

upon that section only and the first registration of the periodical by Henderson in 1891, great difficulty might be in their way: see *Brown v. Cook*, 16 L. J. N. S. 140. . . .

The agreements between Henderson, Gibson, and plaintiffs were intended to vest in Henderson the sole right to obtain British copyright in the drawings, etc., subject to the reservations therein contained, and I think, subject thereto, Henderson became an "assign" of all rights of the author to copyright within sec. 3 of the Act, as defined in sec. 2, and was, after publication, entitled to register as proprietor under sec. 13 of the Act. See *Scrutton*, 4th ed., p. 154; *Copinger*, 4th ed., p. 142; and *MacGillivray*, pp. 74-77.

(3) Does the Act protect the works of a foreign author assumed to be copyrighted with his authority by a British publisher, such author being at the time of production and publication outside of the British dominions?

As to this question I have, with some hesitation, in view of the state of the authorities, come to the conclusion that the drawings in question are entitled to the protection of the Act.

[Reference to *Jefferys v. Boosey*, 4 H. L. C. 815; *Routledge v. Low*, L. R. 5 H. L. 100.]

The reasoning in the judgments in the latter case convinces me, after a careful perusal of the two Acts (8 Anne ch. 19 and 5 & 6 Vict. ch. 45), that the present Copyright Act does extend protection to the productions of foreign authors, wheresoever resident, assuming that there is a first or contemporaneous publication within the Empire, and I therefore adopt the view that *Jefferys v. Boosey* is not a binding authority on this point under the present Act.

This question, so far as I can discover, has not been presented to any Court for decision since *Routledge v. Low*, probably for the reason that foreign authors have preferred to adopt the simple expedient of sojourning for a few days in some part of His Majesty's dominions during publication of their works to the risk of expensive and possibly uncertain litigation in defence of their copyrights. . . .

[Reference to *Copinger* (1904), pp. 91, 92, 97; *Scrutton* (1903), p. 129; *MacGillivray* (1902), p. 45; *Slater* (1884), p. 137.]