VAGRANT ACT (12 Anne, st. 2, c. 25). The evil, however, still prevailed. The increased number of theatres in which the players acted without legal authority, and the loose and scandalous nature of the plays, compelled legislation to control places of entertainment. In 1737 the Act 10 Geo. 2. c. 28, to explain and amend 12 Anne, st. 2, c. 23, was passed, imposing penalties for acting without patent from the King or licence from the Lord Chamberlain, requiring all plays to be submitted to the Lord Chamberlain, and empowering him to forbid the performance of any dramatic entertainment.

The preamble to THE DISORDERLY HOUSES ACT, 1751—"An Act for the better preventing Thefts and Robberies and for regulating Places of Public Entertainment and punishing Persons keeping Disorderly Houses,"—continues: "And whereas the Multitude of Places of Entertainment . . . as they are thereby tempted to Spend their small substance in Rioutous pleasure . . . and to Correct as far as may be the habit of Idleness which is become too general over the whole Kingdom . . ." indicates the way in which places of entertainment were regarded by the Legislature.

Although players no longer require an individual licence, the licence has been transferred from the player to the place of entertainment and the play. All places where public performances are given have to be licensed under either the Acts relating to Theatres, Music, and Dancing, or Cinematographs. The individual player is not now regarded as being necessarily vicious, nor the performance of a play as being inherently dangerous to public morals—*pace* the censorship of the Lord Chamberlain—and partaking of evil influences akin to heresy and sedition.

Under the statutes dealt with in this book all plays, players, places of public entertainment, and the public frequenting them are regulated, and substantial penalties imposed for failure to comply with either the terms of the statutes or the regulations made by the Lord Chamberlain and the licensing authorities. Practically all the law relating

to public entertainments is referred to herein. The latest decisions under THE CINEMATOGRAPH ACT—some of which are very far-reaching in respect to licensing—have been collected for the first time, and will, it is hoped, be found useful to the large number of people interested in the law relating to licences under that Act.

## II.

The difficulty of understanding the law governing places of public entertainment is gravely increased by the bad drafting of the statutes. For instance, THE THEATRES ACT contains no definition of a theatre, nor is there any definition of a cinematograph in THE CINEMATOGRAPH ACT.

During the last few years THE CINEMATOGRAPH ACT has been responsible for more legal decisions than any of the Acts dealt with in this book. The course of those decisions is very interesting. In the early cases it was seriously argued that the power of the licensing authority to impose conditions was confined to conditions relating to the safety of the audience. Gradually the Courts have broken down the barriers until to-day it is *intra vires* and reasonable for a licensing authority to enquire into the political allegiance of members of the limited company seeking a licence.

The Courts have felt the necessity for giving licensing authorities dealing with cinematograph theatres power to protect public morals and public comfort at least as strong as exists in the case of music halls.

Can it be that the Legislature gave this power from the commencement, and that the Courts failed to grasp it?

THE CINEMATOGRAPH ACT was passed in the year 1909. Before that date the majority, if not all, cinematograph entertainments were given in music halls, which required a music and dancing licence. That being so, there was no additional danger other than a danger from fire as far as the *place* was concerned.

The danger from fire was a new and additional danger, and was provided against by this Act.

The preamble speaks of the Act as being to make *better* provision for securing safety at cinematograph and other exhibitions.

The use of the word "better" seems to indicate pre-existing provisions, most of which are to be found in Acts dealing with the grant of music licences.

The use of the phrase "provision for securing safety" seems to indicate that the Legislature considered the provisions which existed were sufficient for the preservation of public order and decency, but that the introduction of inflammable films required further and better powers for securing safety.

Unless the Legislature meant THE CINEMATOGRAPH ACT to confer additional powers on licensing authorities the word "better" is meaningless.

It is generally conceded that a cinematograph licence is not needed where non-flammable films are used. This means that if a cinematograph theatre only requires a cinematograph licence, and only requires that when using inflammable films, the danger to public morals that may arise from entertainments controlled by alien enemy shareholders becomes either non-existent or unprovided against in the event of the alien enemy using non-flammable films.

If the Legislature intended to allow places of public entertainment using non-flammable films to be conducted without any licence or any supervision from licensing authorities, it was a complete diversion from all recent tendencies and a reversion to pre-Elizabethan practice.

By its preamble THE DISORDERLY HOUSES ACT, 1751, says that it is directed towards suppressing and regulating "the multitude of places of entertainment for the lower sort of people," because they induce riotous spending, thefts, idleness, mischief, and inconvenience.

A cinematograph theatre, although it uses non-flammable films, may be a place of entertainment, and is as likely to produce mischief and inconvenience as a concert room.

The place requiring a licence under THE DISORDERLY HOUSES ACT (and other similar Acts) is any "house room or other place kept for public dancing music or other entertainment of the like kind." Perhaps the crux is whether the phrase "of the

like kind" refers to dancing and music or to a "house kept for public dancing or other entertainment."

In this context it is instructive to note that under *all* the Acts granting music licences the earliest hour for opening is indicated, and an inscription must be put up outside the licensed building. THE CINEMATOGRAPH ACT does not contain any such provision. This would seem to be an extraordinary relaxation if it is the only licence required, but easily understandable if it is not.

*Temple: May*, 1915.

# INDEX.

A.

ACTIONS, LIMITATION OF, 15, 26, 52, 65.
ACTOR, 13.
ACTOR. *See* HIRE. CONTRACTS.
AGE. *See* CHILDREN, EVIDENCE OF.
APPEAL, 14, 19, 33, 66, 108.
APPLAUSE. *See* CONTRACTS; THE PUBLIC.
APPRENTICESHIP, CONTRACT OF.
AQUARIUM, 50.
ARMY (ANNUAL) ACT, 1889 . . 148.
AUDIENCE. *See* CONTRACTS.
AUTHOR. See COPYRIGHT.

B.

BALLET, 15.
BARRING CLAUSE. *See* MUSIC HALLS AWARD. CONTRACT.
BATHS AND WASHHOUSES ACT, 1899 . . 46, 160.
BIAS. *See* LICENSING AUTHORITY.
BOND, MANAGER'S, 152.
BOOTH. *See* THEATRE.
BUILDING REGULATIONS. *See* STRUCTURAL REQUIREMENTS.
BURDEN OF PROOF. *See* LICENCE.
BY-LAWS. *See* CHILDREN.

C.

CAMBRIDGE. *See* OXFORD.
CATALOGUES. *See* SHOPS ACT.
CAUSE, 10.
CERTIORARI. *See* PROCEDURE.
CHAMBERLAIN. *See* LORD CHAMBERLAIN.
CHARITABLE, 30.
CHARTER. *See* LETTERS PATENT.
CHILDREN—
age, evidence of, 98.
extension of, 99, 112.
presumption of, 107, 112.
accident to, 98.
accused, evidence of, 105.
appeal, 108.
arrest, 104.
by-laws, 108.
circus, in, 102.
cruelty to, 100.
custody, charge, or care.
employment of, 97, 100.
evidence of, 106.

CHILDREN *(continued)*—
licensed premises, on, 101, 102.
performing or training, 102.
police, entry by, where children employed, 103.
procedure, regarding, 107.
prosecutions, restriction of, 99, 107, 110.
CHILDREN. *See* CONTRACTS. INFANTS.
CHILDREN ACT, 1908 . . 111.
CHILDREN'S DANGEROUS PERFORMANCE ACT, 1879 . . 97
CINEMATOGRAPH ACT, 1909 . . 89.
business exhibition in, 89.
copyright in work of. *See* COPYRIGHT.
county boroughs, 94.
enter, power to, exhibition, 93.
fees for, 90.
inflammable films, 89.
licences for, 89.
occupier, who is, 92.
penalties under Act, 92.
private houses in, 89.
provisional licence for, 90.
regulations, 154.
reproduction of sketch. *See* COPYRIGHT.
restrictions in licence, 91.
similar apparatus to, 89.
CIRCUS. *See* CHILDREN.
CLOSING ORDER. *See* LICENCE, REVOCATION OF.
COMMON INFORMER, 21, 23, 26, 50, 92.
CONDITIONS. *See* LICENSING AUTHORITY; DISCRETION.
CONTRACT, SPECIMEN, 128.
music hall, 130.
CONTRACTS—
actor inadequate, 116.
meaning of, 117.
agents' commission, 123.
assignment, 116.
bill-matter, 120.
condition precedent, 119.
covenant in lease, 115.
customs and usages, 113.
death, 115.
exclusive engagements, 118.
fines, 122, 123.
future engagements, 123.
illegal, 114.
illness, 117.
imitation, colourable, 119, 61.
infants, 124.
interpretation, 113.
liquidated damages, 123.
notice, reasonable, 114.
opening of part, 116.
period of engagement, 121.
personal service, 115.
public, the, 125.
admission, right of, 126.
purchase of ticket, 125.
queue, 126.
safety of, 125.
re-engagement, 121

CONTRACTS (*continued*)—
rehearsals, 120.
resumption of part, 114.
risk to life, 116.
rules and regulations, 122.
salary, 120.
theatre, closing of, 122.
third party, liability of, 124.
" tour," 121.
understudy, 117.
unlicensed theatre, 114.
usual privileges, 114.
COPYRIGHT ACT, 1911—
actions, limitation of, 65.
appeals, 66.
author, 62.
foreign, 75.
joint, 69
authorise, 59.
British possessions in, 77-81.
colourable imitation of, 61, 119
common law rights, 82.
dramatic works in, 58, 83.
existing works in, 76.
gramophone records in, 71.
importation of copies, 67.
infringement of, 59, 61, 64, 65, 84.
international, 80.
libraries, copies for, 68, 82.
" making of," 58.
mechanical instruments, 71.
musical, 58.
Orders in Council, 82.
original, 58.
ownership of, 62.
performance in public, 61.
political speeches in, 75.
posthumous works in, 70.
publication of, 58.
registrable designs, 75.
reproduction of sketch, 61, 84.
song, 61.
" substantial part," 58.
term of, 61.
university, 82.
COSTS. *See* PROCEDURE.
COUNTY BOROUGH, 145.
COUNTY COUNCIL. *See* LICENSING AUTHORITY.

D.

DANCING. *See* PUBLIC DANCING.
DANCING CLASS, 17.
DANGEROUS PERFORMANCES ACT, 1897 . . 99. *See* CHILDREN.
DANGEROUS STRUCTURE ORDER, 33, 37, 38.
DEFECTS. *See* DANGEROUS STRUCTURE ORDER.
DELEGATED AUTHORITY. *See* LICENSING AUTHORITY.

DIALOGUE, 15.
DISCRETION. *See* LICENSING AUTHORITY.
DISORDERLY HOUSE. *See* HOUSE.
DRAMATIC. *See* COPYRIGHT.

E.

ENTER, POWER TO. *See* POLICE.
ENTERTAINMENT OF THE STAGE, 15.
ENTERTAINMENT ON SUNDAY, 49.
EVIDENCE. *See* HIRE; LICENCE; KEEP; CHILDREN.
EXCISE, 9.
EXITS. *See* STRUCTURAL REQUIREMENTS.

F.

FEES FOR THEATRE LICENCE, 5, 7.
FINE. *See* PENALTY.
FIRE, 169, 181.

G.

GARDEN. *See* HOUSE.
GRAMOPHONE. *See* COPYRIGHT.

H.

"HAVE OR KEEP." *See* "KEEP."
HIRE, EVIDENCE OF ACTING FOR, 13.
HIRER, 3.
HOUSE—
disorderly, 16, 22.
hour of opening, 140.
moveable, 95, 3, 10, 44.
recreation rooms, naval and military, 148.
requirements in Metropolis, 142, 159.
unlicensed, 8, 10, 16, 139.
"HOUSE OR OTHER PLACE," 3, 10, 17, 27, 44, 141.

I.

ILLEGAL DETENTION, 4.
ILLNESS. *See* CONTRACT.
INCOMPETENCE. *See* CONTRACT.
INFANTS. *See* CONTRACTS. CHILDREN.
INFLAMMABLE. *See* CINEMATOGRAPH.
INFORMATION, 92.
INFORMER. *See* COMMON INFORMER.
INSCRIPTION. *See* LICENSED PLACES.
INTEREST. *See* LICENSING AUTHORITY.
INTERPRETATION, 15, 54, 83, 90, 100, 110.

J.

JUSTICES. *See* LICENSING AUTHORITY.

## K.

"KEEP," 2, 17, 24, 36.
KEEPER. *See* OCCUPIER.
KEPT OPEN, 36.

## L.

LETTERS PATENT, 4.
LICENCES. *See* FEES; CINEMATOGRAPH; COPYRIGHT; CHILDREN.
LICENCES—
grant by Lord Chamberlain, 4, 152.
by licensing authority, 5, 20, 27, 47, 159.
notices required, 6, 27.
objections to, 163.
proof of, 13, 20.
provisional, 29, 36, 43, 160.
revocation of, 21, 40.
rules and regulations for, 8, 9, 34, 149, 151, 154, 164, 169, 181, 192.
suspension of, 8.
temporary, 29, 36, 43, 160.
theatre licences for music halls, 47.
to whom granted, 7, 16, 91.
transfer of, 27, 160.
what is covered by, 5.
LICENSED PLACES—
inscription over, 21, 28, 43.
taking money at, 47, 50.
time for opening, 21, 28, 140.
LICENSING AUTHORITY—
delegated authority, 6, 19, 93, 145.
discretion of, 5, 6, 9, 20, 29, 34, 91.
"LIKE KIND." *See* PUBLIC DANCING.
LOCAL AUTHORITY, 45, 145.
LOCAL GOVERNMENT ACT, 1888 . . 145.
LONDON AND WESTMINSTER, 16.
LORD CHAMBERLAIN, 4, 8, 22; and *see* STAGE PLAYS.

## M.

MANAGER, 8, 152.
MATINÉE, FLYING, 113.
METROPOLIS MANAGEMENT AND BUILDING ACT, 1878 . . 31, 181.
METROPOLIS MANAGEMENT AND BUILDING ACT, 1878—
regulations under, 181.
METROPOLITAN BOARD OF WORKS, 32.
METROPOLITAN BOARD OF WORKS (VARIOUS POWERS) ACT, 1882, 142.
METROPOLITAN POLICE ACT, 1839 . . 139.
MIDDLESEX, MUSIC AND DANCING IN, 27.
MONEY, TAKING OF. *See* LICENSED PLACES.
MUSIC. *See* PUBLIC DANCING.
MUSIC HALLS AWARD, 130.
MUSIC HALLS, THEATRE LICENCES FOR, 47.
MUSICAL WORK. *See* COPYRIGHT.

N.

NOTICE. *See* LICENCES.

O.

OCCASIONAL USER. *See* PUBLIC DANCING.
OCCUPIER, 3, 24, 28, 43, 48, 50, 51, 92.
OFFENCE, CONTINUING, 93.
OWNER. *See* OCCUPIER.
OXFORD, 10.

P.

PATENT THEATRES. *See* LETTERS PATENT. LORD CHAMBERLAIN.
PENALTY, 3, 10, 15, 17, 23, 26, 29, 40, 43, 45, 48, 51, 52, 92, 98, 104, 123.
  appropriation of, 14.
  daily, 29, 45.
  how recoverable, 14, 38, 52.
  remission of, 55, 141.
PHONOGRAPH RECORDS. *See* COPYRIGHT.
PLACE. *See* HOUSE.
PLATFORMS. *See* STRUCTURAL REQUIREMENTS; THEATRES.
PLAYS. *See* STAGE PLAYS.
POLICE. *See* PROSECUTION.
POLICE—
  arrest, 104.
  chief officer of, 54, 90.
  entry by, 17, 29, 37, 40, 93, 103, 139, 150.
  neglect of duty, 24.
PREVENTION OF CRUELTY TO CHILDREN ACT, 1904..100. *See* CHILDREN.
PROCEDURE, 23, 24, 25, 38, 92, 98, 107, 110.
  costs, 26, 52
PROGRAMMES. *See* SHOPS ACT, 1911.
PROSECUTION BY POLICE, 22, 51, 53, 99.
  institution of, 54, 99.
  who may conduct, 92.
PROSECUTOR. *See* PROCEDURE.
PROVINCES. *See* PUBLIC HEALTH ACT, 1890.
PUBLIC, THE. *See* CONTRACTS.
PUBLIC AMUSEMENT ON SUNDAY, 48, 51.
PUBLIC DANCING, 16, 19, 27, 46.
  in provinces, 39, 46.
  London County Council Rules, 159.
PUBLIC ENTERTAINMENTS ACT, 1875..140.
PUBLIC HEALTH ACT, 1890..39.
PUBLIC HEALTH ACT, 1907..45.
PUBLIC PEACE. *See* RIOT.
PUBLIC PERFORMANCE, 4, 84.
PUBLIC REFRESHMENT, 141.
PUBLIC RESORT, 3, 40.

Q.

QUARTER SESSIONS. *See* APPEAL.
QUEUES. *See* CONTRACTS; THE PUBLIC.

R.

RECREATION ROOMS, NAVAL AND MILITARY, 148.
RE-ENGAGEMENT. *See* CONTRACT.
REFRESHMENT HOUSES ACT, 1860 . . 142.
REFRESHMENTS, SALE OF, 51.
REGULATIONS. *See* LICENSING AUTHORITY, DISCRETION OF.
REMISSION OF PENALTIES ACT, 1859 . . 141.
REMISSION OF PENALTIES ACT, 1875 . . 55.
RESIDENCE, ORDINARY, 95.
RESORT. *See* PUBLIC RESORT.
REVOCATION. *See* LICENCE.
RINKING. *See* PUBLIC DANCING.
RIOT, 8, 125, 12.
ROOM IN THEATRE, 125.
ROYAL LICENCE, 4, 39.
ROYAL RESIDENCE. *See* LORD CHAMBERLAIN.
RULES. *See* LICENSING AUTHORITY, DISCRETION OF.
RULES, 5, 8, 91, 122, 164.
RULES, LONDON COUNTY COUNCIL, 159, 169, 181, 192.
RULES, LORD CHAMBERLAIN'S AS TO THEATRE, 149, 151.

S.

SEAT, RIGHT TO OCCUPY, 125.
SESSIONS OF THE PEACE. *See* LICENSING AUTHORITY.
SHOPS ACT, 1911 . . 149.
SONG. *See* COPYRIGHT.
STAGE PLAYS, 11.
  fees for examination of, 11.
  forbidden by Lord Chamberlain, 12.
  penalty for acting in unlicensed, 12.
  what is included, 15.
STRUCTURAL DEFECTS. *See* DANGEROUS STRUCTURE ORDER.
  requirements, 150, 168, 181.
    exits, 40, 164, 181.
    platforms, 41.
    urinals, 45.
SUMMONS. *See* INFORMATION.
SUNDAY OBSERVANCE ACT, 1781, 48.
SUNDAY OBSERVANCE PROSECUTION ACT, 1871, 53.

T.

THEATRE. *See* HOUSE; RULES; LICENCES.
  booth theatre, 3, 10, 44:
  unlicensed. *See* CONTRACTS.
THEATRES ACT, 1843 . . 1.

U.

UNDERSTUDY, 117.
UNIFORMS ACT, 1894 . . 149.
UNIVERSITIES. *See* OXFORD.
UNLICENSED HOUSE. *See* HOUSE.
URINALS. *See* STRUCTURAL REQUIREMENTS.

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