v. *Fullarton*, 2 Beav. 7); and it would seem that the only legitimate use which the compiler of such a work can make of previous works is for the purpose of verifying the correctness of his results (*Kelly* v. *Morris*, 14 W. R. 497, L. R. 1 Eq. 697; *Scott* v. *Stanford*, 15 W. R. 757, L. R. 3 Eq. 720).

The foregoing remarks apply to dictionaries, directories, statistics, and similar publications in which much of the contents must always be identical, if correctly given. In the cases where a compiler must of necessity make use of preceding books, the question will be whether he has made a legitimate use of them; bearing this in mind, that the question whether an author has made an unfair use of another work does not necessarily depend upon the quantity, but the value, of the pirated matter (*Bramwell* v. *Halcomb*, 3 My. & Cr. 736).

But the question before the Vice-Chancellor was not how much paste and scissor work the compiler of a dictionary or similar work may fairly have recourse to. The case takes us into higher fields of literary labour. The plaintiff was the author of an independent literary work, elaborated from a collection of materials, which must have been the result of great investigation and labour, and written in support of a certain theory. The defendant afterwards published a work, in the composition of which (as the plaintiff complained) he had availed himself of the plaintiff's investigations, and the results of those investigations, to the infringement of the plaintiff's copyright.

The Vice-Chancellor dealt with the case as if the defendant had openly borrowed from the plaintiff's book, and had acknowledged the same, instead of contenting himself with putting the plaintiff's book amongst the 168 authorities to whom he had referred. The omission to acknowledge his special obligation to the plaintiff's work made the case worse from a moral point of view, but did not affect the question before the Court. But to borrow without the author's leave arguments, theories, and ideas is a breach of his copyright, whether the words in which those arguments, theories, and ideas are clothed be taken or not. It was be no means a case of mere copying. No two passages in the books were absolutely identical: and the Vice-Chancellor acknowledged that no inconsiderable literary labour and skill had been displayed in the transfusion and transformation which he held to have taken place. The defendant, in the Vice-Chancellor's opinion, had adopted the general plan of the plaintiff's work, many of his arguments and illustrations, and the result of his investigations, and had also copied the plaintiff's references to works which he had in fact never consulted. "The question upon the whole is," said Lord Eldon, in *Wilkins* v. *Aikin* (17 Ves. 422), "whether this is a legitimate use of the plaintiff's publication in the fair exercise of a mental operation deserving the character of an original work." The Vice-Chancellor held that this was not a fair use by the defendant of the plaintiff's publication. If a man, instead of examining the original sources, or honestly exercising his mind on the work, avails himself of the labours of his predecessor, adopts his arrangement, borrows the materials which he has accumulated and combined together, or uses his language with colourable alterations or variations, he is guilty of piracy: *Jarrould* v. *Houlstone*, 3 K. & J. 716; and in the words of Judge Story (cited by Mr. Kerr in his work on Injunctions, p. 456, where this subject is fully treated of), the true test of piracy is to ascertain whether the defendant has in fact used the plan, arrangement, or illustrations of the plaintiff as the model of his own book, with colourable alterations and variations only to disguise the use thereof, or whether his work is the result of his own labour, skill, and use of common materials and common sources of knowledge open to all men, and the resemblances are either accidental or arise from the nature of the subject. This test being applied to the defendant's works, the Vice-Chancellor had no doubt whatever that it was, in the parts complained of, a palpable "crib" from the plaintiff's, though transposed, altered, and added to, and that with considerable skill. This systematic appropriation of the plaintiff's chain of reasoning, illustrations, and references to authorities amounted to an infringement of copyright, though no *verbatim* copying had taken place. It is true that the defendant had expended much skill and mental labour on what he had taken; yet the plaintiff had a right to say that no one had a right to take a substantial part of his work, and deal with it as he pleased, for the pupose of improving a rival publication.

Verbatim coying is the strongest evidence of an infringement of copyright; but the infringement lies in the appropriation of the ideas, and not in the transcription of the words. The real piracy here was of the theories and the arguments of the plaintiff. Once published, they became common property, subject to the author's right, as possessor of the copyright in his book, to restrain anybody from unfairly dealing with them. The case of *Pike* v. *Nicholas* shows the strictness with which the Court will protect authors against the most dangerous, because least easily dealt with, form of piracy—namely, the appropriation of thoughts and ideas. The Court can and does protect authors against those who rob them of the results of their invention and labours, whether the plagiarist simply transcribes their compositions or more insidiously "seizes their best thoughts, and as gipsies do with stolen children, disfigures them to make them pass for his own."—*The Solicitors' Journal.*