



Some Famous Works and Year of First Publication (Subverted Public Domain List)

Dennis S. Karjala
 Professor of Law
 Arizona State University

This list shows a few works of music, literature, and film that, as far as I can tell, were first published in the years shown. The "Subverted Public Domain" begins with the year 1923. Works published in that year would already be in the public domain but are still protected by the legislative swindle known as the Sonny Bono Copyright Term Extension Act of 1998. Any United States work published before 1964 lost its copyright in the 28th year after publication unless the copyright was formally renewed at the Copyright Office. (Congress made renewal automatic for works published after 1963, so most of those works are, and for a very long time will be, under copyright.) To check on the copyright status of works from the 1923-63 era, it is therefore necessary to determine whether the copyright was renewed. See [How to Determine Whether a Work is in the Public Domain](#), and links contained there, for more details.

Frances Hodgson Burnett's *The Secret Garden* was published in 1911, so it went into the public domain on Jan. 1, 1987. Its entrance into the public domain has spawned a huge outpouring of new and creative derivative works, including plays, musicals, video and audio cassettes, annotated and searchable online versions, and even cookbooks. See [Derivative Works Based on The Secret Garden](#).

NOTE: I have checked the renewals for most of the literary works on this list, so I am confident that they are still under copyright (assuming the CTEA is valid). Unfortunately, renewals for films and music are not, to my knowledge, as readily available, and I have had to rely heavily on second-hand information. For example, Lon Chaney's *Hunchback of Notre Dame*, Buster Keaton's *The General*, and Douglas Fairbanks, Jr.'s *The Thief of Bagdad* were on the list, but I have since learned that they appear to be in the public domain and have therefore removed them. I apologize for any remaining errors.

1919 (entered public domain Jan. 1, 1995)

Music

Swanee by **George Gershwin** and **Irving Caesar**
A Pretty Girl Is like a Melody by **Irving Berlin**

Books and Poems

Frances Hodgson BURNETT: *The Secret Garden* (1911?)

1920-1921 (entered public domain Jan. 1, 1996 or 1997)

Music

After You've Gone by **Henry Creamer** and **Turner Layton**
Till the Clouds Roll By by **Jerome Kern** and **P.G. Wodehouse**
Over There by **George M. Cohan**
Till We Meet Again by **Richard Whiting** and **Raymond Egan**
Ain't We Got Fun
Ma! (He's Making Eyes At Me)

Books and Poems

F. Scott FITZGERALD: *This Side of Paradise*
D.H. LAWRENCE: *Women in Love*
Edith WHARTON: *The Age of Innocence*

Films

The Kid, with **Charlie Chaplin**
The Sheik, with **Rudolph Valentino**

Characters

Felix the Cat (appeared in cartoons beginning in 1920; characters go into the PD at the time of the first work in which they appear)
Hercule Poirot, the Belgian detective, is introduced to readers in "The Mysterious Affair at Styles," by **Agatha Christie**

1922 (entered public domain Jan. 1, 1998)

Music

Look for the Silver Lining by **Jerome Kern** and **Bud DeSylva**
Avalon by **Al Jolson**, **Bud DeSylva**, and **Vincent Rose**

Books and Poems

T.S. ELIOT: *The Waste Land*
Marcel PROUST: *Swann's Way* (first English translation)
James JOYCE: *Ulysses*
Oswald SPENGLER: *Decline of the West*
Sinclair LEWIS: *Babbitt*

Films

***Blood and Sand with Rudolph Valentino
Nanook of the North***

1923 (should have been public domain Jan. 1, 1999)

Books and Poems

Willa Sibert CATHER: *A Lost Lady, Nebraska, and The End Of The First Cycle*

Joseph CONRAD: *Christmas Day at Sea and Outside Literature*

John DOS PASSOS, *Streets of Night*

Arthur CONAN DOYLE: *The Adventure Of The Creeping Man and The Adventure Of The Sussex Vampire*

F. Scott FITZGERALD: *Hot and Cold Blood and Invasion of the Sanctuary*

James FRAZER: *The Golden Bough*

Robert FROST, *New Hampshire (poems)*

Zane GREY: *Code of the West, Steelhead, Tappan's Burro, The Vanishing American, and Down into the Desert*

Ben HECHT: *Fingers at the Window*

Rudyard KIPLING: *Independence and London Stone*

Ring LARDNER: *Blue Beard, Why Authors?, Cinderella, The Dames, What I Ought To Of Learnt In High School, and Bringing Up Children*

Amy LOWELL: *Cut Shadow, Fact, Green Shadows, Rosebud Wall Paper, and Dissonance*

W. Somerset MAUGHAM: *Bewitched, German Harry, Mayhew, and The Force of Circumstances*

Edna St Vincent MILLAY: *The Harp-Weaver, And Other Poems, Memory of Cape Code, To the Liberty Bell, and The Concert*

Wallace STEVENS: *Harmonium*

Booth TARKINGTON: *The Coincidence, The Power of the Press, and The Midlander*

P.G. WODEHOUSE: *Jeeves, First Aid for Dora Heart of a Goof, Leave It to Psmith, Magic Plus Fours, No Wedding Bells for Him, The Return Of Battling Billson, Rollo Podmarsh Comes To, Ukridge Rounds A Nasty Corner, and Chester Forgets Himself*

Virginia WOOLF: *Jacob's Room*

William Butler YEATS: *Meditations In Time Of Civil War*

Plays

Noel COWARD: *The Young Idea*

Luigi PIRANDELLO (trans Arthur Livingston): *Each In His Own Way, And Two Other Plays*

Films

Safety Last by Harold Lloyd
Little Church Around the Corner
The Ten Commandments, by C.B. DeMille

Music

You're The Cream In My Coffee, words and music by B.G. De Sylva, Lew Brown and Ray Henderson
Who's Sorry Now?, words and music by Bert Kalmar, Ted Snyder, And Harry Ruby
I Cried For You (Now It's Your Turn To Cry Over Me), by Arthur Freed, Gus Arnheim and Abe Lyman
Chansonette, music by Rudolf Friml, lyrics by Irving Caesar, Dailey Paskman, and Sigmund Spaeth
Yes! We Have No Bananas, by Frank Silver and Irving Cohn
Charleston, by Mack & Johnson

1924 (should have been public domain Jan. 1, 2000)

Films

The Battling Fool (Columbia), with William Fairbanks, Pat Harmon, Eva Novak, and Edward Kennedy; written and directed by W.S. Van Dyke
Dixie
The Fighting Coward (Famous Players - Lasky), with Cullen Landis, Ernest Torrence, Mary Astor, and Noah Beery; produced and directed by James Cruze
He Who Gets Slapped (MGM), with Lon Chaney, Norma Shearer, and John Gilbert; directed by Victor Seastrom (Sjöström)
Monsieur Beaucaire (Famous Players - Lasky), with Rudolph Valentino, and Bebe Daniels; produced and directed by Sidney Olcott
The Next Corner (Paramount), with Conway Tearle, Lon Chaney, and Dorothy Mackaill; directed by Sam Wood (still under copyright because of the CTEA, but considered lost)
Peter Pan (Paramount), with Betty Bronson, Ernest Torrance, and Mary Brian; produced and directed by Herbert Brenton
Racing for Life (Columbia), with William Fairbanks, Eva Novak and Edgar Kennedy
Sherlock, Jr.

Books

Mark Twain, *Autobiography* (posthumous)
Edna Ferber, *So Big*

Music

When My Sugar Walks Down The Street (All The Little Birdies Go Tweet Tweet Tweet), words and music by Gene Austin, Jimmy McHugh and Irving Mills

It Had To Be You, lyric by Gus Kahn, music by Isham Jones

Rhapsody in Blue, by George Gershwin (performed, by the composer, for the first time Feb. 12, 1924, accompanied by Paul Whiteman's orchestra)

Fascinating Rhythm; The Man I Love, by George & Ira Gershwin

Sleepy Time Gal, lyric by Jos. R. Alden and Raymond B. Egan

Amapola

Everybody Loves My Baby, words and music by Jack Palmer and Spencer Willson

All Alone; They Call It Dancing; Lazy; What'll I Do?, words and music by Irving Berlin

I'll See You In My Dreams, lyrics by Gus Kahn, music by Isham Jones

Moonlight And Roses, by Edwin H. Lemare, Ben Black and Neil Moret

Memory Lane, lyrics by B.G. De Sylva, music by Larry Spier and Con Conrad

When Day Is Done, lyrics by B.G. De Sylva, music by Dr. Robert Katscher

Rose Marie; Indian Love Call; Totem Tom Tom, from the musical play and film

Rose Marie, music by Rudolph Friml and Herbert Stothart, book and lyrics by Otto Harbach and Oscar Hammerstein 2nd

Golden Days; Just We Too; Deep In My Heart, Dear (Sorry, Dad), from *The Student Prince*, by Sigmund Romberg

California, Here I Come, by Jolson, De Sylva & Meyer

Tea for Two, by Caesar & Yeomans

Characters

Little Orphan Annie, drawn by Harold Gray, debuts in the New York Daily News Oct. 5, 1924

1925 (should have been public domain Jan. 1, 2001)

Films

The Gold Rush, with Charlie Chaplin. Copyright was never renewed in this work, so it went into the PD in 1953. Apparently Chaplin composed a musical score and added it to the film, registering a copyright in 1942 as a derivative work (which copyright was renewed in 1969). That copyright, however, covers only the new material added to the original, not the original or any elements of the original themselves. It seems that someone has nevertheless filed a restoration notice to revive the original silent film copyright under the Uruguay Round Agreements Act. (The constitutionality of *that* is under challenged in *Golan v. Ashcroft* - see [Challenge to Constitutionality](#).) But if the original silent film was a U.S. work, a restoration notice could not validly be filed as to it. That, in turn, depends on where the work was first "published." If it was

published first in the U.S., *The Gold Rush* should be in the public domain. (I am indebted to Michael Agee for apprising me of these twists and turns in the saga of *The Gold Rush*.)

Battleship Potemkin (possibly PD in any event, because of status of US/Soviet copyright relations)

His People, also known as *Proud Heart* (Universal), with Rudolph Schildkraut, George Lewis, Jean Johnson, Kate Price, and Edgar Kennedy; directed by Edward Sloman

Books

Robert BENCHLEY, *Pluck And Luck*

Stephen Vincent Benet, *Tiger Joy, A Book Of Poems*

Willa CATHER, *The Professor's House*

George M. COHAN, *Mud Pies And Maple Sugar and Poor Little Rich Man*

John DOS PASSOS, *Manhattan Transfer*

Theodore Dreiser, *An American Tragedy*

Andre (Paul Guillaume) GIDE, *Les Faux-Monnayeurs*

Samuel GOMPERS, *Seventy Years Of Lide And Labor*

Zane GREY, *Tales Of Fishing Virgin Seas and The Thundering Herd*

Ernest HEMINGWAY, *In Our Time*

Aldous HUXLEY, *Along the Road*

Franz KAFKA, *Der Prozess (The Trial)*

John Maynard KEYNES, *The Economic Consequences Of Sterling Parity, aka: The Economic Consequences Of Mr Churchill*

Rudyard KIPLING, *Warfare On Ill Will, Chartres Windows, A Choice Of Songs, and The Shipping Industry*

Ring LARDNER, *You Know Me Al and What Of It*

Sinclair LEWIS, *Arrowsmith*

Walter LIPPMANN, *The Phantom Public*

Archibald Macleish, *The Pot of Earth*

W Somerset MAUGHAM, *The Painted Veil*

Luigi Pirandello, *Dal Naso Al Cielo, Quaderni Di Serafino Gubbio, Operatore, and Donna Mimma*

Edwin Arlington ROBINSON, *Dionysus In Doubt*

Bertrand RUSSELL, *What I Believe and The ABC Of Relativity*

Booth TARKINGTON, *Mrs Leslie Braithwaite's Husband, Rabble Rouser, and Napoleon Was A Little Man*

Albert Payson TERHUNE, *Wolf and Najib*

Lowell THOMAS, *Beyond Khyber Pass and The First World Flight*

H.G. WELLS, *A Year Of Propheying*

Edith WHARTON, *The Writing Of Fiction*

P.G. WODEHOUSE, *In The Springtime*

Virginia WOOLF, *The Common Reader and Mrs Dalloway*

William Butler YEATS, *Early Poems And Stories*

Music

I'm Tired of Everything But You, words and music by Isham Jones
Manhattan, lyrics by Lorenz Hart, music by Richard Rodgers
Angry, lyrics and arrangement by Dudley Mecum, Henry and Merritt Brunies,
and Jules Cassard
Remember; Always; Florida By The Sea; Paddlin' Madelin' Home, words and
music by Irving Berlin
Dinah, words by Sam M. Lewis & Joe Young, music by Harry Akst
Side By Side, words and music by Harry Woods
Cecilia (Does Your Mother Know You're Out?), words by Herman Ruby, music
by Dave Dreyer
Jalousie, music by Jacob Gade, words by Vera Bloom
Five Foot Two, Eyes Of Blue, lyrics by Sam M. Lewis and Joe Young, music by
Ray Henderson
Valencia (A Song Of Spain), words by Lucien Boyer and Jacques-Charles,
music by Jose Padilla, American version by Clifford Grey

1926 (should have been public domain Jan. 1, 2002)

Music

Irving Berlin: *Blue Skies*
Rodgers & Hart: *The Blue Room*, from *The Girl Friend*
Sigmund Romberg: *The Desert Song* and *The Student Prince*
Harry Woods: *When the Red, Red Robin Comes Bob, Bob
Bobbin' Along*

Films

The Lodger (Alfred Hitchcock)
The Vanishing Americans (Paramount)

Books

Ernest HEMINGWAY, *The Sun Also Rises*
A.A. MILNE, *Winnie the Pooh*
Watty PIPER (Mabel C. Bragg), *The Little Engine That Could*

1927 (should have been public domain Jan. 1, 2003)

Music

Oscar Hammerstein II and Jerome Kern: *Ol' Man
River* and *Showboat*

Films

Wings

The Jazz Singer, with Al Jolson

Sunrise

Metropolis

1928 (should have been public domain Jan. 1, 2004)

Characters

Mickey Mouse