COPYRIGHT IN LITERARY, DRAMATIC & MUSICAL WORKS

It has been observed in the preceding chapter on subjects of copyright that there are at least two groups of countries as far as subjects of copyright are concerned. Some national legislations (U.K., U.S.A., India) provide for a definition of works protected, while others do not such as Italy.

Broadly speaking there are two categories of works. The first is one which includes works named in the Berne Convention, ‘literary and artistic works’ which includes dramatic and dramatico-musical works. The second is a category of recent types of works: cinematography films, sound recordings, broadcasts etc.

This chapter examines the issue of copyright protection in literary, dramatic and musical works. The question of originality and literary value in this regard are discussed at length. The various types of works which have been held as ‘literary works’ are given a detailed treatment. The question of copyright protection to dramatic works, essential requisites of dramatic works and its types such as pantomime is considered in some details. Similarly, the issue of copyright in musical works and the judicial response in this respect are also examined.

(A) COPYRIGHT IN LITERARY WORKS :

(i) Statutory Definitions :

By Section 2(1) and (2) of the U.K. Copyright Act 1956, Copyright is conferred in respect of ‘literary works’. This repeats, in substance, Section 1 of the Copyright Act 1911. In that Act, however,
"literary work" was defined, as including "maps, charts, plans, tables and compilations" whereas, in the Act of 1956, it was defined,\(^2\) as including "any written table or compilation", so that maps, charts and plans are no longer protected as literary works but are protected as artistic works under the definition of "drawings".\(^4\)

The Act of 1956, by Section 48(1), defines "writing" as including any form of notation, whether by hand or by printing, typewriting or any similar process. Presumably this definition would also be applied to "written", so that a compilation expressed in any form or notation will be protected as a literary work, for example, in braile or shorthand. Notwithstanding the inclusion in the definition of "literary works" of compilations, it was assumed this relates, not only to compilations of literary material, but also compilations of literary and artistic material and even of artistic material alone.

The Copyright, Designs & Patents Act 1988 has, however, now provided that "literary work" means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes (a) a computer program, and (b) table or compilation

In the United States, the Copyright Act of 1976 extends copyright protection to literary works\(^5\) which are defined as works, other than audio-visual works, expressed in words, numbers, or other verbal or numerical symbols or \textit{indicia}, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, films, tapes, discs, or cards in which they are embodied.\(^6\) The term "literary work" does not connote any criterion of literary merit or qualitative value and includes catalogues and directories; similar factual reference
or instructional works; compilations of data; computer data bases, and computer programs.7

Under the repealed Indian Copyright Act, 1914, like its counterpart in England, the term “literary work” included "maps, charts, plans, tables and compilation. But under the 1957 Act, these are no longer treated as, literary works” but protected as "artistic works".

Under the Indian Copyright Act of 1957 which heavily borrowed from the U.K. Copyright Act of 1956, copyright subsists, under Section 13, in three classes of work: (a) original literary, dramatic, musical and artistic works; (b) cinematography films; and (c) records.

Literary, dramatic and cinematographic works are defined inclusive by the Act whereas artistic, musical works and records are exhaustively defined by Section 2. These differences in the way in which the definition clause has defined different categories of works have led (as will be noted later in the chapter) to some crucial differences in respect of range of copyright protection.

Section 2(0) of the Act lays down that "literary work" includes "tables and compilations and computer programme, that is to say, programmes recorded on any disc, tape, perforated media or other information storage device, which, if fed into or located in a computer or computer based equipment is capable of reproducing any information”.

The 1994 Amendment has now provided for an improved definition by laying down that "literary work" includes "computer programmes, tables and compilations including data basis."8

It is clear from the above discussion that the three countries whose copyright laws are studied here have brought changes in the
definition of "literary works" in order to keep pace with the technological challenges in general and that of software development in particular.

(ii) **Literary Works & Originality**

Copyright in the three jurisdictions (U.K., U.S.A., & India) which form subject matter of present study subsists only if the literary work is "original". In *University of London Press Ltd. V. University Tutorial Press*, Peterson J. concisely stated that a "literary work" in law, means anything written or any printed matters and observed as follows: "Copyright Acts are not concerned with the originality of ideas, but with the expression, of thought, and in the case of "literary works" with the expression of thought in print or writing". The learned judge further observed as follows:

> It may be difficult to define "literary work" as used in this Act, but it seems to be plain that it is not confined to "literary work" in the sense in which that phrase is applied, for instance, to Meredith’s novels and the writings of Robert Loistevenson. In speaking of such writings as literary works, one thinks of the quality, the style, and the literary finish which they exhibit. Under the Act of 1842, which protected "books", many things which had no pretensions to literary style acquired copyright; for example, a list of registered bills of sale, a list of foxhounds and
hunting dogs, and trade catalogues; and I see no
ground for coming to the conclusion that the
present Act was intended to curtail the rights of
authors. In my view the words "literary work"
cover work which is expressed in print or writ­
ing, irrespective of the question whether the
quality or style is high. The word "literary" seems to be used in a sense somewhat similar to
the use of the word "literature" in political, or
electioneering literature and refers to written or
printed matter".

The question is not whether the materials are entirely new and
have never been used before nor even that they have never been used
before for the same purpose. The originality which is required relates
to the expression of thought; the law does not require that the expres­
sion must be in an original or novel form, but that the work must not be
copied from another work, that it should originate from the author. The
real question is whether the same plan, arrangement and combination of
materials have been used for the same purpose, or for any other purpose;
if they have not, the author of the said plan, arrangement and combi­
nation of materials is entitled to a copyright for the said production
although he may have gathered hints for his plans and arrangement from
existing and known sources. He may have borrowed much of the
material from others, but if they are combined in a different manner
from what was in use before, he is entitled to a copyright, infact, in
literature, in science and in art, there are and can be few things, which
in an abstract sense, are strictly new and original throughout. The man who goes along a street of a town and takes down the names of the inhabitants, with their occupations and street numbers, may obtain a copyright for his compilation (in the words of Lord Halsbury in *Welter V. Lane* where he compares a person compiling such a directory, and a reporter of a speech in respect of copyright in their product) but anyone else may even use the other man’s work to the extent of checking and verifying results, so long as he is not guilty of appropriating the results of another man’s skill and labour. The principle is that a man shall not avail himself of another’s skill, labour and expense by copying his written products thereof. In the cases of works not original in the proper sense of the term, but composed or compiled from sources common to all, the fact, that one man has produced such a work, does not take away from anyone else the right to produce another work of the same kind and in doing so to use all the materials open to him; the guiding principle in all these cases, where the work of an author which cannot be absolutely original from its very nature, is that the author must bestow such mental skill and labour on his work so as to give it an original character and not make merely a colourable imitation if he uses earlier works on that subject; any new and original plan, arrangement or compilation of old material will entitle the author to copyright therein, whether materials, therein are new or old; and whatever be his own skill, labour and judgement, a person writes, he may have a copyright therein unless it be directly copied or closely slavishly imitated from another’s work.
In U.S. also to be entitled to copyright, thus, the work must be original, that is, it must be the result of independent labour and not copying. However, the work need not be the first of its kind. Although the concept of newness or novelty is a prerequisite in the law of patents, it has no place in copyright law. It is sufficient, under copyright laws of U.K., U.S.A. and India that the work of each author is new to him, that is, that it is original with him, and not copied from the work of another.

The question of originality was also considered by the Privy Council in the case of MacMillan & Co. Ltd. V. Cooper (K. & J.), in which it was alleged that there was copyright in a selection or abridgment of a non-copyright. Lord Atkinson, in delivering the judgement of the court said:

It will be observed that it is the product of the labour, skill, and capital of one man which must not be appropriated by another, not the elements, the raw material, if we use the expression, upon which the labour and skill and capital of the first have been expended. To secure copyright for the product it is necessary that labour, skill, and capital should be expended sufficiently to impart to the product some quality or character which the raw material did not possess. and which differentiates the product from the raw material.

At a later stage in his judgement Lord Atkinson said:

What is the precise amount of the knowledge,
labour, judgement or literary skill or taste which
the author of any book or other compilation must
bestow upon its compositions in order to acquire
copyright can not be defined in precise terms.\textsuperscript{22}

It is here, as was pointed out by Mangham J. in \textit{Cambridge University Press V. University Tutorial Press, Ltd},\textsuperscript{23} that the real
difficulty arises. There is no guiding principle as to the quantum of skill
or judgement required except that a man shall not avail himself of
another's skill, labour, and expense by copying the written product of it.\textsuperscript{24}

It is submitted that, in determining whether the work is original
and entitled to copyright the work must be looked at as a whole and if,
notwithstanding that the author has used existing subject-matters, he
has expended sufficient independent skill and labour, he will be entitled
to copyright protection for his works.\textsuperscript{25} Thus it is clear that neither
original thought nor original research is essential, and that the standard
of originality required is a low one.\textsuperscript{26}

(iii) \textbf{Literary Works Must be in Print or Writing}:

In respect of literary works, it is essential that the same must in
print or writing, i.e. some form of notation in the work is essential.
Writing is sufficient. Obviously a work cannot be orally published. It is
not worth its while for the writing to express any meaning. There is
copyright in a list of meaningless words, e.g., in a system of shorthand,\textsuperscript{27} or a telegraphic code.\textsuperscript{28} According to Peterson J. in \textit{University of London Press V. University of Tutorial Press}\textsuperscript{29}, :

\begin{quote}
in my opinion, a copyright is given to the first
\end{quote}
produce of a book whether the book be wise or foolish, accurate or inaccurate, or of literary merit or of no merit whatsoever.

Similarly it was observed in *Mishra Bandhu & Others V. S. Kosha*\textsuperscript{30}, by Sen. J. as follows:

In text-books on arithmetic or books of the above description, the amount of originality of the author may be small, but the expression of his thought, skill and labour may be tremendous, and it is that which is protected by law.

(iv) **Various Types of Literary Works**:

(a) **Compilations**:

The definition of "literary work" as seen above in the three countries under study here specifically refers to compilations. Thus, by exercise of sufficient labour and skill in selecting and arranging existing subject matter, a person can secure a copyright for protection of his works or compilation composed from common sources or from matters available in the public domain. But in the latter case, it will not prevent another compiler from using the same material and even in substantially the same order, if no special plan or method is apparent, provided, however, that the second compiler is able to prove that he has obtained his material actually from the original source. Thus, Lord Porter in *Cramp & Sons V. Smythson*\textsuperscript{31} observed:

Compilations are susceptible of copyright even though the matter compiled of itself contained
nothing new; nor does it matter if a substantial portion of the compilation be taken that the copier added fresh matter of his own or took only a part of the original compilation on the other hand no copyright exists merely in the order in which the various items are placed. It is their selection, not their position inter se, which is alleged to constitute copyright. It is conceded that, if the work, labour and skill required to make the selection and to compile the tables which form its items is negligible, then no copyright can subsist in it.

In the same case, Lord Macmillan observed that if the compilation involved independent skill, labour and judgement and such labour and skill was not negligible, protection is always given, on this principle, protection has been given to such compilations as an arrangement of broadcasting programmes, school text books, a book of receipts, a directory, a trade advertisement, a mining report, a list of foxhounds and hunting dogs, a list of stock exchange prices, a list of books, football coupons, an alphabetical list of railway stations, birth and death announcements in newspapers, and sheets of election results.

(b) Selections :

Selections of poems or prose compositions may also be protected, and selections of incidents from real life. The principle applicable to cases of publishing selections of works is that one person
is not at liberty to use or avail himself of the labour which another has expended for the purpose of producing his work, and sway the result of other's labour.

In *MacMillan & Co. V. Suresh*, plaintiffs who were the proprietors of copyright in Palgrave's collection of poems selected and arranged by the author "in the gradation of sentiments and feelings" sought injunction against the defendant for infringement by reproducing the selections contained in the book together with many notes in his book entitled *Short Select Poems*. Sir Arthur Wilson in upholding the claim, enunciated the principle of law as follows:

In the case of works not original in the proper sense of the term, but composed of or compiled or prepared from the materials which are open to all, the fact that one man has produced such a work does not take away from anyone else the right to produce another work of the same kind and in doing so to use all the material open to him.

But as the law is precisely stated by Hall V.C. in *Hogg V. Scott*:

the true principle in all those cases is that the defendant is not at liberty to use or avail himself of the labour which the plaintiff has been at for the purpose of producing his work, that is, in fact, merely to take away the result of another man's labour or in other words his property. I think it is unnecessary to refer in detail to the cases; it is enough to say that this principle has been applied.
to maps, to road books, to guide books, to street directories, ...

The principle seems to be equally applicable to the case of a selection of poems. It was, thus, held that such a selection as Palgrave has made obviously requires extensive reading, case-study and comparison and the exercise of taste and judgement in selection. It is open to anyone who pleases to go through a like course of reading and by the exercise of his own taste and judgement to make a selection for himself. But if he spares for himself this trouble, and adopts Palgrave's selection, he offends copyright.

In *A.C. Sampath Ayyangar V. Sarvashri Jamshed G. Kanga & A. Palkhiwala and Messrs N.M. Tripathi Ltd.* the plaintiff who was the author of the book 'The Indian Income Tax Act' sued the defendants in the High Court of Madras for infringement of his publication by another book entitled 'The Law & Practice of Income-Tax' of which the defendants no. 1 and 2 were joint authors and the 3rd defendants for publishing the alleged infringing copies. The defendants denied any act of piracy and asserted that their book or compilation was an independent effort. Dismissing the suit, Panchapakesa Ayyar J. observed:

A perusal of the book (of defendants) has convinced me that it will sell by its own merit.

It was further stated that though infringement is alleged on the basis of common headings, common conclusions, quoting of common extracts, common criticism of sections, and common mistakes yet that doesn't make out the case since both the commentators had gone to the common sources like the sections of the Act or the Income Tax Manual.
The learned judge held that the common conclusions could also have been arrived at by each author by considering the matter independently and arriving at the same conclusion and, thus, such examples of infringement are useless for proving piracy.51

In United States also similar rulings have been rendered. Thus it was held that in order to obtain copyright protection over the pre-existing material employed in a derivative work, the author must contribute additional matters to the pre-existing work that constitutes more than a minimal contribution to it.52 But no copyright can be claimed to any part of a derivative or collective work that uses pre-existing material unlawfully.53 This provision was designed not only to prevent an unlawful user of pre-existing material from benefiting from such use by obtaining copyright protection, but also to protect those parts of the work that did not employ unlawfully pre-existing material.54

(c) **Annotations and Book Guides**:

Annotations to text books or to books of great authors or on legal points involve learning, labour and exercise of intellect, and so, where they are composed by the exercise of thinking, labour etc., the author of the annotations or composer of these annotations possesses the copyright in such compilations.

In *E.M. Foster V. A.N. Parsuram*55, the respondent published a guide book to the novel “A Passage to India” by E.M. Foster, which was prescribed by the University of Madras as a text book for students taking the B.A. degree. The guide was styled as “E.M. Foster, A Passage to India, Everyman’s Guide”. It contained an introduction
which included studies of the life and works of Foster, Foster as a Novelist, the story in outline, the plot as analysed by the Respondent’s textual essays skillfully arranged, sketches and character contrasts. It was held that the guide was an independent creation and was not a copyright infringement of the original novel.

The question whether there has been an infringement of copyright depends upon whether a colourable imitation has been made, whether the work complained of is or is not a colourable imitation of another, is essentially a question of fact and the burden of proving that fact rests on the plaintiff.56

(d) Abridgments:

Copyright may likewise exist in a genuine and just abridgment, for it is said that an abridgment may with great propriety be called a new book,57 and, therefore, is an original literary work. Whether an abridgment is or is not, a piracy of the original work is more doubtful, but there are reasons for holding that the fact that a work is a piracy ought not to itself disentitle it to copyright.

To constitute a true and equitable abridgment the entire work must be preserved in its precise import and exact meaning, and then the act of abridgment is an exertion of the understanding, employed in moulding and transferring a large work into a small compass, thus rendering it less expensive, and more convenient both to the time and use of the reader. Independent labour must be apparent, and the reduction of the size of a work, by copying some of its parts and omitting others, confers no title to authorship; and the result will not be an
abridgment entitled to protection. To shorten a work by leaving out the unimportant parts is not to abridge it in a legal sense. To abridge in the legal sense of the word is to preserve the substance, the essence of the work, in language suited to such a purpose - language substantially different from that of the original. To make such an abridgment requires the exercise of mind, labour, skill and judgement brought into play, and the result is not merely copying.

(e) **Headnotes**:

The headnotes which appear at the commencement of any law report or the side or marginal note of a report constitute the digest of such report and are a species of abridgment. In *Sweet V. Benning*\(^4\) Crowder J. refers to head notes as follows:

The headnote is a thing upon which much skill and exercise of thought is required, to express in clear and concise language the principles of law to be deduced from the decision to which it is prefixed, or the fact and circumstances which bring the case in hand within the same principle or rule of law or practice.

Thus, a reporter is also entitled to copyright not only in selection of cases, their arrangement but also in their headnotes, on the simple principle that another person can not save himself the time, labour and expense by availing himself of another's industry for his own profit.\(^6\) A report gives in such a case, a condensed report setting forth the facts and arguments in each case, and the judgments at length, but also sets out an abstract of the decision containing the principle on which each
decision is based and the pith and substance of the same.\textsuperscript{61}

In the United States also, it has been held that even the salaried reporter of the court who is charged by the statute with the duty of reporting the cases of the court\textsuperscript{62}, unless forbidden by statute, may secure copyright of the headnotes, statements of cases, title of the volume, arrangement or grouping of cases, index digest, synopsis of the arguments, and of all such portions of his compilation or authorship as require the exercise of intellectual thought and skill, where these are prepared by him and are the result of his labour and research.\textsuperscript{65} But where the opinion or decision of the court and also the statement of the case and the syllabus or headnotes are exclusively the work of the judges of the court, the reporter of the court is not the author of any part of such matter, and can not obtain a copyright.\textsuperscript{64}

\textbf{(f) \hspace{1em} Titles :}

No copyright protection is extended to titles, of a novel, book, film or newspaper or journal, while every endeavour is made by copyright law in protecting all other copyrighted subjects as "original literary works". Not only in India but throughout the world, duplication of titles is rampant and is allowed with impunity. Thus copyright in the title of a novel does not entitle its author to restrain the same title being used by others in respect of dramas, poems etc.\textsuperscript{65}

In United States also, the copyright of a literary or musical work does not give the owner of the copyright the exclusive right to the use of the title of the work.\textsuperscript{65} Similarly, title headings and article headings used in a statutory compilation are mere descriptions and have no value
separated from the articles which they describe and, therefore, are not
copyrightable.67

(g) Letters:

The author of a letter is entitled to copyright, as a letter constitutes an "original literary work". The fact that letters are of no literary value is quite immaterial.68 The writer has a copyright in his letters even after their transmission.69 In the eye of law, copyright in letters does not follow possession. It always remains in the writer or his heirs, however obscure the writer may be. Thus, the right to restrain publication of a letter belongs to the writer of the letter, although the property in the paper itself belongs to the receiver, who may hold it as a bailee. The latter may destroy it, or sell it as waste paper or for the value of the autograph signature, if he pleases, or recover it by action, if it should pass out of his possession. In any case, the receiver of a letter may use it for any lawful purpose, but he must not publish it in its literary form without the writer's consent.70

In British Oxygen Co. Ltd. V. Liquid Air, Ltd.71, it was observed: "The publication of the letters of Pope was restrained by Lord Hardwicke, as was the publication of Lord Chesterfield "letters by lord Apsley ..." It should be manifestly unfair that an unpublished literary work should, without the consent of the author, be the subject of public criticism, review or summary. Any such dealing with an unpublished literary work would not, therefore, in my opinion, be a 'fair dealing' with the work'.

It would appear that governments have a right, upon grounds of
public policy, to publish or to withhold all letters addressed to the public offices.  

In an American case, where a soldier addressed letters to his young daughters before he was killed on the Korean front, it was held that any profits which arose by the use of such letters in producing motion pictures depicting incidents of war belonged to his estate.

Apart from copyright, the publication of letters, and even the communication of their contents by the receiver, has often been restrained as a breach of trust or confidence.

(h) Tradesmen’s Catalogues:

It is now well settled that tradesmen’s catalogues can also be subject-matter of copyright in "literary work". It was once thought that the fact that a book was used solely for the purpose of advertising the goods of the author militated against its being held to be the subject of copyright, but this view was overruled. It is, of course, always open to doubt whether the component parts of the catalogue are original or merely taken from a common source, but a catalogue is generally a compilation upon which the compiler has exercised skill and judgement.

As to copyright in tradesmen’s catalogues it has been argued that, in so far as skill and labour have been employed merely in selecting a desirable aggregate of saleable commodities, this was irrelevant to the creation of a copyright compilation. This argument has been used with regard to the compilation of the Football League Fixture list, it being said that the selection of appropriate dates upon which the teams should meet was for the purposes of the League activities and not for the
compilation of its fixture list. But UpJohn J. held\(^8\) that copyright subsisted in the list and that part of the skill and labour involved in its preparation was that of working out the appropriate dates of matches. This view has been upheld in the House of Lords in connection with the copyright in a compilation of football pools.\(^8\)

The plaintiffs, in *Purefoy Engineering Co Ltd. & another v. Sykes Boxall & Co. Ltd*, who were carrying on the business of the Unit Tooling Company were printing and circulating to their customers a catalogue tabling a judiciously selected variety of sizes of machines parts, so as to be in a position to meet, at short notice, all likely requirements of various manufacturers, and at the same time to avoid uneconomic stocking of items of scant demand. Such tables or lists were varied from time to time by the plaintiffs according to their requirements. The defendants Sykes and Boxall used to be in the plaintiffs employment. After they left the services of the plaintiffs, they commenced independent business of a similar nature, and appropriated certain tables from the plaintiff's catalogue. The plaintiffs filed the case for the infringement of copyright. It was held by Court of Appeal that the plaintiffs had copyright in each and every part of their catalogue and that the defendants had infringed certain parts of the plaintiff's catalogue.

In the United States also, catalogues which contain matter on supplies, and clear descriptions of such supplies which are more than a mere collection of existing descriptions, are copyrightable material.\(^9\) But catalogues which contain a mere notation of the figures at which stocks or commodities have sold, or of the results of a horserace or
baseball game can not be said to bear the impress of individuality and their production falls short of authorship.

Illustrations in a catalogue are protected in the three countries under study here as artistic works and not as literary works. Thus, it has been held that where a design is subsequently produced in an artistic form e.g., by a photograph of the industrial object, the subsequent work, though embodying design, is also protected by copyright. Catalogues are covered by the definition of "literary works" which includes "table or compilations".

(i) **Advertisements**

Advertisements are entitled to copyright protection either as literary works or as artistic works or as a combination of both. However, there can be no copyright in an advertisement without original features, or which is a "merely dry list of names or goods".

Copyright may not subsist in advertising slogans as they consist only of a few ordinary works strung together. In *Sinanaide V. La Maison Kosmo*, it was held that a phrase in an advertisement to the effect "A youthful appearance is a social necessity and not a luxury" was protected as an "original literary work" and an injunction and damages were awarded. However, the decision was reversed on appeal after hearing evidence to the effect that the phrase that "Beauty is a modern necessity" has been previously advertised, and the court held that the matter was too trifling for action by the court.

Copyright in an advertisement vests in the advertiser or his agent. As between an advertiser and an agent who has the copyright depends
upon the circumstances of each case.\textsuperscript{88}

In the United States the copyrightability of advertisements has long been recognised.\textsuperscript{89} Advertising material qualifies for copyright protection if it exhibits some original intellectual effort as to conception, composition, and arrangement even in the absence of any high artistic or literary merits.\textsuperscript{90}

\textbf{(J) Blank Forms & Form Books:}

Blank forms are not copyrightable where they are designed for recording information and do not in themselves convey information.\textsuperscript{91} But there is an exception to the rule that blank forms or charts contain language explanatory of, and inseparably included in, the copyrighted text or material, then the forms or charts are protected because they convey information.\textsuperscript{92} Blank forms such as Account books, Bank cheques, Diaries, etc. are not copyrightable. Although bank cheques and stubs are not copyrightable as blank forms or as a cheque stub system, they may be copyrightable for the art work thereon.\textsuperscript{93} By contrast, forms which explain a particular plan or system and communicate ideas rather than merely serving as a depository for factual data have been given copyright protection.\textsuperscript{94} Accordingly, the U.S. Copyright office regulations have been interpreted to prohibit copyright protection only to blank forms which were designed for recording information and do not in themselves convey information, for example, account books which contain several pages of instructions preceding and following 31 pages of blank forms (one page for each day of the month), have been held entitled to copyright protection on the ground that such books convey
information and that the instructions and blank forms constitute part of
an integrated work. 

(k) Lectures:

The protection afforded to lectures was, under the previous laws (prior
to 1956), of a very unsatisfactory character, and there was no copyright in an
unpublished lectures. But both the U.K. Copyright Act of 1956 and Indian
Copyright Act of 1957 specifically guaranteed copyright in lectures which was
defined as including "address, speech and sermon".

Copyright, however, can only subsist in lecture if it is a literary
work, i.e. a work expressed in print or writing, and it would appear,
therefore, that there is still no copyright in a mere extempore speech. It
is submitted, however, that where a speech is made from notes, it might be held
that anyone copying the speech was infringing the copyright in the notes.

It is in this context that the recent controversy relating to the
publication of lecture delivered by the Justice A.M. Ahmadi, Chief
Justice of India at Jamia Millia, New Delhi is to be understood.
Moreover, the U.K. Copyright Committee 1977 also recommended that,
where, a speech or lecture delivered extempore is fixed, albeit by some
one other than the speaker and whatever mode with his consent or not.
there should be created a copyright in the material which will vest in the
speaker, additional to the separate copyright in the recording or tran-
script as such. Thus, publication of Chief Justice's speech without his
consent was not appropriate.

At the same time it should be realised that a lecture is not
published by delivery, but it would appear that the issue of reports, or
even of copies of notes from which it was made, with the acquiescence of the author, would constitute publication, since such reports would be copies of the literary work in which the copyright subsists.

(1) **Statutes & Judicial Opinions:**

Neither judicial opinions nor statutes can have copyright. In the United States, it has been held that nor may State, any more than individuals, obtain a copyright on what is the public domain. It is well settled that the literary production of judges acting in their official capacity as judges are not subject of copyright. This doctrine extends to whatever work they perform in their capacity as judges, and consequently applies to their statements of cases and to the syllabi or headnotes prepared by them in their official capacity, as well as to their opinions and decisions themselves since the whole work done by the judges constitutes the exposition and interpretation of the law, which, binding every citizen, is free for publication to all, whether it is a declaration of unwritten law or a Constitution or of Statute. Judges, having no rights therein themselves, can not confer any special right on a reporter to copyright any part of their labours, nor can they confer this right on any other person, not even on the State itself.

(m) **Adaptation & Translation:**

Former Director of B.B.C., Val Gidgud rightly observed: "It is easy enough to say what adaptation should not be but to define what it should be is rather more difficult. Adaptation, in short, means the proper telling of the story in terms of a medium different from that in which it was originally conceived. It does not much altering the story,
although it may do so. It does mean preserving at all costs the spirit of the story, and the motivating purpose of the original author in telling it ...

The novelist uses the medium of words, the theatre uses the medium of living actors, and cinema uses the medium of the camera, and broadcasting uses that of microphone.¹⁰⁴

Thus, there is almost a uniform definition of the adaptation. Section 2(a) of Indian Copyright Act, 1957, for instance lays down that "adaptation" means -

(i) in relation to dramatic work, the conversion of the work into a non-dramatic work;
(ii) in relation to a literary work or an artistic work the conversion of the work into a dramatic work by way of performance in public or otherwise;
(iii) in relation to a literary or dramatic work, any abridgment of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and
(iv) in relation to musical work, any arrangement or transcription of the work.

The aforesaid definition of "adaptation" includes translation of the work as well. Translations are as much protected as original works. The author of a book has exclusive right to publish translations of his book.¹⁰⁵ The translations of a non-copyrighted work enjoys copyright in its own right. It was held in the case of Byrne V. Statist Co,¹⁰⁶ where certain advertisements being a translation from the Portuguese were produced and published in the Financial Times, it was held that translation was a copyrighted work and the right rested in the translator.
It has also been observed incidentally by Lord Eldon in Cary V. Faden in refusing an injunction to restrain an infringement of the copyright in an earlier work as follows:

Why, on principle, should anyone be at liberty to appropriate the translator's independent labour because his translation was not authorised by the author of the original work, who does not see fit to prevent the publication of the translation?

Moreover the unauthorised translation of today may become an authorised translation tomorrow.

The whole idea of translations of the original works is essential in a country like ours where various languages are prevailing, so that it would enrich our country by securing translations in different languages.

Copyright may be secured in the adaptation of a play which in itself is common property. Thus, in Hutton V. Keane, where it appeared that the defendants had designed a dramatic representation, consisting of one of Shakespeare's plays, with certain alterations in the text, original music, scenic effects, and other accessories, the court did not doubt that the production, as a whole, was a proper subject of copyright, although the play itself was, in its original form, common property.

Same is the case with musical compositions, not only an original composition but any substantially new arrangement or adaptation of an old piece of music is a proper subject of copyright.
(n) Examination Papers:

An essential feature of copyright legislation, as seen above, is that the work must be original. The quality of being original has nothing to do with literary or artistic merit of the work. Thus, Peterson, J. in the case of University of London Press v. University Tutorial Press Ltd., in deciding whether copyright is available in respect of examination papers set for matriculation examination of the London University held that examination papers were literary work. Indian courts have also held that copyright subsists in the examination papers.

(o) Copyright in a Work Which itself Infringes Copyright:

The question whether copyright can subsist in a work which is a piracy of another copyrighted work is difficult one. It is submitted that copyright can subsist in such a work which, provided it is not a slavish copy, since in such a case there would be no "originality", that is nothing originating from the author of the piracy. As observed above, there is a copyright even in the case of unauthorised translation since translation involves considerable time, skill and labour by the translator.

But the problem is that even if such a work is entitled to copyright, will the courts grant relief where a substantial part of it has been copied? Will the courts grant relief in the case of a work which consists in part of pirated material, on which time, skill and labour has been expended and where the part copied, though a substantial part of the whole work, consisted entirely of pirated material? It is submitted that the courts might well be unwilling to do so, in either case, on the grounds of public policy, and certainly not against the original copyright owner, unless, perhaps, he had later given permission.
(B) COPYRIGHT IN DRAMATIC WORKS:

The copyright laws of U.K., U.S.A. and India as of most countries of the world now recognise copyright in dramatic works.

In the United Kingdom, under the law prior of 1911, performing rights could only be claimed in respect of any "tragedy, comedy, play, opera, force, or any other dramatic piece or entertainment" or in respect of "any musical composition", but under the Acts of 1911 and 1956, the right to perform a work in public is included in the copyright of all literary, dramatic and musical works. The definition of dramatic work in the U.K. Act of 1956 is slightly different from that in the U.K. Act of 1911, and the difference may be of material importance. As observed above, in the Act of 1911, dramatic work was defined as including "any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form which is fixed in writing or otherwise". In the Act of 1956, dramatic work is defined as including "a choreographic work or entertainment in dumb show, if reduced to writing in the form in which the work or entertainment is to be presented".

The expression "any piece for recitation" is left out, presumably because its special mention was thought unnecessary. But the change from it fixed in writings or otherwise, to "if reduced to writing in the form in which the work or entertainment is to be presented", may have significance. It was thought that, under the Act of 1911, a sketch or dramatic performance might acquire copyright protection if filmed or recorded at the moment of performance, but it would seem clear that this is not so under the Act of 1956.
But the U.K. Copyright, Designs & Patents Act 1988 has now provided for a more simpler definition by laying down that "dramatic work" includes a "work of dance or mime".\textsuperscript{120}

The Indian copyright law as has been discussed in the chapter on historical development has closely followed the British enactments, and therefore, on the issue of "dramatic works" as well, the Indian law is almost similar to that of its counter part in England.

Thus, the Copyright Act of 1957 says that "dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, but does not include a cinematograph film.\textsuperscript{121}

In the U.S., dramatic works, including any accompanying music,\textsuperscript{122} are entitled to copyright protection, and the terms are not defined by Statute since such terms have fairly settled meaning.\textsuperscript{123} Prior law also did not define dramatic works, but former copyright office regulations included within the classification of "dramatic and dramatico-musical compositions" works which are dramatic in character such as the acting version of plays for the stage, motion pictures, radio, television and the like, operas, operators, musical comedies and similar productions and pantomimes. Under prior law, a dramatic work was defined as a work in which the narrative was not related, but was represented by dialogue and action\textsuperscript{124}, that is, a work which tells a story\textsuperscript{125} so that the audience sees the event or story live.\textsuperscript{126}

Copyright may protect not only the dialogue of a drama, but also all such means of expression as the author uses to give dramatic significance to the scenes of his work.\textsuperscript{127} But mere motions, voice and
postures of actors and mere stage business are not subject of copyright protection. A copyright owner's protectable property in a play consists of development, treatment, and expression of elements such as theme, locale, settings, situations, ideas, and bare basic plots, but the elements in themselves are not protectable, since it is expression of ideas, not ideas themselves, that is protected.

(i) **Essential Requisites of a Dramatic Work**: A dramatic work is something that is capable of being written or printed or reduced to some permanent form, subject, however, to its being so reduced, that it discloses a plot or a story and indicates the mode by which it should be expressed i.e. either with dialogue or by action. The expression of such work is called a dramatic performance. Hence, for any work to constitute a dramatic work, three ingredients are essential viz, (i) it must be reduced to a permanent form, (ii) it must disclose a plot or a story and (iii) it should be capable of being performed either with dialogue or by action or both.

(ii) **Dramatic Work & Publication**: The term "performance" includes any mode of visual or acoustic presentation, including any such presentation by the exhibition of a cinematograph film, or by means of radio-diffusion, or by the use of a record, or by any other means and, in relation to a lecture, includes the delivery of such lecture.

However, it should be noted that public performance of a dramatic or musical work during the lifetime of the author is not publication of the work. In the case of such performance, the work will still
remain an “unpublished work” existing only in the manuscript of the author and is to be considered as an “unpublished work”. There can not be oral publication, nor can there be any publication of a single copy. The test as to whether or not there has been an issue to the public would seem to be if copies were available to the public in sufficient quantities.¹³²

If a dramatic work remains unpublished at the date of the death of the author, the public performance of such work after the death of the author will constitute publication of the work, and the provisions relating to “posthumous Works” will apply.¹³³

(iii) **Actors Gags not Copyrightable:**

It is to be observed that at no time actor’s gags have been recognised by the copyright acts. By the term Gag is meant a minor incident or sequence of minor incidents, usually of a humorous nature, closely related to and made vocal by gestures and intonations.¹³⁴ The dictionary meaning of the term gag is “words inserted by an actor which are not in his part; (slang) a joke, specially on the music-hall stage:

*In Tale V. Full brook*¹³⁵, Lord Justice Voughan William observed:

> Gag can not be within the act; if it were, its authors would be actor not the writer of the piece, nor would it make any difference if the actor and the author were one and the same person, for the act does not extend verbal alterations and additions which vary from week to week and possibly from night to night in order to keep up with the events of the day.
Similarly actors "stage business" which includes mannerisms, gestures, expressions and other acting devices improvised by a skilled actor to portray his own role is not copyrightable.

(iv) **Pantomimes and Choreographic Works**:

In the United States, the 1976 Act has now specifically added "pantomimes and choreographic works" to the categories of copyrightable subject matter. The terms are not defined in this statute, apparently on the basis that their meanings are well-settled.

Under prior law, such works were protectable only as part of a dramatic work. It was recognised that in pantomime the whole action is represented by gesticulation, without the use of words, and that it would deny the title of drama to pantomime as played by the masters of the art. Similarly choreography that told a story, portrayed characters, or depicted emotions was copyrightable. Although the law now explicitly recognizes all forms of choreography, that should not be construed to include social dance and simple routines.

(C) **COPYRIGHT & MUSIC WORKS**:

(i) **Definition of Musical Works**:

There was no definition of musical work in the U.K. Copyright Act of 1911 and that of 1956. The Musical (summary Proceedings) Copyright Act 1902, which has now been repealed, defined a musical work as meaning "any combination of melody and harmony, or either of them, printed reduced to writing, or otherwise graphically produced or reproduced", thus expressly confining musical works to those which are printed or written. The Indian Copyright Act, 1957 has bodily lifted
this definition.\textsuperscript{141}

If the question is whether, if A improvises a tune in B’s presence, which B carries away in his head and subsequently publishes, A has copyright in the tune, which he can sue B for infringing, probably A has no copyright in his tune, and in any case, the difficulties in the way of proving that B’s published work is an infringement of A’s improvised tune will be well high insuperable. What the Act protects was musical “work” and the expression seems to imply that the tune shall be recorded in some permanent form before it becomes entitled to copyright. This view is confirmed by the provision that, in the case of an entertainment in dumb show or a choreographic work, it must be reduced to writing in the form in which the work or entertainment is to be presented, and also by the requirement that a work is made when first reduced to writing on some other material form. But the U.K. Copyright, Designs & Patents Act 1988 now solves such problems by defining “musical work” as a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music. The 1994 Indian Amendment has also brought in a new definition which is much wider than the previous one “Musical Work” now means “a work consisting of music and includes any graphic notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music”.

The 1976 United States law on the question of musical work is far less ambiguous. It extends copyright protection to “musical works, including any accompanying words”.\textsuperscript{142} Since musical works which are fixed in any tangible medium of expression, now known or later
developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device are copyrightable, \textsuperscript{143} copyright may be obtained regardless of whether the music compositions is notated in conventional written form, is recorded on tape or disk, or is embodied in some other material object or medium.

Whenever a song is copyrighted as a musical composition, both the words and music are protected. \textsuperscript{144} Words alone, unaccompanied by music, are also entitled to copyright protection as a literary work, but a statutory copyright does not give a monopoly over an idea or a musical phrase; it merely protects against the unlawful reproduction of an original work. \textsuperscript{145}

Although a musical composition is made up of rhythm, harmony, and melody, rhythm and harmony have been in the public domain for so long that neither can be subject of copyright; hence, originality must be found in the melody.

(ii) \textbf{Copyright in Musical Works & Films}:

Since musical works in films raise questions of copyrights of different persons, under the Indian Copyright Act of 1957, a major controversy arose on this issue. \textsuperscript{146}

The Indian Performing Rights Society (IPRS) announced a tariff of fees, charges and royalties for public performance of composers of musical works and others on 29 September, 1969. The litigation arose between IPRS and the Exhibitors Association of India before the Copyright Board. Its decision of 16 may, 1973 was reversed on appeal by the Calcutta High Court on 13 February, 1974. The Supreme Court affirmed the decision on 14 March, 1977. The Board held the view that
the composers of music retained their copyright in their musical works embodied in the soundtrack of the film provided that such lyrical and musical works were written and that the authors had not validly transferred their rights to the owners of the film. The High Court reversed this decision. It held that, under proviso to Section 17 (b), the owner at whose instance the film is made becomes the first owner of copyright and, in terms of that clause when valuable consideration exists "the composer can claim a copyright in his work only if there is an express agreement" to that effect between him and the owner of the film. It accordingly held that there was no copyright of the authors of the musical works in the first place which could be validly assigned to IPRS.

Since the matter raised substantial questions of law of general importance the High Court certified an appeal to Supreme Court on two questions First, is an "existing and future" right of "music... composer, lyricist capable of assignment?" Second, can the producer of a film defeat the same right by engaging such persons.147

On the first question, the apex court had no hesitation in ruling that an existing and future right of a music composer and lyricist is capable of assignment. To this extent, this reaffirmation is welcome as the error of assuming that there just can not be any such right when a film is produced, and all such rights pass on (because of valuable consideration) to the owner of the film has been authoritatively rectified. The High Court's decision on this issue was clearly negatived. To the second question, the court held that the film producer can defeat the rights of composers and lyricists by having recourse to Section 17 under which he becomes the first owner of copyright.147

This decision on this count is certainly misconceived since under the Act there is no bar on the multiple claims of copyright. For example, in the case
of record there may exist the owner of copyright in the recorded work and the owner of copyright in the record. Anyone wishing to perform the musical work in which these two sets of copyright exist must take permission from both owners (say, a jukebox operator). The same may be said about copyright in musical work and copyright in film; they are distinct and co-existing.\textsuperscript{149}

The IPRS case marks unfortunately a beginning of an overall trend of consistent misapplication of law. In \textit{Fortune Films Ltd. V. Dev Anand}.\textsuperscript{150} following IPRS case, copyright was denied to actor acting in a film.

Thus it can be concluded by way of conclusion that copyright in literary, dramatic and musical works is almost well settled in the three jurisdictions which form subject - matter of present study. A large variety of works are protected as ‘literary works’ though in cases of musical works the latest amendments in U.K. and India were long overdue and will go a long way in protecting musicians.
1. U.K. Copyright Act, 1911, Section 35.
2. U.K. Copyright Act, 1956, Section 48 (1).
3. It appears that the addition of the word "any" has not added anything to the definition; per UpJohn J. Football League Ltd. V. Little Woods Pools Ltd. (1959) Ch. 637 at p. 650.
4. U.K. Copyright Act, 1956, Sections 3 (1) (a) and 48 (1).
5. U.S. Copyright Act, 1976, Section 102 (a) (1).
8. Indian Copyright (Amendment) Act, 1994, Section 2 (0).
9. For a detailed discussion on copyright in software, see infra Chapter VI.
10. (1916) 2 Ch. at p. 601.
11. Ibid, at p. 608.
14. Supra note 12.
15. (1900) A.C. 539 at p. 540.
16. Ghafur Baksh V. Jwala Prasad. 43 All 412; Spiers V. Brown 6 W.R. 352; Hogg V. Scott (1874) L.R. 18 Eq. 444.
17. "... Originality is alone the test of validity (of a copyright), learned Hand, J. in Fisher V. Dillingham, 298 Fed. 145, 149-152 (S.D. N.Y. 1924); Also see Yankwich, "Originality in the law of Intellectual property", F.R.D. 457 (1951).
18. DRONE, S. EATON, A TREATISE ON THE LAW OF PROPERTY IN INTELLECTUAL PRODUCTIONS IN GREAT BRITAIN AND THE UNITED STATES (1879) 199-200.
19. Fisher V. Dillingham, Supra note 17.
20. See Nimmer. B. Melville, "The Law of Ideas", 27 CALIF. L. REV. 119 (1954); Also see Simonton V. Gordon, 297 Fed. 625 (S.D. N.Y. 1924) and Nichols V. Universal Pictures Corp. 45 F. 2d. 119, 121 (2d Cir. 1930).
22. This statement was accepted by the House of Lords in G.A. Cramp & Sons Ltd. V. Frank Smythson Ltd. (1944) A.C. 329.
25. Ladbroke (Football) Ltd. V. William Hill (Football) Ltd. (1964) 1 W.L.R. 273.
27. Pitman V. Hire (1884) 1 T.L.R. 39.
29. Supra note 10.
31. Supra note 22.
33. Educational Co. of Ireland Ltd. (The) V. Fallon Bros. Ltd. (1919) 1 I.R. 62; Leanie V. Pllans (1843) 5 Dunl. (Ct. of Sess) 416; Ghafur V. Jawala, Supra note 16.
34. Church V. Liwton (1894) 250 O.R. 131.
35. Kelly V. Morris (1866) L.R. 1 Eq. 697; Moris V. Ashbee (1868) L.R. 7 Eq. 34; Moris V. Wright (1870) 5 Ch. 279.
37. Kenrick V. Danube Colleries, etc., Co. Ltd. (1891) 39 W.R. 473.
40. J. Whitaker & Sons Ltd. V. Publisher’s Circular Ltd. (1946-47) Macg. Cop. Cas. 10.
41. Ladbroke (Football) Ltd. V. William Hill (Football) Ltd. Supra note 25.
42. Blacklock (H.) & Co. Ltd. V. Arthur Pearson (C.) Ltd. (1951) 2 ch. 376; Leslie V. Young (J.) & Sons (1894) A.C. 335.
44. Press Association Ltd. V. Northern and Midland Reporting Agency (1905-10) Macg. Cop. Cas. 306.
45. Macmillan & Co. V. Suresh Chander Deb (1890) 17 Indian L.R. (Calcutta) 951.
47. G.G. Harp. & Co. V. Harbans Lal AIR (1935), Lahore 282; also see Parry V. Morting, The Time 13 and 14, (1903).
48. 17 C 951 (P.C.)
49. L.R. 18 Eq. 444 at p. 458.
50. C.S. No. 350 of 1951.
51. Also see, S.K. Dutt V. Law Book Co. AIR (1954) All. 570.
53. U.S. Copyright Act, 1976, Section 103 (a).
56. Per Sen. J., Mishra Bandhu Karyalaya V. Koshal, Supra note 30, at p. 274.
57. Per Lord Hardwicke, Gyles V. Wilcox (1740) 2 Atk. 141; Ganga’ Vishnu Shrikisanda V. Moreshuar Ba’ Puj Hegishte (1889) I.L.R. 13 Bom. 358.
58. See Macmillan & Co. Ltd. Cooper (K & J), Supra note 13.
59. (1855) 16 CB 459.
61. Also see Diwan Buta Singh V. Munshi 15 P.R. (1892); Stevens & Sons V. Water Law & Sons (1877) 41 J.P. 37.
62. Callaghan V. Myers, 128 U.S. 244.
63. Ibid.
64. Bank V. Manchester, 128 U.S. 244.
66. Arnstein V. Porter (CA 2 NY) 154 F 2d 464; Becker V. Loew’s, Inc. (CA7 Ill ) 133 F 2d 889; Warner Bros. Pictures, Inc. V. Majestic Pictures Corp. (CA2 Ny) 70 F 2d 310; Kirkland V. National Broadcasting Co. (ED Pa) 425 F Supp 1111.
67. Georgia on behalf of General Assembly V. Harrison Co. (ND Ga) 548 F Supp 110 (holding that title headings such as “Agriculture” and “Domestic Relations”, Chapter headings such as “literary” and article headings such “Admissions” are not copyrightable).
68. British Oxygen Co. V. Liquid Air Co. (1925) Ch. 383.
69. Perceval V. Phipps (1813) 2 V & B. 19.
70. See Phillips V. Pennell (1907) 2 Ch. 577; Macmillan V. Dent (1907) Ch. 107; Howard V. Gunn (1863) 32 Beav 462; Pope V. Curl (1741) 2 Ath. 342; Labouchere V. Hess (1898) 77 L.T. 559.
71. (1925) Ch. 383.
74. Thompson (C) V. Stanhope (E) (1774) 2 Amb. 737; Granard (Earl) V. Dunkin (1809) 1 Ball & B. 207.
75. Hotten V. Arthur (1863) 1 H & M. 603; Grace V. Newman (1875) L.R. 19 Eq 623; Maple & Co. V. Junior Army and Navy Stores (1882) 21 Ch. D. 369; Davies V. Benjamin (1906) 2 Ch. 491.
76. Cobbett V. Woodword (1872) L.R. 14 Eq. 407.
78. Collis V. Cater, etc., Supra note 24; Harpers Ltd. V. Barry, Henry & Co. Ltd. (1892) 20 Sess. Cas. (4th Ser.) 133; Marshal (W) & Co. Ltd. V. Bull (A.H.) Ltd. (1901) 85 L.T. 77.
79. Lamb V. Evans (1893) 1 Ch. 218.
80. Football League Ltd. V. Littlewoods Pools Ltd. (1959) Ch. 637.
81. Ladbroke (Football) Ltd. V. William Hill (Football) Ltd. supra note 25.
82. (1955) 72 R.P.C. 89.
83. Day-Brite Lighting, Inc. V. Sta-Brite Fluorescent Mfg. Co. (CAS Fla) 308 F2d 377; Markham V.A.F. Borden Co. (CAI Mass) 206 F 2d 199; Parts Catalogue including parts numbers plus technical illustrations, groupings, co-relations, and arrangements of parts developed at the expense of millions of dollars over many years is proper subject matter of copyright. Clark Equipment Co. V. Lift Parts Mfg. Co. (F ND111) 223 USPQ 944.
84. National Tel News Co. V. Western U Tel Co. (CA 7111) 119 F 294.
86. Hatten V. Arthur 1 H & M 603.
87. 44 T.L.R. 574.
88. Lamb V. Evans (1893) 1 Ch. 201; Harold Drable Ltd. V. Hycolite Mfg. Co. 44 T.L.R. 264; Con Phanek Ltd. V. Kalynos Inc. (1925) 2 K.B. 804.
89. Bleistein V. Donaldson Lithographing Co. 472 Ed. 460; Day-Brite Lighting. Inc. V. Sta-Brite Flourcent Mfg. Co. Supranote 83; Excel Promotions Corp. V. Babylon Beacon, Inc. (F ED NY) 207 USPQ 616.
90. Gordon V. Weir (DC Mitch) 111 F Supp. 117.
96. U.K. Copyright Act 1956, Section 48 (1); Indian Copyright Act 1957, Section 2 (n).
97. University of London Press Ltd. v. University Tutorial Press Ltd. Supra note 10; Also see U.K. Copyright Act 1956, Section 49 (4).
98. The U.K. Copyright Committee, 1977, Cmd. 6732 para 609.
99. See definition of "performance", U.K. Copyright Act 1956, Section 48 (1); Indian Copyright Act 1957, Section 2 (q) which lays down that performance in relation to a lecture includes the delivery of such lecture.
100. Geogrian on behalf of General Assembly v. Harrison Co. (ND Ga) 548 F Supp 110, supra note 67. The rule that statutes and judicial opinions are in the public domain may extend to a privately prepared and copyrighted building code adopted by a state. Building officials & Code Adm. v. Code Technology, Inc. (CA 1 Mass) 628 F 2d 730.
104. GIELGUD, VAL, THE RIGHT WAY TO RADIO PLAYWRITING.
106. 30 T.L.R. 244.
107. (1799) 5 Ves. 23.
108. (1859) 7 C.B. 268.
110. Supra note 10.
112. See University of London Press Ltd. v. University Tutorial Press Ltd. Supra note 10, all original literary works are entitled to copyright without qualification in respect of plagiarised works.


114. Glyn v. Weston Feature Film Co. (1916) 1 Ch. 261.

115. U.K. Dramatic Copyright Act, 1933 (3 & 4 Will, 4, c. 15), Section 1.


117. U.K. Copyright Act, 1956, Section 2 (5) (6).

118. U.K. Copyright Act, 1956, Section 35.

119. U.K. Copyright Act, 1956, Section 48 (1).

120. U.K. Copyright, Designs and Patents Act, 1988, Section 3 (1).

121. Indian Copyright Act, 1957, Section 2 (h).

122. U.S. Copyright Act, 1976, Section 102 (a) (3).


124. Daly v. Palmer (CC NY) F Cas No. 3552.

125. Fuller v. Bemis (CC NY) 50 F 926.


127. Sheldon v. Metro-Goldwyn Pictures Corp. (CA 2 NY) 81 F 2d 49.

128. Universal Pictures Co. v. Harold Lloyd Corp. (CA 9 Cal) 162 F 2d 354.


130. See V. Durang (CA 9 Cal) 711 F 2d 141.

131. Indian Copyright (Amendment) Act 1994, Section (q) lays down that ‘performance’ in relation to performers right means any usual or acoustic presentation made live by one or more performers.

132. Indian Copyright Act 1957, Section 3 (1).

133. Indian Copyright Act 1957, Section 24 (2).


135. (1908) 1 King’s Bench Divison 821.

136. U.S. Copyright Act 1976, Section 102 (a) (4).
139. Kalem Co. V. Harper Bros, supra note 126. Noting that action can tell a story, display all the most vivid relations between man, and depict every kind of human emotion, without the aid of a word.
141. Indian Copyright Act 1957, Section 2 (p).
142. U.S. Copyright Act 1976, Section 101.
143. U.S. Copyright Act, 1976, Section 102 (a).
145. Granite Music Corp. V. United Artists Corp. (CA 9 Cal) 532 F 2d 718.
147. Ibid, pp. 1451-1452.
149. Ibid., at p. 515.