

the cost of the Government while he was in the service of the State¹. This is certainly the case where the employé has expressly agreed that his productions are to be the exclusive property of the Government².

It has been held, however, that, in the absence of a special agreement to that effect, a college or similar institution is not entitled to the result of the literary labour of its professor, prepared by him for publication, although its preparation was incidental to his duty as professor, and was aided by the facilities available to him in his professional capacity³.

¹ On the ground that all the results of such labour belongs to the State, the publication of a map made by a draughtsman was enjoined in *Com. v. Desilver* (1858) 3 Phila. 31.

In *Little v. Gould* (1852) 2 Blatch. 302, a person engaged by the State to report the decisions of a court was held to be the "author" of the volumes containing the reports of such decisions, within the meaning of the copyright law, but that under the terms of the contract of employment, the copyright was vested in the Secretary of State, in trust for the State.

² Such an agreement was made by an artist with regard to such sketches and drawings as he may make while accompanying an Expedition fitted out by the United States Government, and receiving pay in the capacity of a master's mate. He was held not to be entitled to take out a copyright in certain sketches and drawings which were, on his return, incorporated, with his assent, in a report of the Expedition, the evidence showing that a large number of copies of the report, containing prints and engravings made from those sketches and drawings, had been, by the order of Congress, published for distribution. *Heine v. Appleton* (1857) 4 Blatch. 125.

³ In *Peters v. Borst* (1889) 24 Abb. N.C. 1, 9 N.Y. Supp. 780, a case involving a controversy between the director of an observatory and his assistant as to the ownership of a manuscript "Star Catalogue," upon which both had laboured, it was shown that the director conceived the plan, and selected the material, and that to him the correctness of the work was due; while the executive ability in working out the plan was that of the assistant. After the work had made much progress the assistant carried on the preparation of manuscript away from the observatory, and to an extent which he concealed from his principal, and finally claimed the whole as his property. Held, that those parts which were prepared by or under the supervision of the principal, or which were chiefly made up by copying from them, belonged to the principal, and he was entitled to recover possession of them from the assistant.

C. B. LABATT.