

Michael Austin:

B4.2.1.2

MEMORANDUM OF AGREEMENT made this day of December, 1985
between

Hilda Bernstein

c/o Anthony Sheil Associates Ltd., 43 Doughty Street, London WC1N 2LF (hereinafter called 'the Author', which expression shall where the context admits include the Author's executors, administrators and assigns) of the one part and

/- a division of William Collins Sons & Co. Ltd.,
Grafton Books/Ltd, 8 Grafton Street, London W1

(hereinafter called 'the Publishers', which expression shall where the context admits include the Publishers' assigns or successors in business as the case may be) of the other part.

WHEREBY it is mutually agreed as follows respecting a work by the Author entitled

DEATH IS PART OF THE PROCESS

(hereinafter called 'the said work')

Rights

1. The Author hereby grants to the Publishers for the full term of copyright and all extensions and renewals thereof the sole and exclusive licence to publish and grant sub-licences in the said work in paperback volume form in the English language throughout the Countries named in the Appendix to the Agreement and the non-exclusive licence to publish the said work in volume form in the English language throughout the rest of the world except **the United States, its dependencies, and the Philippines**. The Author further agrees that the non-exclusive territory for the English language shall be reserved exclusively for the sale of the Publishers' and the American Publishers' editions and no other.

Warranties

2. The Author hereby warrants that:
(a) the said work is original to the Author and contains nothing that is in any way an infringement of any existing copyright;
(b) the said work contains nothing obscene, indecent or defamatory nor any matter which is unlawful as a breach of the Official Secrets or any other Acts effective in English law;
(c) the Author will indemnify and keep indemnified the Publishers against any loss, injury or damage occasioned to the Publishers in consequence of any breach of these warranties; provided that any legal costs and expenses and any compensation, damages, costs and disbursements shall only be paid by the Publishers on the joint advice of the respective legal advisors of the Author and the Publishers and failing agreement on the advice of Counsel selected and instructed jointly on behalf of the Publishers and the Author.

Delivery

3. (a) The Author has delivered the said work.

Publication

4. The Publishers shall publish the said work at their own expense and risk in massmarket paperback volume form, unless prevented by circumstances outside their control, within twelve months of the delivery to them of the typescript of the said work.

Royalties:

5. (a) The Publisher shall pay to the Author the following royalties:

Home

(i) Of the British published price on all copies sold, excluding such copies as may by subsequent Clauses of this Agreement, or as otherwise mutually agreed, be sold subject to a different royalty: **7.5% ***

Export

(ii) British published price on all copies sold outside the British Isles (including Eire) or in the British Isles (including Eire) for purposes of export: **6% ***

*When accounting for royalties the Publishers shall make a deduction for a reasonable reserve against returns. such reserve not to exceed 20%

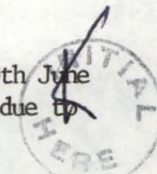


- Cheap Editions (iii) A royalty to be agreed on all copies of any cheaper edition issued by the Publishers with the consent of the Author.
/at a price above cost
- Remainders (iv) 10 per cent of the actual amounts received by the Publishers on all copies remaindered/ The Publishers shall not be at liberty to sell copies of the said work as a remainder until two years after first publication without the written permission of the Author. The Author shall be notified in writing of the intended sale of the said work as a remainder and shall be given the option for twenty-eight days of purchasing such copies at the remainder price.
/and published in India
- O'seas Editions (v) On all copies of any edition manufactured ~~and distributed~~ outside the British Isles (including Eire)/by either the Publishers themselves or their representatives: ten per cent of the local published price.
- No Royalties (b) No royalties shall be paid on copies:
- (i) Presented to the Author, or to others, or to the Press.
- (ii) Destroyed by fire, water, enemy action, in transit, or otherwise (except to the extent the Publishers receive insurance payments in which case the remainder provisions in the preceding sub-clause shall apply).
- Book Clubs (c) (i) Should the Publishers sub-lease any part of this licence to a paperback Book Club, then:
- (a) if the sub-licence is subject to a royalty, the royalty shall be divided between Author and Publishers.
- (b) if the sub-licence involves the sale of bound copies or sheets inclusive of royalty, the Publishers shall pay to the Author 10 per cent of their receipts.
- Digests (ii) Should the Publishers sub-lease the right to publish in digest or condensation volume form they shall pay the Author 50% of their receipts.
- (iii) Should the Publishers sub-lease any part of this licence to a hardback publisher associated directly or indirectly with the Publishers the royalties received by the Publisher on all editions shall be payable in full to the Author.
- US Distribution (iv) Should the Publishers grant to an American publisher or Book Club permission to distribute in territory exclusively granted to the Publishers any actual amounts received by the Publishers shall be divided as to Fifty per cent to the Author and Fifty per cent to the Publishers.
- Anthology (vi) Should the Publishers lease anthology and quotation rights any proceeds shall be divided equally.

All sub-leases under this Clause 5(c) shall only be agreed with the Author's approval which shall not be unreasonably withheld.

The Author's share of all advances and proceeds from any licence granted under this Clause 5(c) shall be paid by the Publishers within twenty-eight days of receipt of such monies by the Publishers, subject to the advance made under Clause 5(d) below having been earned and the sums due not being less than £50 and notwithstanding Clause 6 below.

- Advances (d) The Publisher shall pay to the Author, on account of the royalties specified in Clause 5(a) and (c) above, but not returnable, the sum of: **£2000 payable half on signature and half on publication .**
- Accounts 6. (a) The Publishers shall make up accounts of the sales of the said work as at 30th June and 31st December in each year and shall render such account and pay all monies due to the Author by the succeeding 1st October and 1st April respectively.
- Documents (b) The Publishers agree to supply the Author with photocopies of all sub-leases and



agreements in connection with the sale of subsidiary rights within fourteen days of receipt of same by the Publishers and copies of all statements received by them at regular intervals in connection with all such subsidiary sales when accounting for such sales to the Author.

7. It is agreed that the Publishers shall receive the following shares of the net monies received by the Author or on her behalf from any dealing in the following rights made during the validity of this agreement in the territory exclusively granted:

- 2nd Serial (a) The right to publish the said work or excerpts from it in one or more instalments in a periodical or newspaper solely after publication of the said work in volume form: Twenty-five per cent.
- One-Shot (b) The right to publish the complete work in a single issue of a periodical of newspaper, i.e. one-shot publication: Fifty per cent.
- Cassettes etc (d) The right to read the said work or excerpts from it on audio-visual recording and presentation systems, cassette, recording discs and photographic reproduction except for use in connection with a cinematograph film solely after publication of the said work in volume form: Twenty-five per cent.
- Cartoons (e) Strip cartoon rights: Twenty-five per cent.

The Author will consult the Publishers over any sale of rights under this clause.

- Audit 8. The Author shall have the right herself or by any Accountant appointed by her from time to time on reasonable notice to the Publishers to inspect all books, vouchers and documents in the possession of the Publishers relating to the exploitation of rights in and to the sales of the said work.

- Production/
Design/
Corrections 9. All details as to the manner of production and publication and the number and destination of free copies shall be left to the sole discretion of the Publishers, who shall bear all expenses in connection therewith except the amount (if any) of the Author's corrections in the proofs other than printer's errors in excess of ten per cent of the cost of composition. The Publishers shall notify the Author of any such excess expenses before the book finally goes to press and the extra amount shall be borne by the Author and settled in account.

- (a) If so requested, the Publishers undertake to consult the Author about jacket design.
- (b) The Author undertakes to read, correct and return proofs to the Publishers within twenty-one days of receipt of the same.
- (c) The Publishers undertake that the proofs are in addition read and corrected by a responsible proof reader.
- (d) The Publishers undertake to inform the Author regarding the number of copies in each impression or edition.
- (e) Advertisements other than for books issued by the Publishers shall not be printed on the dust-jacket or in a paper back edition and may not be inserted or printed in any edition of the said work whether issued by the Publishers or their licensees without the prior written consent of the Author.
- (f) Within ninety days of first publication of the work the Publishers shall return the original typescript to the Author.

- Free
Copies 10. The Publishers shall send as soon as they become available and before the day of first publication presentation copies of the said work as follows:
six to **Hilda Bernstein, Old House Farm, DORSTONE, Hereford HR3 6BL**
and ~~six~~ to Anthony Sheil Associates Ltd.
The Author shall be entitled to buy further copies for personal use at the lowest trade price.

/s/



The Publishers undertake to supply the Author c/o Anthony Sheil Associates, with presentation copies of any sub-leased edition or editions or impression subsequent to original publication.

Publishers' Breach

11. If (a) the Publishers fail to fulfil or comply with any of the provisions of this Agreement within one month after written notification from the Author of such failure, or (b) an order is made or an effective resolution passed for the liquidation of the Publishers other than a voluntary liquidation for purposes of amalgamation or reconstruction only, or if (c) the Publishers at any time allow the said work to go out of print or off the market (which shall be held to be the case if there are less than 100 copies in stock or the book is not listed in the Publishers' complete catalogue) and shall not have reprinted and place on the market a new edition or impression of the said work within six months after written notification from the Author, then and in any of these events this Agreement shall automatically determine without prejudice to any claim the Author may have either for monies due and/or damages and/or otherwise. The Publishers undertake to notify the Author that the book has gone out of print or off the market on the first royalty statement thereafter.

Out of Print

Assignment of Rights

12. The Publishers may only assign their rights and obligations under this contract with the written consent of the Author which shall not be unreasonably withheld.

Copyright

13. The Publishers undertake that all copies of the said work published or sub-leased by them shall bear the required U.C.C. copyright notice in such manner and location as to give reasonable notice of claim of copyright.

Death of Author

14. If the Author dies before delivery of the said work to the Publishers or is prevented by causes beyond her control from fulfilling the Agreement, the Author agrees that all typescript or notes relevant to the said work shall belong to the Publishers and that that part of the advance already received shall remain with the Author or her estate; and the Author or her estate shall also be paid such proportion of the royalties and other sums payable hereunder as will be fair and reasonable having regard to the state of the said work at the time of the Author's death or prevention from fulfilling the Agreement.

Agency

15. All statements of account and all monies due under this Agreement should be paid to the Author's agents, Anthony Sheil Associates Ltd. 43 Doughty Street, London WC1N 2LF who are hereby authorised to collect and receive such monies, and the Author declares that the receipt of the said Anthony Sheil Associates Ltd., shall be a good and valid discharge in respect thereof, and the said Anthony Sheil Associates Ltd., are hereby authorised as agents for the Author in all matters arising out of this agreement.



APPENDIX REFERRED TO IN CLAUSE 1

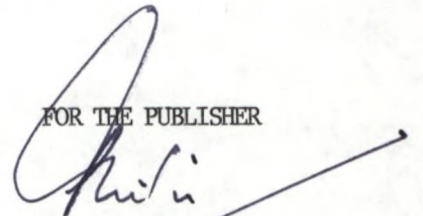
Antigua and Barbuda
Australia
Bahamas
Bangladesh
Barbados
Belize
Bermuda
Botswana
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Brunei
Burma
Canada
Cayman Islands
Cyprus
Dominica
Egypt
Falkland Islands
Fiji
Gambia
Ghana
Gibraltar
Grenada
Guyana
Hong Kong
India
Iraq
Irish Republic
Israel
Jamaica
Jordan
Kenya
Kiribati
Lesotho
Malawi
Malaysia

Malta
Mauritius
Montserrat
Nauru
New Hebrides
New Zealand
Nigeria
Pakistan
Papua New Guinea
Pitcairn Island
St Christopher Nevis-Anguilla
St Helena, Ascension, Tristan
da Cunha
St Lucia
St Vicent
Samoa Western
Seychelles
Sierra Leone
Singapore
Solomon Islands
Somalia
South Africa
South West Africa
Sri Lanka
Sudan
Swaziland
Tanzania
Tonga
Trinidad and Tobago
Turks & Caicos Islands
Tuvalu
Uganda
United Kingdom (including Northern Ireland
Isle of Man and Channel Islands)
Yemen PDR
Zambia
Zimbabwe

FOR THE AUTHOR

.....

FOR THE PUBLISHER



.....
MANAGING DIRECTOR
GRAFTON BOOKS

Collection Number: A3299

Collection Name: Hilda and Rusty BERNSTEIN Papers, 1931-2006

PUBLISHER:

Publisher: **Historical Papers Research Archive**

Collection Funder: **Bernstein family**

Location: **Johannesburg**

©2015

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of the *Hilda and Rusty Bernstein Papers*, held at the Historical Papers Research Archive, University of the Witwatersrand, Johannesburg, South Africa.