



the Copyright Act of Canada a reflection of all founding nations

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A LEADING POLYTECHNIC COMMITTED TO STUDENT SUCCESS

“Where social utility meets with natural rights is in the belief that creativity itself is valued. Otherwise, the underlying purpose of copyright in either tradition becomes meaningless, raising the question of why have such laws at all?”

Meera Nair, 2009

The system of copyright is not about owners and users, it is about protecting creativity.



“Presumably the Supreme Court, which deals daily with people’s rights, knows one when it sees one.”

David Vaver, 2013



Impugned conduct	Language and persons prohibiting conduct	Authority of Right
Fishing in a manner beyond that prescribed by regulation.	Statute and regulations, set by federal and provincial authorities (the Crown)	S35 (1) Constitution Act (1982) “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.”
Copying in a manner beyond that prescribed by written orders.	Contractual terms, license agreements, front matter of books, set by the copyright owner.	S29 Copyright Act as articulated through <i>CCH Canadian v. Law Society of Upper Canada</i> (2004) “The fair dealing exception, like other exceptions in the Copyright Act is a user’s right.”

CCH is to User Rights, what Sparrow is to Aboriginal Rights.



- (i) the public domain, the very premise upon which copyright obtains its legitimacy, is a living practice among Indigenous communities; and,
- (ii) the practice of creativity shows more affinity to the community-minded ethos of Indigenous cultures, than to the presumption of solitary genius espoused by the Romantics.

Meera Nair, submission for ABC 2018

Théberge (2002): “exceptions to copyright infringement enumerated in ss. 29 to 32.2, which seek to protect the public domain in traditional ways such as fair dealing ...”

CCH (2004): “This helps ensure that there is room for the public domain to flourish as others are able to produce new works by building on the ideas and information contained in the works of others.”

- McLachlin, C.J. cited *The Public Domain* (1990) by J. Litman

“[the public domain] will include material for which copyright has expired. ... [But] the most important part of the public domain is a part we usually speak of only obliquely: the realm comprising aspects of copyrighted works that copyright does not protect.”

Jessica Litman, 1990



“[the public domain is] the realm of all works which can be exploited by everybody without any authorization, mostly because of the expiration of the term of protection.”

World Intellectual Property Organization, 1980

We the Original Peoples of this land know the Creator put us here. The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind. The Laws of the Creator defined our rights and responsibilities We continue to exercise the rights and fulfill the responsibilities and obligations given to us by the Creator for the land upon which we were placed...

Declaration of First Nations, 18 November 1981



“The Anishinabe did not surrender their land in the Treaty One Negotiations. It was not in their power to do so, for they did not own it. In their eyes, they were in a sacred relationship with the land. ... [T]he Crown viewed the treaty as a transfer of land ... it is unclear if either party truly understood the other’s concepts of land and authority over its use.”

Aimée Craft, 2013



“Sharing certainly cannot be interpreted as meaning that one is giving up his rights for all eternity.”

Leroy Little Bear, 1986



“In the Native world, everything is related, nothing exists in isolation.
The Native world is really about relationships.”



“God gives man the art of song.”

Saint Bede, circa 680*

“Thus, during the first six thousand years of the world—from the most immemorial temple of Hindustan to the Cathedral at Cologne—architecture has been the great manuscript of the human race.”

Victor Hugo, 1831

* “Caedmon’s Hymn,” is the earliest attributable poem in the English language; courtesy of *Lapham’s Quarterly*.



“ ...

What! Lengthened privilege, a lineal tie,
For ‘Books’!” Yes, heartless Ones, or be it proved
That ’tis a fault in Us to have lived and loved
Like others, with like temporal hopes to die
No public harm that Genius from her course
Be turned; and streams of truth dried up, even at their source!”

- William Wordsworth, *A Plea for Authors* (1838)

“Poetry can only be made from other poems, novels out of other novels. All this was much clearer, before the assimilation of literature to private enterprise concealed so many of the facts of criticism.”

Northrop Frye, 1957



Let the next Generation be born with the knowledge of what has passed.

Joanne Cardinal-Schubert



Noon Dance, n.d.



Thank You

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