

The Diva, her Lover and the Recording Company scheme to “get Melba”

Introducing Dame Nellie Melba (1861-1931), the business woman.

Professor Kathy Bowrey, Faculty of Law & Justice, University of New South Wales

Based on Chapter 6. Why does a gramophone maker deserve a copyright?

In Kathy Bowrey, *Copyright, Creativity, Big Media and Cultural Value* (Routledge 2021).

GRAMOPHONE "MELBA" RECORD



TRADE MARK

PATENTED PATENTED

Manufactured by
The Gramophone and Typewriter Ltd.,
and Sister Companies.

September, 1905

LONDON

Lo! here the gentle lark (Sir Henry Bishop)

Piano: Landon Ronald; Flute Obligato: E. Fransella

Key F major

sung by

Helmi Melba

03047



<https://www.nfsa.gov.au/collection/curated/asset/96108-chant-venitien-dame-nellie-melba#:~:text=Dame%20Nellie%20Melba's%20recording%20of,of%20the%20song%2C%20Herman%20Bemberg>

Who was Nellie Melba c.1904?

Diva

London High Society Celebrity

Risk Taker

Business woman

Helen Porter Mitchell (1861-1931) : Melburnian,
Daughter, Sister, Mother, Divorcee, Australian
abroad

Madame Melba (c. 1902)

Rupert Bunney
NGV: A70-1980



Edwardian Business Culture

**Nellie Melba alighting from
her car with driver William
Hayes, London, c.1900–10**

Australian Performing Arts
Collection, Arts Centre



“As regards presents in general it should be understood that a present demands a note of thanks in all cases when the thanks cannot be verbally expressed... This applies equally to presents of game, poultry, fruit, or flowers. Some few people entertain the erroneous idea that presents of this nature do not require thanks. This is not only ungracious but raises a doubt in the mind of the giver as to whether the present sent has been duly received.”

A Member of the Aristocracy,
Manners And Rules Of Good Society Or Solecisms To Be Avoided,
Frederick Warne & Co, 38th Edition, 1916, 259

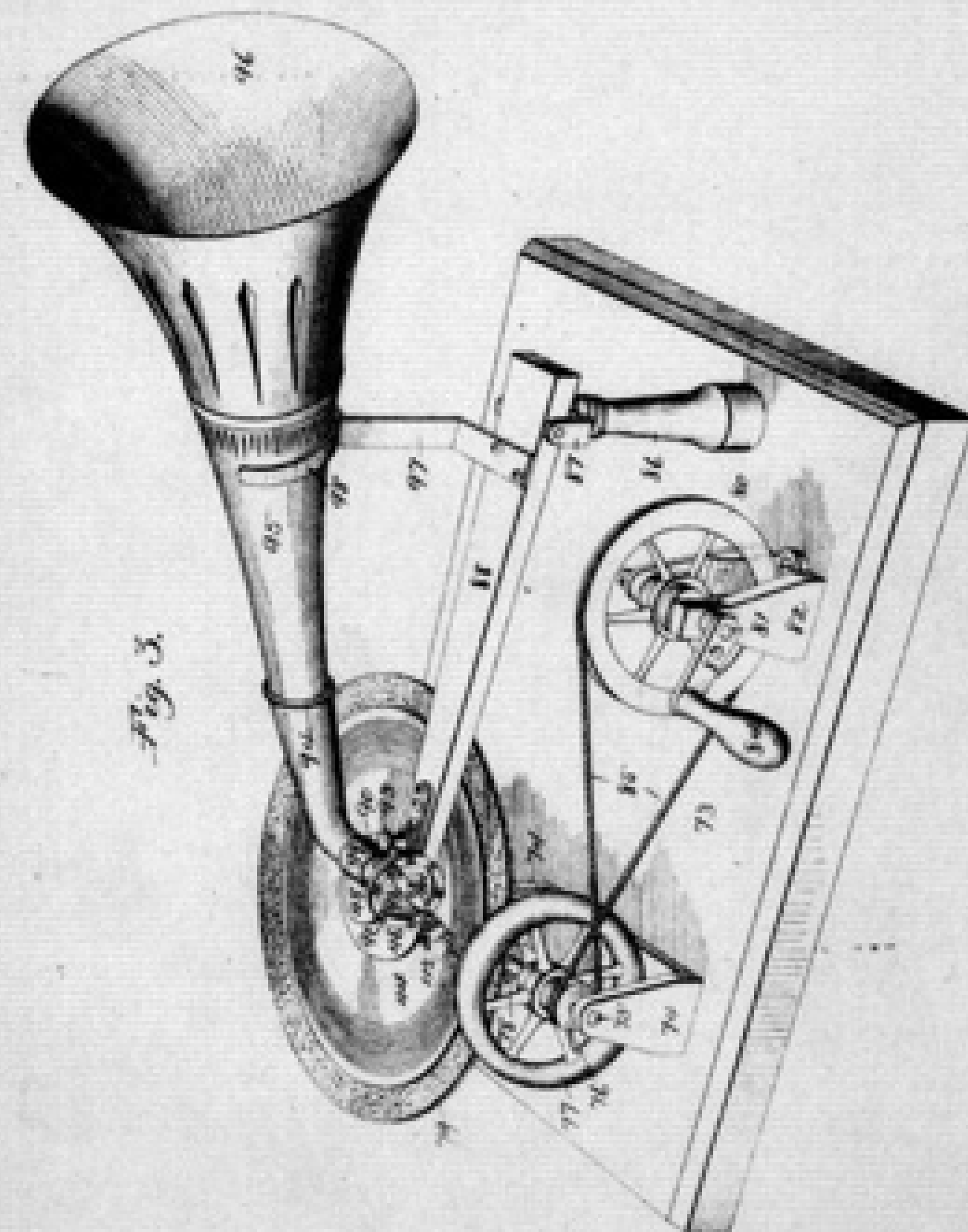
(No Model.)

E. BERLINER.
GRAMOPHONE.

4 Sheets—Sheet 3.

No. 534,543.

Patented Feb. 19, 1895.



Witnesses:

Roy C. Brown
F. T. Chapman

Inventor:

Emile Berliner
By *Joseph Gony*
Attorney

What was the Gramophone Company?

Canned Music?



With thanks to Albert Garriga

MELBA HAS MADE GRAMOPHONE RECORDS.

IN APRIL LAST MADAME MELBA approached The Gramophone and Typewriter Ltd. with a view to obtaining a series of Gramophone Records of her singing in order that she might send them to her father in Australia. The Company agreed to take her to London to permit recording facilities and a laboratory fully fitted with the necessary machinery and apparatus was constructed in her honor in London. Madame Melba then spent her time there and made some 20 records in one or two days, but as the record is not yet ready for sale.



THE GREAT VOICED OF MADAME MELBA

The result of this work was the production of a series of records which represent a unique and valuable contribution to the Gramophone for ever. Each beautiful reproduction of Madame Melba's voice combined with the brilliancy of phrasing and tone of execution which characterize her marvelous artistry are they, but

HER FRIENDS HAVE PERSUADED HER

to allow these records to be published by the Gramophone and Typewriter, Limited, for the benefit of the whole world and for all future generations. Madame Melba, after the records were delivered to her, wrote the following warmly worded statement:

To the Manager, The Gramophone and Typewriter, Ltd.,
The Gramophone and Typewriter, Ltd.,
21, City Road, E.C.4.

Dear Sir,

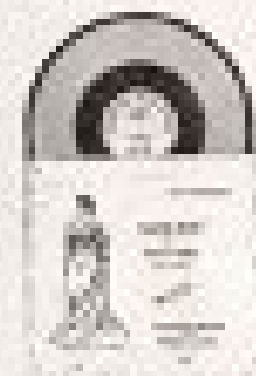
I have much pleasure and pride in your ready acceptance of my proposition. I feel that in doing so you are not only giving to the world a most valuable and unique contribution to the art of music, but also a most valuable and unique contribution to the art of music.

MELBA

12-inch De Luxe 'Melba' Records, price 2/6s. each.

| | | | |
|------|--------------|------|--------------|
| 1001 | Madame Melba | 1002 | Madame Melba |
| 1003 | Madame Melba | 1004 | Madame Melba |
| 1005 | Madame Melba | 1006 | Madame Melba |
| 1007 | Madame Melba | 1008 | Madame Melba |
| 1009 | Madame Melba | 1010 | Madame Melba |
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| 1119 | Madame Melba | 1120 | Madame Melba |
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| 1179 | Madame Melba | 1180 | Madame Melba |
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| 1183 | Madame Melba | 1184 | Madame Melba |
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| 1187 | Madame Melba | 1188 | Madame Melba |
| 1189 | Madame Melba | 1190 | Madame Melba |
| 1191 | Madame Melba | 1192 | Madame Melba |
| 1193 | Madame Melba | 1194 | Madame Melba |
| 1195 | Madame Melba | 1196 | Madame Melba |
| 1197 | Madame Melba | 1198 | Madame Melba |
| 1199 | Madame Melba | 1200 | Madame Melba |

Her
"Melba" Records
are sold.



Where Melba's Voice can be heard—

- | | | |
|---|---|---|
| <p>London: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Birmingham: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Manchester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Edinburgh: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Glasgow: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Cardiff: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Belfast: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Bristol: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Exeter: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Gloucester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Leeds: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Liverpool: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Newcastle: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Nottingham: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Sheffield: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Sunderland: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Swansea: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Torquay: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Wolverhampton: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Worcester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>York: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> | <p>London: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Birmingham: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Manchester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Edinburgh: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Glasgow: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Cardiff: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Belfast: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Bristol: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Exeter: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Gloucester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Leeds: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Liverpool: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Newcastle: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Nottingham: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Sheffield: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Sunderland: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Swansea: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Torquay: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Wolverhampton: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Worcester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>York: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> | <p>London: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Birmingham: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Manchester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Edinburgh: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Glasgow: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Cardiff: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Belfast: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Bristol: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Exeter: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Gloucester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Leeds: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Liverpool: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Newcastle: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Nottingham: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Sheffield: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Sunderland: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Swansea: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Torquay: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Wolverhampton: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>Worcester: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> <p>York: Messrs. G. & J. Agnew & Sons, Ltd., 15, Abchurch Lane, E.C.4.</p> |
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THE GRAMOPHONE & TYPEWRITER, LIMITED, 21, CITY ROAD, LONDON, E.C.4.

“Her friends have persuaded her”

“Her friends have persuaded her”

**Nellie Melba C Haddon Chambers
and Edgar Bertram Mackennal c1900**

photographer unknown

albumen print

State Library of
New South Wales



**Her lover or self appointed
'press agent',
Haddon Chambers**

**“[I]t is practically due to his
good offices that the deal was
concluded. His services,
however, were not offered to us
gratuitously”.**

Haddon Chambers sketch c 1890
Rupert Bunny
Private collection



A secret commission

“Were Mme Melba aware that Mr. Haddon Chambers had exerted his influence for a material consideration and had benefitted financially from her singing, the knowledge of the transaction would unquestionably lead to a serious rupture, which might involve the Gramophone Company. . . . I shall be glad that after you have shown this letter to Mr Johnson [Victor Records] you will **treat it as a private communication and destroy it**”

Mr TB Birnbaum to Mr Calvin Child,
Correspondence,
28 Feb 1907; 6 Mar 1907.
EMI: Melba Artist File

CORRUPT AGREEMENTS: where the person with whom an agent is negotiating on the part of his principal gives, or agrees to give, the agent a secret gratuity or commission, with the view of inducing the agent to act otherwise than with loyalty and fidelity to the principal, the agreement is a corrupt one, and is not enforceable at law.

William Evans,
*The Law Relating to the Remuneration of
Commission Agents*
(2nd ed, W de Bracy Herbert 1900) 151.
Thanks to Emeritus Professor Mark Aronson for
this point

Melba's terms



- ✓ An advance of £1000
- ✓ Recording at her own convenience
- ✓ 5 shillings royalty on a cost price of 21 shillings or similar proportional rate [similar to Chamber's rate]
- ✓ Exclusive recording relationship with the Gramophone Company/Victor Records
- ✓ Right of approval of all Masters
- ✓ Right to be given and to destroy unsatisfactory Masters
- ✓ Right of approval of all label content
- ✓ Printing of a prestige 'celebrity' label in a mauve colour
- ✓ Recordings to be sold for 1 shilling more than Caruso

Melba, the business woman

“Melba is an institution. You can’t get away from it . . . from Petrograd to Cape Town, from London to Vladivostock, she is what Jenny Lind and Adelina Patti were before her. This woman, who is essentially a business woman, is clever. . . . She is a snob. . . . A letter or bit of attention from the head of a concern is more to her than money. She has taken thirty years steadily increasing popularity to reach the top of the ladder. She is clever enough to hold the position”.

Mr A Clark, Memorandum to ER Johnson: Artistes

Grand Opera at Home



GRAMOPHONE GRAND OPERA AT HOME.



MELIA RECORDS.
 In Italian - Opera.
 ...
FRANCIS RECORDS.
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FRANCIS RECORDS.
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FRANCIS RECORDS.
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GRAND OPERA AT HOME

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THESE ARE MANY KINDS OF TALKING RECORDS; THERE IS ONLY ONE GRAMOPHONE.



Gramophone Records speak to you as clearly as if you were sitting in the box at the theatre. The sound of a gramophone is clear, so clear that you can hear the words and catch every note of a melody when you play your own Gramophone.

The GRAMOPHONE & TYPEWRITER, Ltd.,
 21, CITY ROAD, LONDON, E.C.



Artistry in a sound recording?

“the phonogram represents the personal creation of the artiste whose rendering gives life to the composer’s thought. We claim that every phonographic manufacturer should be entitled to give his individual interpretation to the work.

The person who purchases the sheet of music buys it for the author’s composition solely: the person who purchases the phonogram buys it also for the voice and the interpretation of the performer.

In other words, the saleability of the phonogram depends almost exclusively on the reputation of the artiste who created the record, and on its setting and quality.”

Evidence of Mr John Drummond Robertson on behalf of the
Gramophone Co Ltd *Law of Copyright Committee 1909,*
Minutes of Evidence, HMSO, 1910

The right note



The Diva, her Lover and the Recording Company scheme to “get Melba”

Introducing Dame Nellie Melba (1861-1931), the business woman.

Professor Kathy Bowrey, Faculty of Law & Justice, University of New South Wales

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