The basis of the construction thus attached to such a contract in any given instance is an inference of fact, not a conclusion of law, and its rationale is simply, that as an employer cannot

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sary inference; but in a case of this sort, where any other inference would be unbusiness-like, I should not hesitate myself to draw that inference. Having regard to the employment and payment and the kind of work which one party was doing for the other, I draw the inference of fact that the work was done upon the terms that the copyright in these headings, which are of no use to anybody but the plaintiff, should be his." "What," said Kay, L.J., "is the fair inference from the facts of the case? Surely the inference is that the man who goes to the expense of printing and publishing this book will, as between him and the agents he may have employed to assist him in the compilation of it, have in himself whatever property the law will give him in that book. That is the inference I should certainly draw."

In *Lawrence* v. *Aflalo* (1904) A.C. 17, Rev'g. *Aflalo* v. *Lawrence* (1903) 1 Ch. (C.A.) 318, which aff'd (1902) 1 Ch. 264, (publisher of expensive encyclopædia of sport, held to be entitled to the copyright of articles written for it by the editor and by other persons employed by the editor), Lord Davey, after briefly stating the evidence, said: "Those are all the material facts of the case; and I have to ask myself what is the inference that I draw from those facts. That, I repeat, is a matter of fact, and not a matter of law. No doubt one may gain some assistance from the way in which a similar set of facts has been regarded in other cases; but after all, where it is a question of fact, each case must stand upon its own merits. My Lords, if I were to express my opinion as a juryman upon the facts I have mentioned, I should say that it was one of the terms on which these gentlemen were employed to write articles for the encyclopædia that the copyright should belong to the proprietor; and I say so for this reason. The encyclopædia was to be his property, it was to be his book, he was to enjoy the benefit and receive the profit to be derived from its publication; and, therefore, I should assume that, in buying the articles written by these gentlemen, the inference is that both parties intended that the proprietor should have the right that was necessary for him adequately to protect the property which he had purchased, and the enterprise for the purpose of which these articles were intended to be used." Lord Halsbury observed: "I can entertain no doubt that this, like a great many other things in law, is one of those inferences which you are entitled to draw, but for which you can lay down no abstract rule." In this case the House of Lords declined to adopt the view of Romer and Stirling, L.JJ., to the effect that the mere circumstances that the writer of an article for an encyclopædia is employed and paid by the proprietor of the encyclopædia is not in itself sufficient to justify the inference, either in law or in fact, that the copyright in the article belongs to that proprietor under § 18 of the act.

It will be observed that the general principle applied in these cases is essentially similar to that which was propounded in the following terms by Sir John Leach in *Harfield* v. *Nicholson*, 2 L.J. 90 (p. 102), 2 Sim. & Stu. 1: "I am of opinion, that, under the statute (8 Anne, c. 19), the person who forms the plan, and who embarks in the speculation of a work, and who employs various persons to compose different parts of it, adapted to their own peculiar acquirements,—that he, the person who so forms the plan and scheme of the work, and pays different artists of his own selection who upon certain conditions contribute to it, is the author and proprietor of the work, if not within the literal expression, at least within the equitable meaning of the statute of Anne, which, being a remedial law, is to be construed liberally."