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ASSUMED COPYRIGHT

IN

FOREIGN AUTHORS.

JUDGMENT OF THE CASE

IN

BOOSEY *v.* PURDAY,

GIVEN IN THE COURT OF EXCHEQUER,

WESTMINSTER HALL, JUNE 5, 1849,

BEFORE THE

LORD CHIEF BARON, BARONS PARKE, ROLFE, AND PLATT.

Printed Verbatim from the Short-Hand Writer's Notes.

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BOOSEY v. *PURDAY.*

JUDGMENT OF THE CASE,

GIVEN TRINITY TERM, JUNE 5, 1849.

IN THE COURT OF EXCHEQUER.

(From the Short-Hand Writer's Notes.)

The Lord Chief Baron.—I have now to deliver the judgment of the Court in the case of Boosey *v.* Purday.

Upon the argument of this case during the last Term, before myself and brothers Parke, Rolfe, and Platt, every authority bearing on the case was cited and commented upon.

This Court, in the case of Chappell *v.* Purday, 14th M. & W. 303, had previously intimated its opinion that the right of plaintiff must depend upon the statute law of this country; the laws of foreign nations having no extra territorial power, and the plaintiff no right at common law; and that, if the question were not concluded by authority, the proper construction of the Act of 8th of Anne, chap. 19, sec. 54, and 54th Geo. 3rd, chap. 156, on which the question must depend, was *that a foreign author, residing abroad, or his assigns, was not an author within the meaning, and could not have the benefit, of those Acts which were intended for the encouragement of British talent and industry, by giving to British authors, or their assigns, a monopoly in their literary works, dating from the time of their first publication here; and we thought that, supposing the authorities to have put another construction on the Acts, they did not bring the case of that*

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plaintiff within them. It was necessary for the Court to decide whether those authorities were conclusive upon them or not, for, giving full weight to them, the then plaintiff had no right. *Upon a careful review of those authorities, we do not think they were such as to preclude us from putting what we deem the true construction on the statutes.* No Court of common law had decided the question. In Clementi *v.* Walker (2nd Barn. 861), it may be collected that the Court of King's Bench thought that foreigners were not entitled to the benefit of the statutory right; but the case does not amount to a decision to that effect. The Vice Chancellor of England has expressed an opinion against the right of a foreigner, in Guichard and Mori, Law Journal, vol. 9, p. 267, chap. 7; and in Page and Townsend, 5th Sim. 395, in 1832, on the construction of several Acts protecting engravings, one only of which was expressly confined to plates engraved in Great Britain: and the same learned Judge intimated that the foreigner might have a copyright, but directed the question to be tried at law, in the case of Bentley *v.* Foster, 10th Simons, p. 329,—1839. In the mean time, in 1835, Lord Abinger had decided, in the case of D'Almaine *v.* Boosey, 1st Young and Coll. p. 298, that a foreigner might have a copyright; and granted an injunction. In the state of the authorities, somewhat conflicting as they stood at the time of the decision of Chappell *v.* Purday, we think we ought not to be precluded from putting what we consider the true construction on the statutes of Anne and Geo. III.

The judgment of Lord Abinger is the only authority precisely in point; and we confess that we are not satisfied with the reasons for it given in the report of that case. Since then, the case of Cocks *v.* Purday has been decided in the Court of Common Pleas, 17th Law Journal, 273, and followed by the Court of Queen's Bench in Boosey *v.* Davidson, as we collect, *imply because it had been so decided!* and, undoubtedly, we should be bound by those authorities, if the question of the construction of the English statutes—upon which we think the question depends—had been discussed and decided in those cases. We perfectly concur with the Court of Common Pleas, that a foreigner in amity with this country may sue for the infringement of any of his rights,—a point which we never doubted,—but we thought it clear that a foreigner had no copyright in England by the Common Law; and that his right must depend wholly upon the construction of the

statutes; and if *they* did not give it to him, he could have no right at all. And, with respect to the construction of the statutes, we thought if there were no binding authorities to the contrary, that the Legislature did not mean to confer a copyright on any authors but British subjects.

We do not find that this question has been considered and decided by the Court of Common Pleas: and the bill of exceptions having been tendered in this case, with a view to carry the question to a Court of Error, and probably to the highest tribunal, we think we ought to give the opinion which we ourselves, after much consideration, have formed. Our opinion is, that the Legislature must be considered, *primâ-facie*, to mean to legislate for its own subjects, or those who owe obedience to its laws; and consequently that the Acts apply, *primâ-facie*, to British subjects only, in some sense of that term which would include subjects by birth or residence, being authors. And the context or subject-matter of the statutes does not call upon us to put a different construction upon them. The object of the Legislature clearly is not to encourage the importation of foreign books, and their first publication in England, as a benefit to this country, but to promote the cultivation of the intellect of its own subjects; and, as the Act of Anne expressly states, to "*encourage learned men to compose and write useful books*," by giving them, as a reward, the monopoly of their works for a certain period, dating from their first publication. We therefore hold that a foreigner, by sending to, and first publishing his works in Great Britain, acquires no copyright. A British subject who purchases from him such a right as he had in his own country, which could not extend beyond it, cannot be in a better condition here than the foreigner. He does not thereby become an author, nor is it easy to see that it makes any difference in his right under the statutes whether he is a purchaser from the foreigner of the whole or part of the monopoly of printing for value or not, if the introduction of the work into England is sufficient to make him an author; nor can any one, who in Great Britain has acquired from the foreign author his supposed inchoate title to first publication (which in reality is none), be in a better condition. A British subject, under such circumstances, is not an author; though, if he had altered or translated the original work, he might be. We think, therefore, that this plaintiff has no right. With respect to the circumstance that the publication abroad and

in England was not in this case exactly cotemporaneous, as a publication took place at Milan a few hours before it was made in England, we conceive that this would not defeat the plaintiff's copyright here, if he had any; as the author certainly did not mean to give the work to the foreigner before he gave it to the British public. And in no case is it intimated, that to be entitled to a British copyright, the foreign author must give his work to the United Kingdom exclusively.

There certainly is a difficulty, as was suggested in the course of the argument, in understanding the meaning of the supposed rule, that a previous publication abroad deprives the author of his copyright in England, when the previous publication *is no abandonment to the public, and gives no* right to any one; but is only the commencement of a monopoly abroad, when published in a country where copyright exists. But we think we must say, presuming the foreign author and his assigns to be within the Act, and to have by law a copyright, that where the author means to publish cotemporaneously in England and abroad, he or his assigns are not disentitled to copyright by the actual publication in one place before the other on the same day. Our judgment will therefore be put on the Record, as the direction of my Lord Chief Baron, on both points, the one against, and the other in favour of the plaintiff. And the important question involved in the case which the parties wish to have raised, must be finally disposed of in a Court of Error.

The *Attorney-General.*—I presume the Court will pronounce a rule *nisi*, subject to a bill of exceptions, which my friend Mr. Bovill will tender. My rule to enter a nonsuit, therefore, will be made absolute?

Ld. Ch. Baron.—Yes.

Attorney-General.—It was understood on both sides that there must be a verdict for the defendant.

Ld. Ch. Baron.—I must be understood to have directed the jury to find a verdict for the defendant, on which there will be a bill of exceptions.

Attorney-General.—Probably, before the bill is drawn up, your Lordship will allow Mr. Bovill to see a note of the judgment?

Ld. Ch. Baron.—Certainly, he may have access to it.

Mr. Crompton.—The present rule, if I might suggest to your Lordship, would be a rule to set aside the verdict for the defendant, and the issue, raising the title, must be discharged.

Attorney-General.—In fact, the Court will mould the rule as my friends and myself will agree, so as to give them an opportunity to take it to a higher tribunal.

Baron Rolfe.—Your rule is absolute, subject to this arrangement. The other rule will be discharged.

CASES MENTIONED IN THE JUDGMENT.

CLEMENTI *v.* WALKER.—This was an action for the infringement of an assumed right in the plaintiff to a composition by Kalkbrenner, which it was admitted was originally published in Paris: a verdict was given for the defendant on that ground; and also on the ground of the assignment not having been properly witnessed.

D'ALMAINE *v.* BOOSEY.—The admitted fact in this case was, that a publication of the melodies in Auber's opera of Lestocq was first made in England; although the opera was written for the Opera Comique in Paris, and the copyright of it sold by the author to Troupenas, a music publisher in Paris, who retained his original right, but sold to D'Almaine and Co. what was assumed as an exclusive monopoly of the publication for England. It was urged by the counsel for D'Almaine and Co. that an injunction should be granted on the ground that foreign talent and British capital and enterprise ought to be protected; and upon that ground Lord Abinger granted the injunction.

BENTLEY *v.* FOSTER.—This was an application for an injunction to restrain the defendant from selling a novel written by an American author, named Cooper, before the Vice Chancellor of England, who granted the injunction, but directed an issue to try the legal right; but the defendant submitted to the injunction, and no trial took place.

PAGE *v.* TOWNSEND.—This was another application to restrain the defendant from publishing some prints of Parisian fashions, which it was proved the plaintiff had got engraved in Paris, and the engravings sent over to England to be printed. The Vice Chancellor refused the injunction, on the ground of the work having been designed and engraved in Paris, stating that the laws of England only protected works designed, engraved, and published in Great Britain.

GUICHARD *v.* MORI.—This was a case in equity before the Vice Chancellor of England, in which Kalkbrenner sold to plaintiff a musical composition called the Charms of Berlin, in 1820, which defendant proved had been published abroad in 1814. The Court therefore dissolved the injunction, ordering each party to pay their own costs.

CHAPPELL *v.* PURDAY.—This case began by an *ex parte* injunction being granted by Lord Abinger to the plaintiff to restrain the defendant from publishing the Overture to Fra Diavolo, an affidavit being made by plaintiff that the opera of Fra Diavolo, composed by Auber for, and produced at the Opera Comique in Paris, in January, 1831, "was first published in London, and had not been previously published in any other part of the known world." No notice was given to the defendant of the intention to ask for an injunction, he had therefore no opportunity of contradicting what proved afterwards to be untrue, but by the process of answering the bill. Not wishing to be dragged into a lawsuit about a thing which to him was perfectly valueless, the defendant endeavoured to settle the matter out of Court. But the demands of plaintiff were so repugnant to the feelings of an honourable mind that he at last determined to defend himself. He therefore answered the bill, showing the falsity of the statements of plaintiff, and proving to the satisfaction of the Court the truth of his own. Lord Abinger consequently dissolved the injunction. The plaintiff, however, had the temerity to file a supplemental bill in the Vice Chancellor's Court, and to take out a commission to examine witnesses in Paris; the effect of which went to prove still further, by the discrepancy in the statements of those witnesses, the erroneous character of the original affidavit: and only served to throw a stigma upon the documents brought to prove the purchase. The result was, his Honour directed an issue to try the legal right of the plaintiff.

The case was tried in the Court of Exchequer, who finally pronounced judgment in favour of defendant.

The defendant then went back to the Vice Chancellor's Court, to take the bill off the file, when his Honour ordered both parties to pay their own costs. Being dissatisfied with this decision, the defendant appealed to the Lord Chancellor, who put the matter right by ordering the plaintiff to pay both his own and defendant's costs. Thus ended a five years' lawsuit, at a cost of upwards of £3,000, carried on by the plaintiff in a most vindictive manner, and defended upon principle; it having been assumed by the plaintiff that a foreigner could have the same rights and privileges as a British subject, although he never paid a sous towards the support of the state, nor was he at all amenable to British laws!

COCKS *v.* PURDAY.—This was an action brought in the Common Pleas, before Mr Justice Erle, for the alleged infringement of plaintiff's assumed right to the exclusive publication of a set of waltzes, composed by Labitzky, a foreigner, residing at Prague, in Bohemia, and sold by him to another foreigner, Hoffman, a music-seller of the same place, who sent over a printed copy of the work with the following letter:—

MESSRS. COCKS AND CO., LONDON.

Leipsig, August 8, 1842.

In order of Mr. J. Hoffman, of Prague, I oversend you with this, as an exemplar of the *epreuves corrigées* of Labitzky's waltz, op. 86. The term of publication is fixed for September the 1st. You will credit the *amount of the honorar*, as usually, to Mr. John Hoffman. I am, &c. &c.,

FREDERICK HOFFMEISTER.

It was agreed to on both sides, and the Judge who tried the case was a party to it, that a verdict should be had for the plaintiff, subject to certain points of law, to be argued before the full Court on a special case; and if either party were dissatisfied with the judgment of the Court, a special verdict might be had. In giving judgment in this case, the Court thought that an alien author had a copyright in his works whether he composed them here or abroad. The second question was, whether the copyright of an author was defeated by a cotemporaneous publication abroad? The

Court was of opinion that it was not. To defeat his right, there must be a prior publication abroad.

As to the third question, respecting a good derivative title, the Court thought that sufficiently proved: and they held that the recent Copyright Act, 5th and 6th of Victoria, chap. 45, extended protection to a foreign author, *provided he published here before* he published abroad! This judgment being adverse to the defendant, he applied to the Court, according to the original agreement, for a writ of error, which was refused!

Boosey *v.* Davidson.—This was an action for the infringement of the supposed right of the plaintiff in the opera of La Sonnambula, composed by Bellini, a foreigner, at Milan, and sold by him to the managers of the Carcanos Theatre, who sold it to Ricordi, the music-seller there; who brought the plates of ten of the most popular pieces of the opera to England, in June, 1831,—it having been first performed on the 6th of March in the same year, at Milan. And, according to the evidence of Signor Crippa, who was the prompter to the theatre when and where it was first produced, he saw printed copies of the songs played and sung from by young ladies, at the house of Madame Conte, in Milan, long before the publication of them in London; but not being able to produce those copies at the trial in November, 1847, or to account for their non-production then, his evidence went for nothing; in addition to which, on a motion for a new trial, it was objected to, that the publisher of the music in Milan, who was in Court, was not called upon to prove the fact of the alleged prior publication there, and the rule for a new trial was accordingly refused by the Court of Queen's Bench, before whom the case was argued, and who followed the Court of Common Pleas in the case of Cocks *v.* Purday.

Boosey *v.* Purday.—This case was similar to that of Boosey and Davidson, the circumstances of which are brought out and fully reported in a pamphlet published by Elsworth, Chancery-lane, from the short-hand writer's notes: wherein the Attorney-General, in his address to the Jury, says—"Mr. Purday has done for the country a signal service;—he had the courage to raise the point which the Court have decided is reason and common-sense: that a foreigner, who is not entitled to the protection of British law, cannot give a right

of monopoly in this country to a British subject." In addition to other facts, it came out that one of the large sums of money which Mr. Boyill stated, as an argument in favour of his client, in a motion for a new trial, had been embarked in the purchase of foreign copyrights, was TEN SHILLINGS, *for the ten sets of plates and copyright of the opera of La Sonnambula!* And, furthermore, that upon the realization of this enormous property, Mr. Ricordi was to pay the costs of any litigation that might take place, if Boosey's assumed right was successfully combatted! How this has succeeded a reference to the judgment with which this pamphlet commences will show. And, as it may be as well to let those whom it may concern into the light of a certain portion of a "FEW FACTS" emanating from the shop, if not the pen, of Mr. Boosey, in 1835, an extract or two shall be given :—

"In the year 1818," says Mr. Boosey, "when we commenced business as importers and publishers of foreign music, the celebrated operas of Cimarosa, Mozart, &c., had long since appeared, and Rossini had just begun to delight his admirers with the Tancredi; yet up to the year 1827, when Le Siege de Corinth (altered from Maometto to suit the French stage) was produced in London, and assumed as a copyright (by Mr. Willis), we do not believe *any London publisher had ever thought of entirely monopolizing to himself a foreign opera, written for a foreign stage, by a foreign author, in a foreign country, and composed to words in a foreign language.* This, however, was then first attempted, by an agreement entered into with Mr. Troupenas, the Paris publisher, and sole proprietor of that opera (in Paris), the principal, if not the only Paris publisher who has since professed to vend such claims in London, and the proprietor of nearly every successful opera which has been produced in Paris down to the present period. Auber (in D'Almaine *v.* Boosey) professes to assign to D'Almaine and Co. the opera of Lestocq for £80, but this sum goes but a small way towards the price he gets in Paris for such a work, viz., 18,000f. or £750."

"It is true many arrangements of overtures, airs, &c., from foreign operas had been made by foreign composers resident in London, at the request of the London publishers, and such arrangements were always considered as distinct copyrights," says Mr. Boosey; and, he might have added, in the same manner as translations of literary works are considered copy-

rights: "but," he adds, "*no one ever pretended to claim a copyright in the original source or score*, which was open to all."

"The field being open to all, employment was given to considerable numbers of British professors, thus giving them an opportunity of becoming known to the public, and an honourable competition was created, by which all parties were benefitted."

How far these observations of Mr. Boosey's correspond with his law proceedings in favour of what he so vehemently deprecates may be seen by the result. And, be it remembered, that although the ten-shilling assignment of the opera of Sonnambula was made in 1831, yet in 1835 he writes and publishes the foregoing "Facts," evidently never dreaming for a moment that he had then any exclusive right in the "*original source or score* of that opera."

"Being importers" (of the opera of La Sonnambula), he goes on to say, "as well as publishers of foreign music, no house has had more practical experience of the injurious effect of the above system," [that is, the system of assuming a monopoly of publishing the works of foreign composers] "and we must acknowledge that, ever since it has been introduced, we have experienced great difficulty in carrying on our business satisfactorily to our customers; the new foreign operas being in their various ramifications, the leading feature of our business. Besides the actual loss we have experienced in not being able freely to import and sell foreign operas, and publish good arrangements from them, we have had much difficulty in making our customers understand why they were to be deprived in London of the songs from foreign operas which they had heard in Paris; any reasons we could offer appearing to them perfectly ridiculous."

Now all this difficulty might have been obviated, if Mr. Boosey had manifested the same spirit in his actions that his words express; and he would in all probability have saved double the money that it has cost him to maintain the system of assumption in foreign right to British privileges, if he had tried the legality of D'Almaine's assumption in 1835. And, instead of lamenting over the downfall of the British professor, and the English music-seller's loss, had he proved his sincerity by trying the question at Common Law, all the Common and other law which he has been involved in since, might have been saved. So much for Mr. Boosey. Now, let us see upon what tenure this foreign right has been held. Boosey

tells us, as one of his "Facts," that "the foreign author has not been benefitted by the sale of his works in England;" his own case of La Somnambula proves it; ten shillings is certainly not much of a benefit for the monopoly of an entire opera! Auber, although he got £750 for his operas in Paris, never realised a penny by the sale of them in England—his publisher was the vendor; and he got no more than from £50 to £80 for each. Then, what did this purchase of a foreign opera do for the English composer? It completely shut him out from the production of such works. Bishop, or Barnett, or Loder, or Maclarren, or any other English writer, might ask £100 or £500 in vain, when an opera of Auber, or Bellini, or Donizetti, might be obtained for from 10s. to £80! And this was not all the mischief the monopoly created; for to the foreign operas were attached the various piano-forte arrangements, in the shape of airs, divertimentos, fantasias, quadrilles, waltzes, &c. by Herz, Hunten, Diabelli, Czerny, Chaulieu, Musard, and a variety of other names too familiar to English eyes, which were thrown into the bargain of the 10s., £50, or £80; and the consequence of this was the almost utter extinction of English arrangers, such as Burrowes, Calkin, Rawlings, Watts, Westrop, Valentine, and a host of others, who had obtained a livelihood by arranging the popular operatic airs before Lord Abinger's dictum induced Mr. Boosey to give the matter up. The monopolists, therefore, finding the state of things answer their most sanguine expectations, were ready enough to assume a right, even where they merely imported a copy of a foreign work and reprinted it; and to such a pitch was this system carried, that in nine cases out of ten a copyright was assumed upon the works of foreign authors by merely engraving upon them these magic words—"THIS WORK IS COPYRIGHT." So that the system upon which a monopoly, to the manifest injury of the English composer, author, arranger, and artist, has been carried on for nearly twenty years, resolves itself into a juggle between a few music-sellers abroad and a few music-sellers in England, to make a property upon mere assumption, at the expense of the majority of the trade and profession—to assume unconstitutional rights for foreigners who do not choose to reciprocate with Englishmen, for the sake of a little 'filthy lucre;' and, calculating upon the terrors of the threatened lawsuit against such as dare dispute the right to their ill-gotten pelf, these people would have carried on their depredations to the pre-

sent moment, if the indomitable perseverance of one single individual had not resisted the tide of their overflowing impudence, and put a stop to the current of their rapacity. A firm and manly support of this individual, and the principle which has guided him in his operations, to carry out to the fullest extent the late judgment of the Court of Exchequer is the only thing that will induce other nations to reciprocate the advantages which a mean-spiritedness, and a love of gain, have hitherto withheld from us. A man who produces a work for the benefit of the world has a right to participate in the advantage gained thereby, whether he be a citizen of England or a citizen of the world. We have offered to the world a treaty, upon liberal principles; but we fear that all the while the pecuniary inducement is uppermost in the minds of other nations, it will be in vain to expect a reciprocation. One of the effects of this want of reciprocity is too graphically stated in the following article to be passed over in silence:—

THE PIRACY OF BRITISH WORKS BY THE AMERICAN PRESS.—The New York correspondent of the *Morning Herald*, in referring to the operation of the new international postage law between this country and the United States, says:—"The great boon is in the fact of newspapers being "now mailable at a postage of one penny sterling, and that "the postages of every kind are optional as to prepayment. "I cannot, however, avoid calling attention to the door thus "opened for the admission into Great Britain of English "copyright works, reprinted in the cheap American news- "papers. Thus, for instance, one of the New York Sunday "papers of this week publishes the whole of Dickens's new "Christmas work in its columns in one publication; the paper "is sold for three-halfpence sterling, many hundreds are "mailed by the steamer to-day, and it is a matter of impossi- "bility to check this serious violation of copyright, unless every "postmaster in the country is turned into a sort of literary "examiner. It is strange that our English officials, legion as is "their name, did not see that the Yankees were thus certain to "get to windward of them. Of course, the Americans say "that English newspapers can take like liberties with Ameri- "can copyright works. Jonathan says this with his finger "edgeways on his nose, and feels highly honoured in the "British Chancellor of the Exchequer and Postmaster-gene- "ral's high estimate of the literature of the western world.

"Newspapers in this country exist by the gross; some prin-
"ters issue a dozen different sorts from one and the same
"forge; the poorest persons subscribe to them, and I have no
"doubt whatever but that the majority of weekly prints will
"publish the most valuable and modern copyright English
"works, solely with a view to their sale on the other side of
"the water. Already, we have the first volume of Macaulay's
"History of England announced in two week's publications of
"a newspaper, *at a cost of threepence!* This is done in
"hopes of a large sale under the new postage law. It is to
"be hoped that the silly dilemma into which the British offi-
"cials have fallen, will be the means of promoting an equi-
"table international law of copyright. A minister of such
"high literary reputation as Mr. Bancroft is, of all others,
"best suited to bring about such a desirable object."

Now, let us look at the facts of the case of Boosey *v.* Purday. In 1837 defendant purchased of Wessell & Co. a *foreign copy* of a fantasia, by Schmidt, containing the air, "Vi Ravvisb," from the opera of Sonnambula, and republished it in England: Mr. Boosey had not published this fantasia, nor did he make any other claim to stop its publication than that it contained one of the ten airs which he assumed to have purchased the copyright of for ten shillings! Nor could this fantasia at all interfere with the sale of the vocal copy, so as to be any injury to him in that respect; and yet, because the defendant denies Mr. Boosey's right to an exclusive monopoly in the publication of this air, he is compelled to submit to an expensive lawsuit to try this assumed right: it is tried, and a verdict is found for the defendant, upon the sole evidence of Mr. Boosey's own witnesses! Not satisfied, however, with this, Mr. Boosey, in the teeth of his own assertion in his "Few Facts," *that if a monopoly of this character was maintained, "it would be most injurious to the trade and profession of England,"* insists upon inflicting upon the defendant a special case, to be argued before the full court: it is argued; and the solemn judgment at the commencement of this pamphlet is the result. And although Mr. Boosey says he "has made large sums of money" by this "most injurious monopoly," and he has induced the Court of Queen's Bench to give an erroneous judgment against another individual, on account of the prosecution of this same "injurious monopoly," and has put this other party to upwards of £600 costs,

yet he now seeks to carry the question to a Court of Error; and should that be adverse to him—which, from the clear common-sense judgment of the Court of Exchequer, is very likely to be the case—he has announced his intention of compelling the defendant to follow him to the House of Lords itself: in which intention he is reported to have the support, not only of Ricordi, but also of that part of the trade who are attempting to bolster up this "injurious monopoly," to the manifest disadvantage "of the trade and profession of England."

One remark as to the different practice of the various Courts. In the case of Cocks *v.* Purday, [and Cocks *v.* Lonsdale, which it was agreed should depend on the result of Cocks *v.* Purday] the defendant was *refused an appeal to a Court of Error;* and both defendants were mulcted in costs to nearly £300., independently of those paid for their own defence!—a practice until then unheard of. Another remark regarding costs. If a plaintiff is successful in a case of piracy, the law gives him double costs, and damages into the bargain; but if a plaintiff fails to prove any right to bring an action, a defendant must put up with *taxed costs*, besides the disadvantage of being stopped in his publication perhaps for years, consequently sustaining heavy losses for which he has no remedy: so that a defendant can be harassed, and perhaps ruined, by a litigious and vexatious antagonist, although he may have justice on his side! One remark more. Should the settlement of this great constitutional question, in which the whole community of Great Britain is interested, be thrown upon a single member of it? It would cost but a trifle to each of the number of book, music, and print publishers, stationers, and others, who are interested in the settlement of this matter; but it would be ruinous to any single party, at his own cost, to carry it out to its fullest extent.