

Canadian Copyright Law. Second Edition. LESLEY ELLEN HARRIS. Toronto: McGraw-Hill Ryerson Ltd., 1995. xvi, 304 p. ISBN 0-07-552547-X.

The preface to the second edition of Lesley Ellen Harris' *Canadian Copyright Law* states that a new edition was required because of the vast number of changes that occurred in the three years since the first edition was published. However, the second edition was written before Bill C-32 (passed by Parliament in March 1997) revised the *Copyright Act* once again. Consequently, a third edition is probably in the works to take into account the Phase II (Bill C-32) revisions to the *Copyright Act*. If the second edition is anything to go by, a revised third edition will be welcome. Harris, a copyright lawyer formerly with the federal Department of Communications, has accomplished the nearly impossible and written a book on Canadian copyright law that not only is comprehensive, but clear and easy to understand. As well as providing a comparison of Canadian and American copyright laws, Harris describes ownership of copyright, what is protected by copyright and for how long, how copyright is obtained, how rights are protected, the use of material protected by copyright, and copyright and new media. However, archivists will find that the book is targeted at a general audience, and that archival concerns, especially around unpublished records, are not addressed in detail. Fortunately, many of these concerns have been substantially reduced by the Phase II revisions to the *Copyright Act* encompassed in Bill C-32.

Harris clearly explains the differences between the various types of intellectual property rights, including copyright, patent protection, and trade-mark law. As well, she provides information for creators, including how to register a work in Canada and elsewhere. Harris also helps dispel some common misunderstandings about copyright. For example, she notes that documents now in Canada but which were created in a foreign country by a non-Canadian are covered by Canadian copyright law if the country in which the documents were created is a signatory of the Berne Convention. To help the reader, this book also contains a list of member countries of the Berne Convention.

This edition includes useful information about issues surrounding electronic media not found in the previous volume. References have been added throughout the book to electronic media, and a whole new chapter on "new media, electronic rights, and the information super-highway" has been included. Since electronic media and the information highway were not dealt with in Bill C-32, this material remains current. Harris points out that copyright law originated because of the development of the printing press and the need to control reproductions using this technology. In the past the law has adapted to technologies as they have evolved, and she assumes, with some justification, that Canadian copyright law will continue to be flexible enough to apply to digital technology and future technological evolution.

While the current *Act* will cover many aspects of electronic records, Harris describes some of the limitations in the *Act* pertaining to electronic records. Some of the difficulties in applying the *Copyright Act* to electronic media are highlighted in a brief discussion of works “generated by a computer in a circumstance where there is no human author” (p. 90). In this case, the person who controlled or manipulated the computer would “probably” be the author. As well, Harris rightly points out that administration of copyright for digital works can be very difficult. Like copyright in an archival *fonds*, there may be hundreds, if not thousands, of creators for a single CD-ROM. Consequently, clearance for reproduction can be next to impossible. Rules pertaining to ownership and duration of copyright are similar to non-digitized formats, and moral rights apply. However, Harris notes, it is so much easier to violate copyright with records in digital format because of the ease of reproduction. Effective methods of protecting copyright for digitized information may be many years in the future.

Despite these complexities, Harris explains clearly how the existing legislation applies to digital technology. For instance, if a work meets the standard criteria of originality, fixation, nationality of the creator, and place of publication, then the current law will provide copyright protection. The right to publication, moral rights, and other rights protected by the *Copyright Act* are thereby secured. A useful addition to this edition is a brief discussion of databases, which, Harris points out, are compilations of information. The database is protected but not the information in the database.

Harris provides a lucid explanation of fair dealing. Notably, she states that fair dealing only applies to published works. Many archivists have assumed that fair dealing extends to unpublished works. In fact, archivists should be aware that there is insufficient Canadian case law to establish that fair dealing does extend to unpublished works. It is also extremely doubtful that fair dealing applies to copying a complete work such as a single-page letter. However, the recent amendments to the *Copyright Act* contained in Bill C-32, once proclaimed, will provide exceptions for archives to make copies of unpublished works, and archivists will no longer have to rely on fair dealing as a potential defence in a copyright infringement case.

The book contains some useful features to assist the reader, including chapter summaries, and the *Copyright Act* is reproduced in an appendix. As well, this edition includes information on where to apply for the right to use copyrighted works created by unlocatable copyright owners. Since many archives contain material of this nature, it is helpful to know where to refer users so that they can protect themselves when they use published material.

While Lesley Ellen Harris covers the whole spectrum of Canadian copyright law, archival concerns are not highlighted. Consequently, guidance is not provided to archivists regarding the various problems archives can encounter

(such as multiple authors in a *fonds*). Therefore, archivists should consider this book (and hopefully an updated revision) a useful adjunct to works specifically written for archives, such as the *National Archives of Canada Staff Guide to Copyright*.

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