

C.H.A. Member Takes Copyright Violator to Court and Wins

The Copyright Act of 1924 is 56 pages long, as Brenda Lee-Whiting discovered when she decided early in 1988 to charge another author with copyright infringement.

One of her prize winning photographs, which she plans to include in her forthcoming book on the first Polish settlement in Canada, had been reproduced without her knowledge and consent in a book, The Polish People in Canada by William Makowski, published by Tundra Books in December, 1987. She was astonished to find that this photograph had been labelled "Courtesy Brenda Lee-Whiting" although Mr. Makowski of St. Catharines, Ontario, had never communicated with her. Lee-Whiting's photograph had been a winning entry in a contest organized by the National Film Board in 1981, and had been reproduced in two weekly newspapers at that time.

Mrs. Lee-Whiting's initial action was to write to the author, first via the publisher, and secondly to his home address by registered mail, seeking an explanation. When no reply was made, she consulted a lawyer, Thomas E. Roche of Deep River; his letter to Mr. Makowski produced a handwritten reply, in which the author admitted that he used the photo without permission, but offered no compensation. A second letter from the lawyer met with silence, so Mrs. Lee-Whiting decided to instigate legal proceedings in Small Claims Court.

In Ontario the current ceiling for damages in Small Claims Court is \$1,000, and this is one court where it is customary for a plaintiff to bring an action unaccompanied by a lawyer. The plaintiff was informed that a Notice of Trial would be received when a date for the action had been set, and she was asked in November, 1988, to make a deposit of \$4.40 for court costs. Aware that a distance of 375 miles would have to be travelled by Mrs. Lee-Whiting, court officials delayed the date until May 3, 1989, when the winter weather had passed. (Normally, a Small Claims Court action is a faster means of obtaining a judicial decision than most courts.)

The 1924 Copyright Act (p. 8) states, "The term for which copyright subsists in photographs shall be fifty years from the making of the original negative....." The photograph was taken in the fall of 1976 and that date could be proved because there was an election poster in the scene. In adjudicating the case, Judge Stewart Firestone placed importance on the fact that the plaintiff could show proof that she had previously paid money for the privilege of reproducing an illustration - a map from a 48-year-old book published

by Macmillan - and had copies of the permission form. It was essential to have copies of every document that was introduced in evidence, so that these could be given to the judge.

Mrs Lee-Whiting was awarded \$150 in damages, and the defendant had to pay court costs. The Defence Fund of the Canadian Historical Association supported Mrs. Lee-Whiting in her action by offering financial help with her travel expenses.

MISCELLANEOUS

The Canadian Registry of Research and Researchers in the Social Sciences is seeking members to use its data base which aims to promote the communication of information within the social sciences. The Register contains information on more than 9,500 research projects and more than 31,100 publications covering not only the traditional social sciences but also research on the law, urban and regional studies, rural studies, environment, the domestic economy, library science, journalism and social work. For information contact: The University of Western Ontario, Social Science Computing Laboratory, Faculty of Social Science, London, Canada, N6A 5C2; (519) 661-2152.

Gale Publishing is seeking contributors to an encyclopedia of British literary publishers founded since 1820. To obtain a list of subjects and guidelines for contributors, write: Dr. Patricia Anderson, Institute of Historical Research, Senate House, Malet Street, London, WC1E 7HU, England.

Prime time to open your mind is the slogan which will launch **National Universities' Week, October 14-22**. Three major themes highlight the week: the importance of higher education in our rapidly changing world; the choices that students make in high school and college which will affect their ability to enter university programs; universities require new resources to respond to rapidly changing needs of individuals and society. Posters are available from Michelle Albagli (613) 563-1236 ext. 138: 1200-151 Slater Street, Ottawa, Ontario, K1P 5N1. Why not organize an activity to celebrate?

The Native History Study Group Newsletter, dormant since 1984 is being revived. The newsletter is intended to be a networking tool and a clearinghouse for information on conferences, events, organizations and publications relevant to the study and teaching of native history. Two issues per year, October and April are planned initially. To receive or contribute to the newsletter write: Barry Cottam, Department of History, 155 Séraphin Marion, University of Ottawa, Ottawa, Ont., K1N 6N5.

Constitutional Studies/Etudes Constitutionnelles, a bilingual, interdisciplinary journal invites submissions relating to constitutional studies for its first and subsequent issues. Contact: The Editor, Constitutional Studies/Etudes Constitutionnelles, 4th Floor, Law Centre, University of Alberta, Edmonton, Alta., T6G 2H5.