

forthcoming. But in *Weldon v. Dicks*, 39 L. T. Rep. (N. S.) 467, the plaintiff was the owner of a copyright in a tale called "Triumphs and Temper." The defendant had also published a tale under the same title. The court decided that the plaintiff's title under the statute must prevail, although there was no doubt that the defendant had acted in perfect innocence and in utter ignorance that the plaintiff or any other person had ever published anything under the title which the defendant had adopted, and although there was no similarity whatever between the contents of the two works. Vice-Chancellor Bacon distinguished this case from that of *Kelly v. Byles*, where the title used by the plaintiff was "The Post-Office Directory of the West Riding of Yorkshire," whilst that adopted by the defendant was "Post-Office Bradford Directory."

In *Metzler v. Wood*, 38 L. T. Rep. (N.S.) 541, the plaintiffs were the proprietors and publishers of an elementary musical work entitled "Hemy's Royal Modern Tutor for the Pianoforte." The defendants employed Hemy, the editor of the plaintiff's work, to re-edit an old pianoforte tutor by Jousse, of which they brought out a new edition under the title of Hemy's New and Revised Edition of Jousse's Royal Standard Pianoforte Tutor; the word "Hemy" being in much larger type and more conspicuous on the title page than that of Jousse. It was argued that there was nothing fraudulent in the use of the name, and that it was impossible to confound the two works together. Vice-Chancellor Malins, however, came to a different conclusion, and this judgment was affirmed on appeal. In the opinion of the Court of Appeal the question was not whether the plaintiffs had exclusive right to the use of Hemy's name in connection with elementary musical publications for learners of the pianoforte, nor whether the plaintiffs had any reasonable right to the word "Royal" in any of such works, but the real question was whether the defendants had done anything in order to pass off their work as the work of the plaintiffs. The court held that the title-page of the defendants' work was a fraudulent imitation of that of the plaintiffs' work and calculated to deceive the public, and that the plaintiffs were entitled to an injunction.

The plaintiff in *Mack v. Petter*, L. R., 14 Eq.

431, was the publisher of a work which he claimed to have originated. It was called "The Birthday Scripture Text Book," and consisted of a printed diary, interleaved with a blank space opposite each day, with a text of Scripture appended. This was designed as a record of the birthdays of friends. After the publication of this book the defendants published and sold a work under the title of "The Children's Birthday Text Book," which was arranged upon precisely the same plan as that of the plaintiff's publication, the only difference, it was alleged, being in the selection of texts and verses. The preface, it was also alleged, was pirated from the plaintiff's book, which was so closely imitated as to induce incautious purchasers to believe that the two books were the same. For the defendants it was argued that there could be no copyright in the name of the book, and that there was no evidence that by the publication of the defendants' work the public had been misled. Lord Romilly, however, granted an injunction. Whilst admitting that the defendants would be at liberty to publish a Daily Text Book, and so far to adopt the scheme of the plaintiff's, he pointed out that it was the plaintiff's own idea to have a text book associated with a birthday, and so to adapt it to religious sentiments. The plaintiff was accordingly held to be entitled to a copyright in the use of the title "Birthday Text Book," whatever other words might be associated with it, and the defendants were restrained from the publication of their work, or of any work with such a title, or in such a form as to binding or general appearance, as to be a colorable imitation of that of the plaintiff.

The appellants in *Wotherspoon and another v. Currie*, 27 L. T. Rep. (N. S.) 393, had been for many years manufacturers of starch at a small hamlet in Scotland, called Glenfield, where there was a stream of water said to be particularly suited for use in the manufacture. Under the name of "Glenfield Starch" their goods acquired a great reputation. In 1868 the respondent set up starch works at Glenfield, and sold starch in packets labelled "Currie and Co., starch manufacturers, Glenfield." In color these labels resembled those of the appellants, but it appeared that this color was used by most manufacturers. There was evidence that