

*Copyright Act*

their moral rights and the integrity of their work, are far better protected. We enunciated some principles which guided our approach throughout the treatment of copyright. Our idea was that a creator should be protected and abuses eliminated, whatever the medium. We ought to have some common standards to ensure that the creator has the full economic rights and the opportunity to control and prevent copying and distortion of his or her works. We set out the general principle, whatever the medium they should apply.

We, of course, sought to incorporate the new forms of creative activity that were not anticipated at that time in 1924 when the Act was first passed. Computers, software, hardware and television itself were not invented at that time. Of course, there have also been enormous changes in other techniques for printing, changes in all forms of creative activity since then that we felt needed to be updated in the new legislation.

• (1250)

In the case of computer software we thought that there ought to be protection by way of copyright. An amendment to Bill C-60 will ensure that the writers of software will receive full protection, that criminal and civil liabilities will apply, and there will be the provision of the full period of 50 years plus the life of the creator, as is the case for other literary works.

I especially welcome the measure in the Bill to end the right for mechanical reproduction for sound recordings. For a long time there has been agitation on this issue. At the time this provision was made, the sum of money agreed upon was two cents per side as the fee to the composer. There was then the possibility of compulsory licensing. No one had to negotiate a contract with composers. They were automatically given the right of payment of this very minimal sum of money. Of course, over the years inflation has made two cents per side a ridiculously small sum of money. It has meant that there is no incentive, for one thing, for composers to see their works produced in Canada when they can be making more money having them produced elsewhere. Who else is working at the same wages as they were in 1924? It is hard to imagine that type of situation continuing. So this is one of the provisions that was very long overdue. I am pleased to see it as one of the provisions that we have in Bill C-60 which is before us.

The question of moral rights was one that the Subcommittee on Copyright spent a lot of time dealing with. We were concerned not only that artists receive their economic rights, and many artists are poor, but that all artists are at the risk of having their work misrepresented, distorted, used in some fashion or other. We have had scandalous cases of writers and visual artists having to sue to protect their rights. In some cases they have been successful. But why should they have to prove damage to reputation? Why should they have to go to this excessive amount of trouble to prove their case, to guarantee the integrity of their work?

So what we recommended and what the Bill will do is to make it easier to protect the moral integrity of an artist's work.

There cannot be modification without the creator's consent, except for legitimate restoration and conservation. The artist will no longer have to prove that the change was prejudicial to his or her reputation. For the purpose of penalties, moral rights will be treated as being just as important as economic rights. So an artist could sue for damages and not just for an injunction to stop the distortion to the work as is the case at present. I think that is an advance that our artists will very much appreciate. Certainly, the people who came to see us talked very vigorously about the need to protect their moral rights as creators and the need to end the indignity of having to prove that somehow their rights had been damaged, the presumption being that they did not have the right to control the use of their work.

The provisions in Bill C-60 state that moral rights cannot be assigned to anyone else, although the creator can agree not to exercise them, in effect, to waive them. I hope that artists will not be pressured into these types of agreements, as I think that would be unfortunate. Certainly, our intention is to increase the rights of artists. One has to worry about what kinds of contracts they may be forced to sign that would limit their ability to exercise those rights.

Another area in which we see an important advance for artists is in exhibition rights, rights for visual artists to receive fees for the exhibition of their works in museums, public art galleries and so forth. At present there is no such provision. Visual artists have made various arrangements. They have some type of a fee schedule and they request payment. But they do not have a right in terms of payment; it is only a voluntary provision right now. The sums of money earned are not very high. We are very pleased to see this advance that gives a visual artist exhibition rights.

I am not sure how far these rights go. I will be looking into the fine print to examine this matter a little more closely. It was brought to the attention of the Standing Committee on Communications and Culture at hearings recently in Moncton by a very well known artist, Claude Gauvin, that when she had a CBC show done on her and her work the CBC would not pay her artist rights for showing her paintings. The CBC argued that she was getting free publicity by having this show and she ought to be grateful for having free publicity and ought not to be getting royalties. I think that is unfortunate. I think it is wrong. If she had been a musical artist having a show done on her compositions the CBC would have had to pay her royalties for her copyright on her musical works. But because she is a visual artist there was no similar obligation. I hope that that loophole will be closed. If it is not, we will have to look at some amendment in committee.

Another area in which there has been improvement is with respect to choreography. There will now be protection for the first time in a choreographer's own name. There will be a separate category for choreography. It will not be considered just a type of dramatic work. The limitation of treating choreography simply as one other type of literary work is that, of course, for some modern dance there is no story line. They