

the expense of Johnston. There being no copyright to prevent, the defendants claim the right to so print and publish the series of books in this country, and that if they have not the right, the orators have no right to prevent them.

There is no question but that the defendants have the right to reprint the compositions and illustrations contained in these books, including the titles of the several pieces and pictures (*Jollie vs. Jaques*, 1 Blatch., 618).

That does not settle the question as to the right claimed here. There is work in these publications, aside from the ideas and conceptions. Johnston was not the writer of the articles, nor the designer of the pictures, composing the books, but he brought them out in this form.

The name indicates this work. The defendants, by putting this name to their work, in bringing out the same style of book, indicate that their work is his. This renders his work less remunerative, and, while continued, is a continuous injury, which it is the peculiar province of a Court of Equity to prevent. These principles are discussed, settled, and applied in *McLean vs. Fleming*, 96 U. S., 245.

It has been argued that there have been various publications from earlier times by the same name, so that no new right to the use of the name could be acquired.

This would be true, doubtless, as to all such publications as those to which the name was applied, but not as to those essentially different. The fact of these other publications bears only upon the question of fact, as to whether Johnston's work had come to be known by this name, and the defendants, by using this name, represent that their work is the same.

The conclusion stated, as to the fact, has been reached after consideration of what is shown as to their other publications.

Johnston had the exclusive right to put his own work as his own upon the market of the world. No one else had the right to represent that other work was his. Not the right to prevent the copying of his and putting the work upon the markets, but the right to be free from untrue representations that this other work was his when put upon the markets. This gives him nothing but the fair enjoyment of the past reputation of his own work, which fully belongs to him. It deprives others of nothing that belongs to them.

The question then arises whether Johnston could transfer his right, or any part of it, to the orators, so that the defendants, in what they have done, and are about to do, trespass upon the orators' rights, and not upon Johnston's. He could not do all this himself, he must act by and through others. No reason is apparent why he could not give them the exclusive right to put his work on the market as his, as he had that right. This seems to be what he undertook to do. They had that right, and the profits of its enjoyment would belong to them. The defendants would deprive them and not Johnston of the profits. The injury would be to them and not to him, and they are in this view entitled to the remedy.

It is objected that they also trespassed upon Johnston's rights before they acquired them. This may be true; and if so, they may be liable for the damages.

Such a trespass would not prevent them from acquiring a lawful right in a lawful manner. Had not trespasses been so frequent and long continued that the work had come to be known to be the work of others, or had lost identification as the work of Johnston, the course of the defendants might not amount to any representation that their work was his; but the evidence does not show this.

As the case is now understood, the orators appear to be entitled to relief. Let there be a decree for an injunction and an account.

NOISELESS SLATES.

In the United States Circuit Court for the Northern District of Illinois, a bill was filed yesterday by Thomas Kane and Harry C. Goodrich against Louis Reinach & Co., of this city, for infringement of the Goodrich reissued letters patent No. 10,207, of Sept. 26, 1882, for an improvement in slate frames. It seems that the infringement complained of consists in selling slates provided with a cord wrapped around the edges of the frame to render them noiseless, which Goodrich claims in his patent. On enquiry it was ascertained that the particular slates complained of in this case were manufactured by one J. D. Emack, of New York.

BOOK TITLES.

A case of great importance to the publishing trade generally throughout the United States has just been decided before Judge Gardner, in the Superior Court of Cook County, Ill. The case was in favour of the trade journal, first known as the *Horse Shoer*, afterward entitled the *American Horse Shoer*, later still, the *American Horse Shoer and Hardware Journal*. In April last the United States Veterinary Journal Company started a publication under the title of the *United States Horse Shoers' and Hardware Journal*. Immediately on the first issue of the proposed paper a preliminary ex parte injunction was obtained restraining the said parties from publishing any periodical under any title which should involve the words "Horse Shoer," "Horse Shoers' Journal," or "Horse Shoer and Hardware Journals." The victory for the complaint was complete, and a final decree making the said injunction perpetual, was entered against the defendant. The rendering of this decision will be one of lasting importance to all parties interested in publications whether of a permanent or ephemeral character. The action was based not upon any copyrights, not upon any registered trade mark, but upon property rights in common law in regard to the words appropriate to use in designating a publication.

RATING OF THE BANK OF ENGLAND.—The Bank of England contributes a considerable sum to the poor and other rates of the City. The Bank stands upon nearly three acres of ground, and is in three parishes. The present assessment is as follows:—St. Bartholomew-by-the-Exchange, gross value, £14,301; rateable, £11,918. St. Christopher-le-Stocks, Gross, £23,142; rateable, £19,285. St. Margaret, Lothbury, gross, £18,918; rateable, £12,765. Gross total, £56,361; rateable, £46,968.—*City Press*.