going opinion of the experienced and learned judge of that district, Mr. Justice SPRAGUE; and we are assured by Mr. Dana, and fully concur in the assurance, "That this opinion of Judge SPRAGUE is of the utmost interest to the navy; that it is the leading case, and is most thoroughly considered."

Nothing which we could add would be esteemed of much value beyond such an indorsement, from such a source, Mr. Dana being not only a good lawyer, everywhere, but specially devoted to Admiralty and Prize law. But we desire to commend, in a special manner, this opinion of Judge SPRAGUE to the bench and the bar throughout the land, as drawn up with that patient labor and research, which makes it a mine of wealth to all who may possess it. Such a thorough revision and careful analysis of the cases, presenting them in detail, and sufficiently at length to make them intelligible, even to unprofessional readers, renders the opinion, and any opinion drawn up in that authentic and reliable manner, almost invaluable as a matter of convenient reference ever after.

There is no one thing wherein the public poorer proves economy, than in requiring so much labor of their judges, in courts of final adjudication, as to render it absolutely impracticable for them to wait long enough, to obtain a full survey of the field lying behind them, before they are compelled to take a leap into the future, which too often proves in the sequel, but a leap in the dark. I. F. R.

RECENT ENGLISH DECISIONS.

Vice-Chancellor Wood's Court.

HOTTEN *vs.* ARTHUR.

A bookseller's sale catalogue, containing in addition to the mere titles, &c., of the books, original annotations descriptive of the nature of the works offered for sale, is a proper subject of copyright.

The court will, therefore, grant an injunction to restrain the piracy of such a catalogue.

This was a motion for an injunction by the plaintiff, who is a dealer in old and curious books in Piccadilly, to restrain the defendant Arthur, in the same trade, from selling or distributing, and the other defendants from printing and publishing a catalogue of the books offered for sale by the defendant Arthur, on the ground that the defendant's catalogue was a piracy of those from time to time compiled by the plaintiff.

It appeared that the plaintiff was in the habit of publishing successive catalogues of the works he had on hand, with notes and descriptions of such of them as were remarkable from their rarity

or antiquity, these notes being originally compiled by him and evidencing much research and information. At the time of the institution of the suit he had published three of such catalogues, appearing as successive editions of the first compilation, all of which were duly entered at Stationers' Hall. He was then on the point of publishing a fourth edition, when he discovered that other booksellers in the same way of business as himself, and more especially the defendant Arthur, were in the habit of taking the notes and descriptions from his catalogue, and appending them in their own sale catalogues to the same books in their libraries.

Sir H. Cairns, Q. C., and *E. B. Lovell*, in support of the motion for an injunction, pointed out the very numerous instances of identity in the notes and descriptions between the catalogues, extending in some instances to a reproduction in the defendant's catalogue of errors in the earlier editions of that of the plaintiff, and which in his fourth edition, then in course of publication, he had corrected. The manuscript of the new edition was put in evidence. They contended that the case depended only on the question whether the quantity of matter pirated was sufficient to entitle the plaintiff to his injunction; and cited *Mawman* vs. *Tegg*, 2 Russ. 385.

Tripp and *E. Macnaghten*, for the defendant Arthur, contended, first, that no injunction could be granted on the form of this suit; the printers had been made co-defendants improperly. Secondly, that there could be no copyright in a catalogue of this sort, which was a mere ephemeral work. They also alleged, supporting their argument by several affidavits, that, in the ordinary custom of the trade, booksellers were in the habit of copying each other's catalogues. They cited *Saunders* vs. *Smith*, 3 My. & Cr. 711; *Sweet* vs. *Benning*, 11 C. B. 459. Thirdly, the injury to the plaintiff was so small that this court would not grant the relief asked. The defendant's catalogue was not printed for sale, but for distribution and by way of advertisement, and, in fact, only ten copies of it had been sold at 1*s.* 8*d.* apiece. Fourthly, no sufficient quantity of matter had been taken to constitute a piracy; citing *Bramwell* vs. *Holcombe*, 3 My. & Cr. 737.

Bristowe, for the other defendants, relied on the first objection.

The VICE-CHANCELLOR, without calling for a reply, said that he felt no doubt as to the propriety of protecting a work like this, which was not a mere dry catalogue, but full of annotations and explanations, the materials for which must have been procured with much labor and diligence. If the plaintiff, instead of undertaking the task himself, had employed an author to do the work, there would have been no question as to the existence of his copyright, and it could make no difference to the present case that the plaintiff was himself the author. Then, as to the amount of the injury, it was clear that the value of these catalogues consisted not merely in the sale price, but in the amount of labor that had been expended in preparing them, and the defendant could not be allowed to use the plaintiff's labor without making him some compensation for it. Nor was there more force in the objection that these catalogues were mere ephemeral productions; on the contrary, it was well known that persons who were curious in such matters would buy such catalogues. He would take the illustration proposed by Mr. *Macnaghten*, that of Dr. Waagen's catalogues of pictures, in which there was certainly a copyright in the notes of the compiler; nor would any one employing another to make a similar catalogue of the pictures in his private gallery have a right, in selling the pictures, to append to the name of each picture in his sale catalogue the notes and illustrations so compiled. Again, it had been said, that the piracies were committed upon the early editions, which had now gone out of use; but if this were true of any, it would apply equally to all cases; and yet it would hardly be maintained that such a piracy might be committed with impunity on an early edition of Lord ST. LEONARDS' works. The whole case rested on the quantity of matter taken, and whether it was a case of fair abridgment or not. Here the defendant failed on all the ordinary tests: a very large quantity of matter was alike in both catalogues; errors in the plaintiff's catalogue had been copied by the defendant; some alterations had been made by the latter which were most clearly colorable. The *bona fides* of the defendant might have been strongly supported by the production of his manuscript, as in a recent case before him. That, however, had not been done; he must therefore hold the plaintiff to be entitled to the injunction prayed.