

WRITE

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Writing Rights

The World is Watching Canada's Next Move on Copyright

By John Degen



As I write this column, I am also trying to absorb and memorize the answers to some of the hard questions I expect when I testify on behalf of Canada's authors at the Copyright Board in Ottawa. I've been reading, writing, arguing, and lobbying about copyright in Canada for well over a decade now, but the subject never gets any less complicated or fraught with confusion. And being called to Ottawa as an expert witness on something so perplexing feels an awful lot like finding out your final exam date has been advanced to tomorrow. What?! How am I supposed to learn all of this in such a short time?

The reason for my testimony is a long-delayed Copyright Board deliberation on a post-secondary education tariff proposed by Access Copyright. In the past dozen or so years, I've politely sat through countless lectures from free-culture advocates about how authors and other cultural creators can blissfully relax control of our work and still make a living, but no one to date has ever actually shown me the money. "Don't worry, be happy" is an uplifting catchphrase, but so far it has yet to prove an effective business model for cultural creators. And, increasingly, the world's legislators are beginning to see through free culture and the sharing economy's empty promises to the harsh and plainly unfair economic reality. Businesses designed around free content and low pay rake in billions while cultural creators see their incomes collapse.

Getting back to the Copyright Board, I recall a lot of "don't worry, be happy" from education-sector lobbyists in the consultation before the passage of the Copyright Modernization Act in June 2012. Parliament was told "[Education is] not asking for anything for free. The education system, the sector, pays for licences and copyright, and will continue to do so."ⁱ Author concerns about the loss of collective licensing were dismissed as "a misconception."ⁱⁱ

Of course, we all know what actually happened. Since the passage of C-11 not a single K-12 school board in English Canada has licensed work through Access Copyright, and well over half of Canada's post-secondary institutions have similarly walked away from content-licensing in favour of copying as much, if not more, for free under a claim of fair dealing. Widespread "fair dealing" guidelines in the education sector advise that up to 10 percent of a work can be freely copied without permission. I'm pretty sure I saw a version of those guidelines being circulated even before the Copyright Modernization Act came into force.

We all saw what our Access Copyright payments looked like just before the holidays. In the days following the Payback release, I watched social media carefully as a growing thread of worry and exasperation spread across the country. The income decline from licensing is impossible to ignore, yet education lobbyists continue

WANT TO PARTICIPATE IN THE GLOBAL DISCUSSION AROUND COPYRIGHT? COME TO THE CANADIAN WRITERS' SUMMIT, JUNE 15-19 IN TORONTO.

to say their withdrawal from licensing is unrelated. It's an evolving market, we're told. It's disruption. Well, if the evolution and disruption from copyright modernization continue unchecked by the new government, licensing payments will eventually disappear altogether, and it sure doesn't look like anything is replacing them.

In our own testimony, given before the Canadian Senate by then-Chair Marilyn Simonds, TWUC insisted that changes to the Act should "not be done at the expense of the principle of payment for the use of work." We warned the passage of the bill as written would "drastically alter our working lives and compromise our ability to work at all." And so it has come to pass. In a recent PricewaterhouseCoopers report on the economic impact of Canada's copyright changes, over a third of the authors surveyed indicated they must now reduce the work they do for education. This trend will undoubtedly grow. We're worrying, and we're unhappy.

Piggybacking on my January travel to the Copyright Board, I will be bringing TWUC Chair Heather Menzies with me for a meeting at the Department of Canadian Heritage in Gatineau. Heather and I are meeting with Heritage's Copyright Policy Branch. We'll be detailing the history of the Canadian copyfight, as we see it. We'll also be sharing with them the shocked and highly critical global response to Canada's so-called modernization.

Over the past couple of years, I've presented on the changes to Canadian copyright in South Korea, Switzerland, and Mexico, and everywhere I am met with shock and dismay from our fellow cultural workers. The world has turned its attention to Canada's cultural fallout. It does not see evolution. It sees destruction.

On to Ottawa.

ⁱ Hon. Ramona Jennex, Chair of the Council of Ministers of Education Canada (CMEC)

ⁱⁱ *ibid.*

AUTHOR TIPS /

What You Need to Know About the Coming Super Conference

BY ALISON LANG

WHAT IS IT?

The Writers' Union of Canada will be partnering with over a dozen writing organizations across Canada to put on a mega-conference that promises to be the largest gathering of writers' groups that this country has ever seen.

WHEN IS IT?

It's hard to believe, but we're only four months away from this summer's Canadian Writers' Summit, aka the Super Conference. It will take place at the Harbourfront Centre in Toronto from June 15 to 19.

WHO'S COMING?

Participating organizations include virtually every writing organization in Canada, including the Writers' Trust of Canada, the Canadian Authors Association, the League of Canadian Poets, the Society of Children's Book Writers and Illustrators, the Creative Nonfiction Collective Society, and the Playwrights Guild of Canada. Says TWUC Executive Director John Degen: "There will be writers at all levels of their careers; big names, emerging writers, poets, publishers, playwrights, children's book authors, and screen and television writers as well. We hope that attendees will really see the scope of the industry over four to five days." All that plus representatives from groups like the International Public Lending Rights Organization, the U.S.-based Authors Guild, and the U.K.-based Society of Authors.

HOW DID IT COME ABOUT?

According to John Degen, the gathering has been long overdue, and plans have been in the works since the Banff installment of the National Summit of Writers' Associations in 2014.

"We were all in a room together at Banff, and seeing everyone in the room, I thought: 'Now's the time — let's try out the super conference idea,'" Degen says. "This year was wide open for everybody. We said let's do it, and set it in Toronto, as a central location in Canada that everyone can fly to relatively affordably."

WHO'S SPEAKING?

Although the conference is still in the planning stages, a few keynote speakers have been announced, including Lawrence Hill, Nalo Hopkinson, Jean Little, Heather O'Neill, and Kenneth Oppel.

WHAT ELSE IS HAPPENING?

The Summit will feature a variety of professional development programs, keynote talks, public lectures, scholarly presentations, and, of course, the requisite networking parties and social events. Some exciting early programming highlights include The First Page Challenge, featuring a panel consisting of a publisher, an agent, an editor, and another writer who will evaluate — *American Idol*-style — the first page of a manuscript submitted by a writer in front of a large audience. There will also be a scholarly component, with writers from MFA programs across the country presenting academic papers at the conference, as part of the Canadian Creative Writers and Writing Programs' component. And the super conference will be bringing Book Summit organizers on board to include more programming specific to booksellers and the publishing industry, offering writers a look at the inner workings on the publishing side on the first day of the conference.

To register, see a list of all participating organizations, and keep on top of programming and other announcements, visit canadianwriterssummit.ca.

COMIC BY SCOT RITCHIE



LETTER FROM: U.K. /

Fair Contracts a Priority for Britain's Society of Authors

BY NICOLA SOLOMON



The U.K.-based Society of Authors (SoA) represents around 9500 authors covering vastly different genres and media: from novelists to textbook writers, broadcasters to academics, illustrators to translators, spoken word artists to journalists.

Some are traditionally published, some self-published, some are hybrids, and some don't publish in any traditional sense. What they have in common is that they are professional authors writing in the hope of making a profit.

Samuel Johnson said, "No man but a blockhead ever wrote except for money," but there's little money about for professional authors these days, and what's left is concentrated in the hands of fewer and fewer authors. The London-based Authors' Licensing and Collecting Society survey "What Are Words Worth Now?" tells a story that is replicated in studies worldwide: authors' earnings are falling fast. Only 11.5 percent of U.K. authors now earn their living solely from writing; in 2005, this figure was 40 percent. The typical annual income of professional authors has fallen to £11,000, far below the £16,850 the Joseph Rowntree Foundation deems necessary for a socially acceptable living standard. That is the median figure — for many it is worse as the top 5 percent earn over 40 percent of all the money. And for those for whom writing

isn't their main profession, earnings have fallen from £8810 in 2005 to £4000 in 2013.

Authors are not receiving a fair share of the profits from book publishing — particularly for digital. While authors' earnings are going down, those of publishers have remained stable, and intermediaries like Amazon and others are pressing for an ever-larger share of the pie.

There are still fantastic publishers, and wonderful books are being published both traditionally and in ebook form. People are still reading and book sales are holding up well, despite competition from other media. Recently, in the U.K. we have seen a welcome rise in translated books. But things are getting harder and harder for the professional writer.

Publishers and agents are becoming increasingly picky about what new works they take on. Publishers have reduced their lists and are using independently published books as a slush pile: Why take the risk of paying an advance for an unknown work, when they can rely on the author to test the water first? The terms publishers are demanding are no longer fair or sustainable. Authors are asked to do far more to publicize their work and are getting less in return. Advances have tumbled. A publisher will take all control and a vast chunk of the book's earnings, yet analysis of contracts often show that the publisher is not tied down to much at all. In some cases, they don't even have to actually publish the book as any more than print on demand. The fact that publishing is now very cheap — particularly for ebooks, which do

not require warehousing or physical stock — has brought a slew of new publishers into the industry. They range from the good to the bad to the frankly ugly. And size is no indicator. Some smaller publishers are doing exciting and innovative things. Others are little more than vanity publishers.

So what is the SoA doing? First, we are demanding fairer contracts. We tell authors to get detailed and impartial advice before signing any publishing contract. Promises should be reality checked and put in the contract or a marketing plan. We stress that authors have a choice: they should consider other options such as going independent or crowdfunding. Some do, with varied success. Others are concerned at the cost, the need to bring in expert skills they do not have, and the risks of discoverability.

Authors are not in a strong negotiating position. Publishers are often multinationals while authors work alone. We are urging the U.K. government to pass legislation to protect authors by mandating that creator contracts must comply with the acronym C.R.E.A.T.O.R., which stands for Clearer contracts, fair Remuneration (including bestseller clauses), a duty of Exploitation (the “use it or lose it” clause), proper Accounting clauses, limited Terms, Ownership (appropriate credits for all uses), and all other clauses be subject to a Reasonableness test. This legislation already exists in many European countries.

Apart from contracts, we work to promote diversity, inclusiveness, and equality: Recent reports have shown how far we still have to go to provide a culturally diverse industry. We celebrate and reward excellence: the SoA administers charities that give away about £500,000 a year in grants and prizes. These are very important in buying time to write and increasing a writer’s reputation and discoverability. We press for authors to be paid properly for appearances. Making appearances involves preparation and travelling time, and authors earn their living as freelancers, so their time should be paid for.

We work together, both nationally and worldwide, through organizations such as the International Authors’ Forum, to ensure that publishing does not face unnecessary barriers, for instance on such pressing issues as protecting copyright or predatory book pricing.

And we work more widely to create a reading environment. There is a heartening interest in reading — all the more encouraging when we consider the many other media competing for time and attention. We need to ensure that readers are not an endangered species. Libraries and bookshops are under threat in the U.K., and we lobby to support them.

Authors remain the only essential part of the creation of a book, yet their revenues are falling drastically and they are leaving the

industry in droves. If unchecked, this rapid decline in the number of full-time writers could have serious implications for the breadth and quality of content that drives the economic success of our creative industries in the U.K. The SoA will continue to work as it has since 1884 to ensure a fair and vibrant landscape where authors, independent or traditional, can continue to flourish and receive a fair share of reward for their talents and hard work.

Nicola Solomon has been the chief executive of the UK-based Society of Authors since March 2011. She is a solicitor and deputy district judge who was previously in private practice, specializing in intellectual property and media law.

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In the Waiting Room, an Rx for Poetry

BY RONNA BLOOM

Last month I spent the day in the waiting room. This could be the rallying cry of millions of citizens all over the world. Actually, I spent the day in three waiting rooms of the Joint Department of Medical Imaging (JDMI) in three hospitals across Toronto prescribing poems, offering them to those who were truly waiting.

In the first waiting room there was a table set up and I had a sign, like Lucy in Peanuts, that said “The Poet is IN.” But people in waiting rooms are deeply immersed — in waiting. They’re immersed in worry or their eyes are on the door, and they would rarely approach a stranger, let alone a poet. So I got up in my white coat with poems printed on prescription pads and moved around. If a person looked at me, I’d say hello, tell them who I was, and ask if they wanted a poem. Some smiled and said “I’m good.” Meaning “no, thanks.” Many responded with curiosity — “a poem?” — and sometimes even interest.

I’ve been offering writing workshops and poems quietly to staff

at Mount Sinai Hospital as Poet in Residence since 2012. The program was established through a grant from the Ontario Arts Council in conjunction with the Health, Arts, and Humanities Program at the University of Toronto, and trucks along through grants from donors. As the focus has mostly been staff, I’d only recently begun to get the poems directly to patients and caregivers. This would happen in the cafeteria, outside the bookstore, or in a waiting room where I’d sit with my sign and write people poems on the spot, or prescribe them on those little pads. There were patients between glugs of barium, staff on lunch, and family members shock-eyed from a fresh diagnosis.

I met people once and then never again. I met the starving who didn't know they were starving, return customers in Imaging, those waiting for results, for tests, for Wheel-Trans, for answers, for a baby. Addictions, grief. The repetitive patterns that embarrass us and ground us and return us to each other. Trauma, fear, irritation, compassion, racism. Flu shots, gunshots, chemo, ortho, maxillofacial. Coffee shop, gift shop, book shop. Construction, reconstruction, maternity, residency, redundancy, labour of all kinds. Kindness. Bed, toilet, tanks, chair. Wheels. Do not take for granted who will need or not need anything. My motto: everyone who is alive could use a poem. Whether they want one is a different matter.

Some in the waiting rooms that day were visibly sick, or they were accompanying others. One man was eager to talk. I asked what he needed a poem for. He said, "Anxiety, results." When I gave him his poem, he stared at it a long time, thanked me, and put it in his pocket. A woman looked out at the blue sky and wished she could be elsewhere. She wanted to be in nature. I gave her Emily Dickinson's "Bees."

My mission in Rx for Poetry is to offer something that might touch an emotional place within the recipient, to find the poem that might speak to them, that might say "I see you."

In the middle of that day in waiting rooms, a friend texted that her friend had just received a diagnosis in the same hospital. "Does she want a poem?" I responded hesitantly, thinking it ridiculous given the enormity. It turns out that, yes, she did. I made my way to her room. I sat on the floor beside her.

One man was struggling with waiting itself. As I looked for his poem, he turned away. His son told me their story. The man didn't want a poem. He needed an organ. It was blunt and true. There are things poetry can do and things it can't. And while my aim is to ease suffering, sometimes the work is to be with it.

The poetry dispensary doesn't fit into any framework for "ordinary relationships." It is not therapy, though I'm a psychotherapist. It's not friendship or teaching. Is healing happening? Art? At once playful and deeply serious, it's a performance and exchange. I rely on people's willingness to share their stories. I rely on the poem to reflect what might not be articulated any other way. Though its efficacy is uncharted, I rely on it the way you rely on art to do something when you need something nothing else can do.

The seeds of this process had been laid down a few years before in The Spontaneous Poetry Booth where I started writing poems on the spot for people, a dollar a poem at their request. I did this first at the University of Toronto and brought it to my role at the hospital. I'd sit and ask the person opposite what they needed

a poem for, gather as much as I could from what they said and didn't say, and when I'd get a first line, I'd write it.

If I was lucky, the conversation would widen from the social realm into a void out of which words sometimes came. I'm not exaggerating when I say it was hard to answer simple questions like my name in those nameless moments. It was strange and intimate and the first few times I did it, I was blasted open, plugged into something that didn't sleep.

In The Spontaneous Poetry Booth, as with Rx for Poetry, my aim is to hear what has not yet been articulated and offer it back to the person in a poem. Sometimes I worry they won't "like" the prescription. But the point is less about liking and more about finding the poem that catches the spark of their experience, with empathy. They are not actually meant to be "prescriptive;" they are like little flags of possibility.

Singer-songwriter Neko Case says of poets: "I get the sense they imagine their audience and want to comfort them. They are so good at it they even have the ability to comfort us with scariness. Sadness, too. I think that is a powerful magic." Comforting us with scariness seems paradoxical. But it's in the hearing or speaking of that scariness that you know you're not alone.

So much of this has to do with grief and grieving. When grief arrives, it can arrive suddenly like a strange animal and knock us down. It has a wildness that can be watched, ridden maybe, but not prevented or ordered. What does it want? In the agony of grief, what do we do with it? Grief is one of those places we're so utterly alone and it is, as Case says, a powerful magic to find words there. Whether those words come from inside or outside, they can support the truth of grief by naming it, holding it, letting us feel it, alone or sometimes even together.

I know I have felt immense relief at giving shape to a feeling, putting it on the page in a way that holds the experience. "Ah," I say, "there it is." When I can look at the pain through the lens of a poem, there is more space. The narrative or emotional resonance helps clarify the experience. "Yes," I think, "that's how it feels." And the pain moves through a little. I can put the grief down for a minute.

One woman — rail-thin and radiant beyond the radiation she was there for — was eager for a poem. First she wanted one for courage, then corrected, "No, overwhelmed." Sometimes there's more than one that fits. These poems are acrobatic. I read her a few and when one of them touched down, she breathed and smiled, "This is better than what comes in a bottle." Then, tapping her chest, added, "And it stays."

Ronna Bloom is Poet in Residence at Mount Sinai Hospital and Poet in Community at the University of Toronto. www.ronnabloom.com

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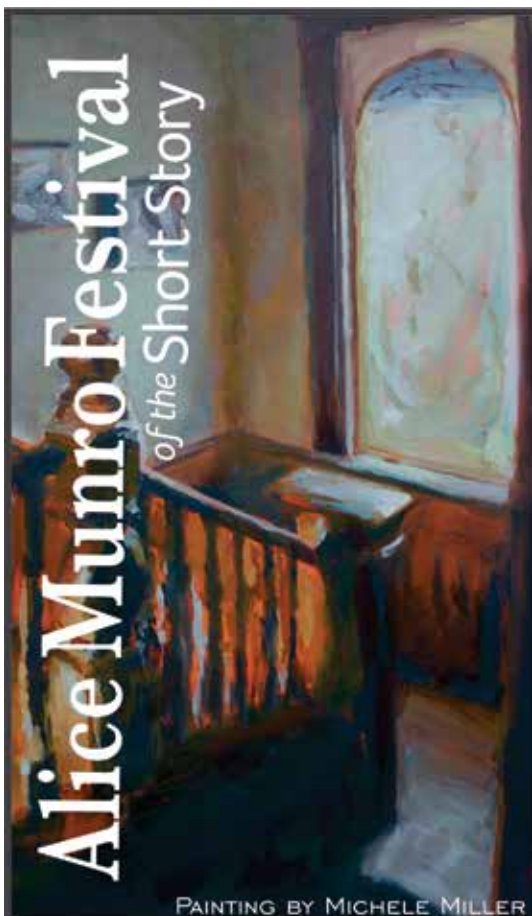
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#CWS2016 will take place at Harbourfront Centre, right on Toronto's beautiful waterfront, and will include readings and bookselling opportunities. It will also include TWUC's plenary and annual general meeting.

KEYNOTE SPEAKERS

Lawrence Hill, Nalo Hopkinson, Kenneth Oppel, Heather O'Neill, and the 2016 Margaret Laurence Lecturer, Jean Little.

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