# 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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AND
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THEATRES, MUSIC AND DANCING, STAGE PLAYS,

CINEMATOGRAPHS, COPYRIGHT,

SUNDAY PERFORMANCES, CHILDREN,

THEATRICAL CASES AND SPECIMEN CONTRACTS


BY

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# 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.

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