

gifted with speech. The defendants owned a periodical in which appeared, as an illustration to the letterpress, a woodcut, depicting a collie dog in attitude and expression similar to the one in "Can You Talk?"—namely, seated, and looking downward with, as the Court said, a sagacious expression in his face; only whereas in the picture he was contemplating the child, in the woodcut the place of the child was occupied by a tortoise, around which were grouped other domestic animals with looks either of astonishment or of alarm. The woodcut was entitled "A Strange Visitor." The plaintiff claimed to restrain the sale of the woodcut as an infringement of his copyright.

The defendants' counsel argued that the substitution of the tortoise for the child made the incident depicted in the woodcut meaningless as a presentment of the idea of the picture, which required for its point the contrast between the human and the dumb animal. It would therefore interfere neither with the reputation of the artist of "Can You Talk?" nor with the commercial value of his work, which it was the object of copyright law to protect—see *Hanfstaengl v. The Empire Palace*, 63 Law J. Rep. Chanc. 681; L. R. (1894) 3 Chanc. 109, *per Lopes, L.J.*

ROMER, J., held that infringement had taken place. The dog—a principal figure in the picture—had been copied, and besides that the artistic feeling and character of the work had been taken. In substance the plaintiff's design had been followed, with the substitution of other animals for the child. Where a substantial part of a picture was taken, *qua* picture, then there was infringement; as, for instance, if from an historical picture the principal figure were reproduced, although alone. An injunction was accordingly granted.

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### NEW YORK COURT OF APPEALS.

2 March, 1897.

CURRAN, respondent, v. GALEN *et al.*, appellants.

*Public policy—Procuring discharge of plaintiff from employment—Arrangement between organization of workmen and association of employers to coerce workmen to become members of organization.*

*Public policy and the interest of society favor the utmost freedom in the citizen to pursue his lawful trade or calling, and if the purpose of an organization or combination of workmen be to hamper or to restrict that freedom,*