

## RECENT FRENCH DECISION.

*Cour de Cassation.—Presidence de M. Mesnard.*

LUMLEY, APPELLANT, *contre* BAYARD AND DONIZETTI, APPELLEES.<sup>1</sup>

1. The translation into a foreign language of a French work, in France, is a breach of the copyright.
2. The manager of a theatre cannot cause to be performed in France, an opera translated into a foreign language, without paying both the author of the music and the words, for the use of copyright, under the law of the 13th,—19th January, 1791, and the decree of the 8th of June, 1806.

This was an appeal by Lumley, Ex-Manager of the Italian Opera, from a decision of the *Cour d'Appel* of Paris, in favor of Bayard and Donizetti, with regard to the opera entitled *la Fille du Regiment*, at its sitting of the 26th of January, 1852. The decree of the Court below was in these words: The Court being of opinion that the opera styled *la Figlia del Reggimento*, and represented by Lumley at the *Theatre Italien*, is the same as that, the words of which were written by Saint Georges and Bayard, and the music composed by Donizetti, for the *Opéra Comique*, and which bears the name of *la Fille du Regiment*; that the translation of the French words into Italian, makes only an unimportant (*insignifiante*) difference between the two pieces; that this point is at once apparent by reference to the music, which has been preserved unaltered, just as it issued from the hands of the composer, and that in passing to Lumley's theatre, it has remained burthened with the

<sup>1</sup> This decision appears to settle in France, what is stated by Mr. Curtis (Copyright, p. 273,) to be an open question, both in that country and in England and America. Since, however, the publication of M. Renouard's work, referred to by Mr. Curtis, several decisions have been made in France to the same effect as that in the case in the text. Thus an *arrêt* of the Court of Rouen, (Nov. 7, 1845,) and a previous one of the Court of Paris, (July 17, 1847,) recognize the existence in authors or their assignees, of the right to publish or to authorize the translation of their works in a foreign language, (*Legislation de la Propriété Littéraire, &c.*, par Jules Delalain, Dec. 1852; p. 5, n. 2.) See *Burnett v. Chetwood*, 2 Merivale, 441.