upon the terms that the music shall become a part of the play, and that the employé shall have the sole liberty of performing that music, as accessory to the play, is not regarded as being within the language of the statute the owner or proprietor of the musical composition. The principle upon which the court proceeded in the case cited was essentially this—that, under any other doctrine, the labour, skill, and capital, bestowed by the employer upon the preparation of the entertainment, might all be thrown away, and the entire object of it frustrated, and the speculation defeated, as a result of one contributor's withdrawing his portion[2].

11. ——— **abstracts from official records.**—It has been held that, in the absence of evidence of a special agreement, it will not be implied that the copyright in abstracts made by an employé from registered documents in a record-office belongs to the employer[1].

12. ——— **encyclopaedias and periodicals.**—In England the rights of employers and employé in relation to these descriptions of literary productions are defined by § 18 of the Act, 5 & 6 Vict., ch. 45, which provides that a publisher or other person who projects and carries on an encyclopædia, magazine, periodical work, etc., and employs other persons to compose portions of such

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[2] *Hatton* v. *Kean*, (1859) 7 C.B.N.S. 268; Crowder, J. said: "The music in question having been composed by the plaintiff under an express engagement with the defendant, and for the defendant, and having been paid for by the defendant, the plaintiff never had any separate property therein, and consequently he could have no right to prevent the representation of it by the defendant. With regard to this case Lord Esher, during the argument of counsel in *Eaton* v. *Lake*, note 1, supra, observed: "Assuming the facts alleged by the plea to be true, a jury could not have found on those facts that the composition was an independent composition."

Hatton v. *Kean* was followed in *Wallerstein* v. *Herbert* (1867) 16 L. T.N.S. 453. There the plaintiff was engaged for certain reward for the season as musical director, and he was to procure and pay all musical performers, to furnish all the musical instruments, to provide, lead, and perform overtures, entr'actes music, and all the music incidental to the dramatic performances, and they might be either original compositions of the plaintiff, or be selected from the works of other composers. Certain incidental music composed in pursuance of this engagement was held to have been part and parcel of the play to which it was accessory. In his work a Copyright (4th Ed.) p. 109, Mr. Copinger expresses the opinion that the decision was erroneous, in view of the facts.

[1] *Trade Auxiliary Co.* v. *Jackson* (1887) 4 Times L.R. 130.