

D. E. Thomson, K.C., and J. B. Holden, for defendants the Copp-Clark Co.

C. A. Moss and A. B. Colville, for defendants Robertson and Henderson.

BRITTON, J.—It was practically admitted that every statement of fact and inference from fact in Dean Liddell's book could have been obtained by the defendants, the authors of the High School History, from common sources, but the particulars charged a resemblance between the two books in 155 instances, in some of which the resemblance was striking, in some so remote that in dealing with the same subject matter, and being true to history, it could not have been less. The plaintiffs urged that the defendants had not the right to save themselves the labour of going to original sources of information or to save themselves the labour of literary work. In nearly every case, if not in every one, the defendants did refer to what might be considered original sources of information. As to the sketch, which defendants used in their book and which was very similar in Dean Liddell's, even in view of the admission of the place whence it was secured, and of the fact that there was no colourable alteration of it, yet in such a sketch there was hardly any such thing as absolute originality, and there should be no finding in plaintiffs' favour upon it alone. They had permitted its use to Dr. Smith, and from its use were not likely to sustain any damage whatever. See *Spiers v. Brown*, 6 W. R. 352. Defendants' book was not in any considerable part a transcript of plaintiffs'; nor were parts of the latter introduced into the former with only colourable additions and variations, without any real independent literary labour. See *Garrold v. Heywood*, 18 W. R. 279; *Blakewell v. Holcomb*, 3 M. & Cr. 737. Defendants had not been guilty of what could fairly be called "extensive copying," or "extracting the vital part" of plaintiffs' book. See *Moffatt v. Gill*, 49 W. R. 438; *Chatterton v. Cave*, L. R. 10 C. P. 572, 3 App. Cas. 483.

Judgment for defendants with costs.

BOYD, C.

JANUARY 8TH, 1903.

WEEKLY COURT.

HEFFERNAN v. TOWN OF WALKERTON.

Municipal Corporations—By-law—Payment to Mayor—Procedure at Meeting of Council—Reference to Committee—Majority of Council—Mayor not Voting—Sealing By-law—Fraction of Day.

Motion by plaintiff to continue injunction granted by local Judge at Walkerton restraining the defendants from paying \$125 to the mayor for his services to the town as mayor. The parties agreed that the motion should be turned