

or other individuals, would have exact and certain means to inform himself as to what is copyrighted and could act accordingly, and intelligently and could avoid infringing.

We do not believe that there are many who deliberately infringe by importation knowingly, and rather than use methods that savor of 'black-jacking' the community, education, instruction and good will should be the key note.

To conclude, we strongly urge that if the Act is to be changed, in this respect, that a provision or clause be inserted to the effect that an action for damage for infringement can only take place after registration and that such registration must have been in force at least for three months. This would as you will observe, give ample time to an individual to search for ownership and to inform himself of the validity of copyright.

The foregoing, Gentlemen, is an attempt to express the opinion of those publishers, dealers and distributors of music in Canada who largely are most concerned. We are prepared to leave the matter in the hands of the Committee, knowing full well, that nothing will be done that will upset conditions at this time of difficulty and unsettled conditions generally, unless of mighty urgency which we do not believe exists, since all parties were seemingly satisfied until this amendment appeared.

MEMORANDUM RE PROPOSED AMENDMENT OF SUB-CLAUSE (4)  
OF CLAUSE 2 OF BILL NO. 2 TO AMEND THE COPYRIGHT ACT,  
1921.

If the amendment be made as proposed par. (q) of sec. 2 of the Act will read as follows:—

“‘performance’ means any acoustic execution of a work or any visual representation of any dramatic action in the work, including such execution or representation made by means of any mechanical instrument and any communication, diffusion, reproduction, execution, representation or radio-broadcasting of any such work by wireless telephony, telegraphy, radio or other kindred process. Provided that any communication, diffusion, reproduction, execution, representation or radio-broadcasting by any such wireless, radio or other kindred process, when made for no gain or interest direct or indirect, shall not constitute a performance under this paragraph”.

The right given the author by the Canadian Act in respect of the public performance of his work is identical with that given by the Imperial Copyright Act, 1911. See par. (q) of sec. 2 and s.s. (1) of sec. 3 of the Canadian Act and s.s. (2) of sec. 1 and sec. 35 (definition of Performance) of the Imperial Act.

This right gives the author the control of the public performance of his work and is understood to include the broadcasting thereof.

Canada enjoys the benefit of the Imperial Act by virtue of s.s. (2) of sec. 25 thereof which is as follows:—

“(2) If the Secretary of State certifies by notice published in the London Gazette that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall,