

industrial offices, there was a device that used to print copies called a Gestetner; then there was mimeographing and then, of course, photocopying.

The arrival of photocopying, with all the advantage it represented over and above the ability to copy as it then existed was a revolution and, in fact, illustrated the principles of Alvin Toffler's, *Future Shock*.

Of course, it takes time for technology to settle in and for society to adapt to such an advance in the technological revolution. I am always struck by the point made by Mr. McLuhan in his book *The Gutenberg Galaxy*, when he pointed out that when Gutenberg invented the printing press, he did not understand the revolution that he was launching because, as McLuhan says, we tend to go through life, and society tends to advance by looking at its progress in a rearview mirror. It sees what was, and not the dimension of what might lie ahead.

Gutenberg invented the printing press to solve a particular problem. The problem he was solving was the fact that monks copying out the Bible and other scriptures had to each copy the introduction, those beautiful forms that we see—and there is a word for that. What is the word for the beautiful coloured writing you see when you open a very old Bible?

Senator Kinsella: Illuminations.

Senator Frith: Illuminations, thank you. Each illumination had to be copied by one monk, and if several copies were required, they had to be made by several monks, or the same monk had to copy the same illumination over and over again. In order to solve that problem, Gutenberg came up with the idea of making a copy—what today would be called an offset—of the illumination and, of course, all the calligraphy that went into the whole book, thereby saving the monks from the chore of doing it over and over again.

● (1430)

What Gutenberg did not realize, of course, is that he was creating a total revolution in human communications. This led to the publishing industry, newspapers, and everything else that today we take for granted. Therefore, copyright, an English word that is easily understood as the right to copy, became what is known as intellectual property. In French it is *les droits d'auteur*, which is equally explicit and articulate and would, of course, translate literally as "the right of the author".

I do not want to go into the history of how copyright developed but it did develop in a system analogous to the principle behind all inventions and creativity, namely, that the state should protect the rights of creators for a certain period of time in order to encourage creativity. That is the concept behind patent law, which is there to encourage inventors to invent products or devices which will benefit society. In exchange, society says to the inventor that it will allow him or her a period of 50 years, as the case may be, of protection during which they will have the sole right to produce this invention or license its production. The same applies to the copyright inherent in a painting, in a story, or in print, and those of you who have had anything to do with copyright law

will know that the basic principle is that the right is in the text and not in the idea. In the same way, the right of an invention is in the actual specifications or particulars that describe it rather than in the article itself.

Let us jump ahead a number of centuries to the advance of copying ability through Xerox and other copying devices, and see what the position is from the point of view of an author. If I had been an author before photocopying came about, I would have had some protection because it was difficult at that time for people to make copies. If I wrote a book, I assigned the copyright to a publisher, and the publisher paid me so much per copy sold for that copyright. While it is true that people could make copies of that book before photocopying came along, it was a pretty messy business. Someone could sit at a typewriter and copy it out, but how would he make copies? He would have to have done it in the same way as was done when I first started practicing law, namely by using carbon paper.

At that time, if you wanted to change the wording of a statement of claim, or a deed, or something of that kind, you had to retype the whole thing. We had nothing like the kind of production we have today where you use a mouse on the computer and just wipe out the part you do not want.

So if I had been an author and I had written a book or any other printed article before photocopying came along, I would have had a pretty good idea that my rights would be protected. Yes, they could have been infringed, but at that time it was a lot of trouble to copy things by making carbons. As well, many of you will remember the Gestetner method when you would wind up with blue ink all over your fingers if you were trying to make copies of things. It was generally a messy and very difficult business.

Then all of a sudden, along comes photocopying and the advancement of photocopying machines. People can now take my book which has been published—and for which, admittedly, I have received some payment—opened it up and reproduced it—not type it out but reproduce it by making photocopies of the exact wording and the exact page from the book published by the publisher to whom I gave my copyright and who is paying me. For what is he paying me? For the sale of the book. He is not paying me for photocopies that are being made all over the place.

Suddenly this photocopying is happening all over the place. People can do it in their homes if they have photocopiers. It is done in schools, it is done in office towers; it is done everywhere. Of course, in every instance that that was done, there was an infringement on my copyright.

What, then, is my recourse as an author? I could try and chase down everyone who tried to photocopy my work and, if I could find them, I could take legal action to enforce my copyright. That could be done to any of us. I doubt whether there is a single person in the Senate today, and perhaps very few above the age of 15 in the city of Ottawa or in the country of Canada, who have not at some time infringed on copyright by making a photocopy of a protected work. My only recourse as an author was—and is—to try and track all of these