

COPYRIGHT IN LECTURES.

It is satisfactory to have at last attained at the hands of the House of Lords, an authoritative exposition of the law governing copyright in lectures. For fifty years or more the question has been a moot one, and now, in *Caird v. Syme*, it has been laid to rest by Lord Watson. The question is whether the oral delivery of a professor's lectures to the students attending his class, is in law equivalent to communication to the public. The answer is emphatically, No.

The question was first asked in 1825, before Lord Eldon, in *Abernethy v. Hutchinson*, 3 L. J. O. S. 209, Ch.; and by permission, in 1 H. & T. 28. The chancellor, as his manner was, "doubted," and would not, in the first instance, make any order. The case stood over on more than one occasion and was re-argued; and upon the ultimate argument, an additional affidavit which had been made was read, stating in effect that Dr. Abernethy had given his lecture orally and not from written composition; but that he had notes which amounted to a great mass of writing, written in a very succinct manner, from which he delivered the lecture, and that a very considerable portion of such notes had been extended and put into writing with a view to publication, and that at the time of delivering his lecture he did not read or refer to any writing, but delivered it orally from recollection of his notes. Upon that additional evidence, after very mature consideration, the chancellor delivered judgment. He stated that where the lecture was orally delivered, it was difficult to say that an injunction could be granted upon the same principle upon which literary composition was protected, because the court must be satisfied that the publication complained of was an invasion of the written work; and this could only be done by comparing the composition with the piracy. But it did not follow, that because the information communicated by the lecturer was not committed to writing but orally delivered, it was therefore within the power of the person who heard it to publish it. On the contrary, he was clearly of opinion, that whatever else might be done with it, the lecture could not

be published for profit. That is, every person who delivers a lecture which is not committed to writing, but which is orally delivered from memory, has such a property in the lecture that he may prevent anybody who hears it from publishing it for profit. Lord Eldon was of opinion, that when persons are admitted as pupils or otherwise to hear these lectures, although they were orally delivered, and although the parties might go to the extent, if they were able to do so, of putting down the whole by means of shorthand, yet they could do that only for the purposes of their own information, and could not publish for profit that which they had not obtained the right of selling.

Next in the year 1835, the Legislature intervened. By the Lecture Copyright Act (5 & 6 Will. 4, ch. 65,) it is provided that the author of any lecture, or the person to whom he has sold or otherwise conveyed the copy in order to deliver the same in any school, seminary, institution, or other place, or for any other purpose, shall have the sole right and liberty of printing and publishing such lecture; and that if any person shall, by taking down the same in shorthand, or otherwise in writing, or in any other way obtain or make a copy of such lecture, and shall print or lithograph or otherwise copy and publish the same, or cause the same to be printed, lithographed, or otherwise copied or published, without leave of the author thereof, or of the person to whom the author has sold or otherwise conveyed the same, and every person who knowing the same to have been printed or copied and published without such consent, shall sell, publish or expose to sale, or cause to be sold, published, or exposed to sale, any such lecture, shall forfeit such printed or otherwise copied lecture or parts thereof, together with one penny for every sheet thereof which shall be found in his custody, either printed, lithographed, or copied, or printing, lithographing, or copying, published or exposed to sale contrary to the true intent and meaning of that Act; the one moiety thereof to His Majesty, his heirs and successors, and the other moiety thereof to any person who shall sue for the same. The second section provides that any printer or publisher of any newspaper who shall