

(2) All that part of the defendant's publication which consists of lists and tables of Courts, Judges, Court and other legal officials, barristers and solicitors, is copied either directly or indirectly from the plaintiff's publication.

As to the first particular, it is not disputed that the defendant in his book has adopted the system used by the plaintiff to indicate the Toronto agent of each solicitor in the Ontario list who has a Toronto agent, which is by placing a number to the right of the name of such solicitor, which corresponds with the number to the left of the name of another solicitor or firm appearing in the list for Toronto; but, while the defendant has adopted this system, he has not used the same numbers as appear in the plaintiff's book.

If the plaintiff's case depended solely upon this charge, I think his action would fail, because, as held by Lindley, L.J., in *Hollindrake v. Trusswell*, [1894] 3 Ch. 420, at p. 427, copyright does not extend to ideas or schemes or systems or methods, but is confined to their expression; and, if their expression is not copied, the copyright is not infringed. . . .

[Reference to *Baker v. Selden*, 101 U.S. (11 Otto) 99.]

As to the second particular of charge, a comparison of the two publications discloses a strikingly similar arrangement of the lists of barristers, solicitors, and Court officials. The presence in the defendant's publication of a large number of common errors in spelling and in alphabetical sequence of names in the lists forcibly suggests that the defendant's lists, where these common errors appear, were copied from the plaintiff's lists.

It is laid down in many authorities that the presence of common errors is one of the surest tests of copying: *Kelly v. Morris*, L.R. 1 Eq. 697; *Pike v. Nichols*, L.R. 5 Ch. 251; *Cox v. Land and Water Co.*, L.R. 9 Eq. 324; *Murray v. Bogue*, 1 Drew. 353; . . . *Coppinger on Copyright*, 4th ed., p. 171.

The plaintiff, however, is not in this case driven to depend solely on the evidence of common errors, because, while the defendant says he got much of his material from other sources—and no doubt he did—he admits that he got much of it from the plaintiff's publication. . . .

I . . . find as a fact that, in the preparation of both the lists of barristers and solicitors throughout the Dominion and of the lists of the Judges and Court officials, the defendant, for the purpose of getting his original information and for the preparation of the lists for the printer, copied from the plaintiff's book substantially all the names found in the plaintiff's book.