territories. Accordingly efforts were made, sometimes successfully, to extend copyright to literary and artistic productions not hitherto protected; to raise the general level of protection throughout all the countries of the Union; and to abolish, as far as possible, the reservation to each Union country of the power to make its own copyright legislation. In short, the movement was towards international uniformity and away from the principle of national reservations prevailing in 1886. This movement was natural so long as the aim and object of the Conferences were the protection and advancement of authors' rights, and so long as authors and publishers were dominant at the Conferences and were successful in having their views accepted by the national Legislatures.

Checks to Movement.—But the movement has since 1886 sustained two checks, each time occasioned by the entry to the Conference of representatives of interests differing from those of the copyright-owners.

First Check, Industrial.—The first interest to make itself felt was the industrial one. Between 1886 and 1908 the gramophone industry had sprung up and was well established, employing large numbers of workmen and much capital. It asserted itself so effectively at the Berlin Conference of 1908 that any person may now, subject to certain conditions, without the consent of the owner, make gramophone records of a copyright musical work upon payment of a royalty. This is the compulsory-license system, bitterly opposed at the time, and still subject to bitter but hopeless attacks. It is secured by Article 13 of the Berlin Convention, and reappears in Article 13 of the Rome Convention, and is there for good and all, for its revocation can only be obtained by the unanimous vote of the nations of the Union.

Second Check, Public Interests: Dominions' Influence.—The second check to the progress of the movement towards uniformity occurred at the Rome Conference. This time the debate was on radio-diffusion, and it was at the hands of the Dominions of Australia and New Zealand, representing the public interests, that the check was administered. These Dominions were unfettered by the over-emphasized traditional respect for copyright-holders' rights, and unhampered by capitalistic interests, so powerful in the counsels of the Old World countries. They were combating a world-wide association, having great capital revenues, and they succeeded by asserting the principle of home rule in radiophonic control, and thus stemmed the tide of copyright uniformity.

The Problem.—The problem as it appeared to the New Zealand delegate was how to reconcile the just claims of the owners of copyright with the public interest.

IV. EXAMINATION OF THE CONVENTION.

Interpretation of Convention.—Before dealing in detail with the agreement ultimately arrived at and embodied in the Convention of Rome, it is necessary to consider how New Zealand's legislation is to be accommodated to the Rome Convention, and also how that convention is to be interpreted.

Copyright in New Zealand, as in England, is a purely statutory right (section 4, New Zealand Act of 1913, adopting section 31 of the English Act, 1911), and there is nothing to prevent the New Zealand Parliament making any alteration it pleases in its copyright legislation, as it can in any other branch of the law, subject, however, always to this consideration—namely, that if it desires to remain in the Copyright Union its legislation must not conflict with the International Copyright Convention.

Bringing New Zealand Legislation within Convention.—But who is to determine whether New Zealand's copyright legislation is within the convention? That is not a justiciable question—not a question within the competence of jurisdiction of the New Zealand Judiciary or of the Judicial Committee of the Privy Council. In some countries a treaty or convention becomes part of the law of the land, enforceable as such without more ado; and doubtless in such countries the question now being considered comes within the jurisdiction of the law-courts. But that is not the New Zealand law, nor that of any country where the English common law prevails.

Nor is the question determinable by any outside tribunal. It was indeed proposed at the Conference at Rome by the Norwegian and Swedish delegations that such questions should be referable to the Hague Court of International Justice. That proposal was, however, negatived. It met with opposition from some of the Continental States. It did not receive support from the British or New Zealand delegations. If adopted, it meant trouble for the British Empire, for differences between Empire units are to be settled by the Empire without reference to foreigners.

No; there is no final Court competent to deal with questions of interpretation: they are left to the good sense and honour of the several countries members of the Union. If a Union country obviously or flagrantly violates the terms of the convention it can be dealt with by the Union itself, and presumably in the last resort excluded from the Union. Such a violation, if persisted in, implies refusal to accept the convention.

No International Uniform Method of Interpretation.—In this connection it is important to keep in mind that different countries have different methods of interpretation. In a country where the common law prevails a convention is apt to be read much as a statute is in its law-courts—that is, each word is weighed, but reference to parliamentary or Conference debates or discussions is not permitted. These common-law methods are not understood by countries having different legal systems from ours. Those countries look for what they call the spirit of the convention, and when interpreting such a document have recourse to all debates, discussions, and documents deemed to be relevant, and in draftmanship they are mush less meticulous than we are.

Latitude in interpreting.—In interpreting the convention for the purposes of New Zealand legislation we may therefore, it is submitted, safely and properly adopt, if we care to, the interpretation placed upon it by other nations or any not inconsiderable body of them, even though that interpretation may not commend itself to a common-law lawyer. This proposition is not an academic one merely, but has a practical importance when legislation is considered, as later on in this report it will be, concerning certain branches of public-performance rights.