

to admit copyright into the secure fold of property does not require a very deep knowledge of the processes by which law grows. It was not because copyright was intangible. Incorporeal rights, such as rights of way, light and air, are easily provided with a place in jurisprudence. It was because the theory of prescription, which is the basis of property, did not apply, or applied but feebly to the case of copyright. It is perhaps conceivable that a man might possess a picture which all the world was anxious to copy, and which he for a long period successfully prevented from being copied, so that foundation was given to the idea that he had a copyright by prescription; but such right as he had would probably be attributed to his right of property in the chattel and not be the origin of a new incorporeal right. So soon as he sold one copy he would seem to have parted with all his right. The fact is that copyright does not take its rise from the slow processes to which legal rights are in general due, but to a conscious act on the part of the supreme power in the general interest. In this respect it is not unlike patent right, although the analogy has been in some respects misleading. It is probably due to this false analogy that it is still considered essential to copyright in a country that the subject of it should be first published in that country. When an idea is in question, as in the case of patent rights, it is desirable that the monopoly should only be given on the terms that a perfect record of the idea should be made public. This is a valuable condition, because the idea once published becomes part of the general stock of knowledge. The same cannot be said of copyright. The reason why publication in this country was made a condition of obtaining copyright here was probably the notion that the author ought not to have rights without some return. But to publish one copy would satisfy the condition; and, if there is any likelihood of the author being a 'dog in the manger,' the necessity of once publishing will not prevent it.

The new Act does not deal with any of the fundamental laws of international copyright. Copyright is one of the few subjects upon

which the English nation, like its neighbours, are strict protectionists, and the basis of international copyright continues to be reciprocity, as it was under the original Act of 1844. In fact, the new Act increases the security for reciprocity, while making it more flexible. It repeals section 14 of the Act of 1844, which provided that no Order in Council shall have any effect unless it state that due protection has been secured by the foreign power for all works first published in the Queen's dominions. The new Act is not content with such a mere statement, but requires by section 4, subsection 2, that before making an Order in Council Her Majesty in Council shall be satisfied that the foreign country 'has made such provisions (if any) as it appears to Her Majesty expedient to require for the protection of authors of works first produced in the United Kingdom.' If the foreign country has made provision for British authors, Her Majesty in Council must be satisfied with them; but if it has made none, the order may still be made. Reciprocity is still further secured by section 2, subsection 3, which provides that 'no greater right or longer term of copyright shall be conferred in any work than that enjoyed in the foreign country in which such work was first produced.' In Germany copyright lasts for thirty years after the death of the author, so that the author of a book first produced in Germany would have a longer copyright there than here. The clause does not deal with the case of a country with a more liberal law of copyright than our own, leaving the matter to that country to stipulate for if she should think fit; but, in the converse case of the foreign copyright being shorter than the English copyright, it restricts the duration of the English copyright in respect of a foreign work. A revolution is made in the law regarding translations by section 5. The Act repeals section 18 of the Act of 1844, which provided that 'nothing in the Act should prevent the printing, publication, or sale of any translation of any book the author whereof and his assigns may be entitled to the benefit of this Act,' and also repeals sections 1 to 5 of 15 & 16 Vict. c. 12, which gives a qualified right to