

had no knowledge of its existence until after action; that it has little or no circulation in Canada; and that defendants made no inquiries as to existence of copyright in said drawings except at Ottawa for the purpose of ascertaining whether Canadian copyright as such had been registered. . . .

(1) I think the serial the "Comic Pictorial Sheet" is clearly a "book" within sec. 2 of the Copyright Act, 5 & 6 Vict. . . .

[Reference to *Walter v. Howe*, 17 Ch. D. 208; *Trade Auxiliary v. Middleborough*, 40 Ch. D. 425; *Scrutton's Law of Copyright*, 4th ed., p. 111.]

Assuming then, for the present, that by registering the 8 numbers of said publication the proprietor secured a copyright therein as so many books or sheets of letter-press, several authorities establish that the proprietor would be entitled to recover for an infringement of any substantial part thereof. . . .

[Reference to *Bogue v. Houlston*, 5 DeG. & Sm. 267; *Bradbury v. Howe*, L. R. 8 Ex. 1.]

At p. 7 of the last mentioned case *Pigott, B.*, says: "The pictures are a vital part of 'Punch.' They are the result of labour, originality, and expenditure, and from their great merit are of permanent value."

The great reputation of Mr. Gibson, the merit of his drawings, and their constituent importance to the publication in which they appear, make the remark just quoted singularly applicable to this case. See also *Grace v. Newman*, L. R. 19 Eq. 623; *Maple v. Junior*, 21 Ch. D. 369; *Bradbury v. Sharp*, [1891] W. N. 143; *Marshall v. Bull*, 85 L. T. 77.

Without determining whether the registration of the first publication in 1891 was sufficient, I am of opinion that the registrations of the 8 separate publications on 8th December, 1905, conferred upon the owners of the publication copyright in the drawings in question, assuming for the present that they were a subject for copyright.

(2) The contracts produced cannot, I think, be construed as creating the relationship of employer and employee between Henderson and Gibson, within the meaning of sec. 18 of the Copyright Act, and if plaintiffs were driven to rely