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Public Lending Right
in Canada

Policy Foundations

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Bringing the arts to life
De l'art plein la vie

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Executive Summary

This paper addresses the policy foundations of Canada's Public Lending Right (PLR) program, with the intent of providing a clear perspective on why and how it came into existence in 1986. An integral part of the paper is "A PLR Chronology, 1946-87," providing a timeline for developments in the long process that led to the program.

It is necessary to appreciate the historical context for the federal government's adoption of PLR. This includes the international context, in which 12 other nations adopted some form of PLR before Canada; and the domestic context, in which a vigorous public debate about PLR continued over many years preceding 1986.

The protagonists in the debate are identified, along with their positions and the roles they played in the process. They included national authors' and librarians' associations in both official languages, the Canada Council for the Arts, and the federal government as represented by successive Ministers of Communications. In summarizing the research and design work conducted to create a prototype of the program, it is evident that a Consultative Committee convened over four years by the Canada Council, including writers, librarians and publishers, played a crucial role in making PLR a practical policy option and in first presenting that option to the Minister.

The program was approved by the government five years later, after an intensive lobbying effort by writers' groups. As stated by the Treasury Board, the objective was "to compensate authors for the use of their works through Canadian libraries." This might be termed the program's core purpose. The program rationale was supported by a combination of policy principles and practical needs:

- the principles of fairness, equity, and recognition of a public service provided by authors, for which a public benefit should be paid;
- the needs to improve authors' financial return from their creative work, recognize their contribution to Canadian culture, and reinforce their creativity.

Sources for these findings include foundational documents such as the Treasury Board submission to establish PLR and Canada Council board papers, as well as articles, speeches and interviews with individuals knowledgeable about the program's origins.

Other aspects of the program's structure and design are discussed, including its relationship to the Copyright Act and the Status of the Artist Act; rationale for eligibility criteria for authors and titles participating in the program; rationale for basing the program on library holdings rather than loans; and the program's direction and administration, vested in the PLR Commission under the aegis of the Canada Council.

The paper demonstrates that establishing PLR was ultimately an act of political will by the federal government, inspired by a tireless lobbying effort from Canada's writers and other committed individuals, and bolstered by research conducted at the Canada Council.

1 Background

The Canada Council for the Arts commissioned this paper in 2011, the 25th anniversary year of Canada's Public Lending Right (PLR) program.

Over the quarter-century of its existence, PLR has grown and evolved into a well-established program to pay annual compensation to Canadian authors in return for public use of their books in libraries. The program is directed and administered by the Public Lending Right Commission (PLRC), composed of representatives of national associations of writers, translators, librarians and publishers. The program and Commission operate under the administrative aegis of the Canada Council for the Arts, and the program receives its funding from the federal government through the Council's parliamentary appropriation.

Canada's PLR program has an impressive record of accomplishment behind it and some bracing challenges before it. Among the challenges is the ongoing imperative to respond to budgetary pressures resulting from substantial annual growth in authors and titles eligible for the program; and the more recent imperative to adapt to the emergence of ebooks in a rapidly shifting publishing environment. But these challenges, as important as they are, are not the immediate concerns of this paper.

The paper deals with PLR's origins in Canadian public policy. It addresses the principles and policy foundations behind the program, with the intent of providing a clear perspective on why and how it came into existence in 1986. Such a perspective, it is hoped, will help to provide a sound basis for planning the program's future.

The paper's emphasis, therefore, is on the historical processes that led to the program's creation. These processes include the policy dialectic among the main stakeholder groups contributing to PLR's design and governance – principally national authors' and librarians' associations – as well as the involvement of the Canada Council for the Arts and the federal government.

Research for the paper has included a review of correspondence, memoranda and other program documentation archived at the PLRC and the Canada Council for the Arts; a review of papers, speeches and articles that influenced the program; a review of government policy documents that established and defined it; and personal interviews with several individuals highly knowledgeable about the program's origins and history.

A brief bibliography and a list of interviewees appear in the appendices. Where particular interviews are cited in the text as sources of information, the interviewees' surnames appear in square brackets directly following that information.

An integral part of this paper, “A PLR Chronology, 1946-87,” follows. It provides a narrative timeline framing the developments discussed in the paper.

2 A PLR Chronology, 1946-87

1946 – First PLR program created in Denmark

1947 – PLR adopted by Norway

1949 – Canadian Authors Association proposes PLR for Canada

1954 – PLR adopted by Sweden

1961 – Canadian novelist David Walker speaks to Canadian Library Association (CLA) annual conference proposing a form of PLR

1963 – Paper, “Compensation to Authors for Library Loans in Sweden,” presented to CLA annual conference by Bengt Hjelmqvist, head librarian at the Swedish National Board of Education

– PLR adopted by Finland

1968 – PLR adopted by Iceland

1971 – PLR adopted by the Netherlands

1972 – CLA annual conference holds symposium on PLR. Paper, “Authors’ Lending Right in Scandinavia” presented by Preben Kierkegaard, national librarian of Denmark

– PLR adopted by West Germany

1973 – The Writers’ Union of Canada (TWUC) is founded. Novelist Marian Engel, the first Chair, launches TWUC’s extensive multi-year campaign for PLR in Canada

– PLR adopted by New Zealand

1974 – Article advocating PLR by George Woodcock and Basil Stuart-Stubbs, “When You Read a Library Book, Should the Author be Paid? The Case for the Public Lending Right,” appears in *Saturday Night* magazine, March issue

- CLA strikes a PLR Committee
 - PLR flagged by the Canada Council as an issue of importance in “Copyright and Other Rights of Artists,” a supplementary agenda to the Council’s December meeting
 - PLR adopted by Australia
- 1975 – Paper assessing implications for Canada of adopting PLR, “Public Lending Right: A Survey,” by Robin Jackson and Carole Brégaint, released by Department of the Secretary of State
- 1976 – CLA annual conference holds PLR Forum and passes resolution urging federal government to “develop and fund a system of increased financial rewards to writers including the administrative costs of such a system.” The system should be based on library holdings, not circulation, and would not represent “recognition of any legal entitlement to recompense for library use, i.e. a public lending ‘right’.”
- Francophone librarians’ association, l’Association pour l’avancement des sciences et des techniques de la documentation (ASTED), takes a similar position
 - Canada Council receives request from TWUC for funds to research implementation of PLR in Canada
- 1977 – Canada Council Writing & Publishing section establishes a study committee, known first as the Consultative Committee on Compensation for Authors for Library Use, and later as the Consultative Committee on Payment for Public Use. Consisting of two writers, two librarians and two publishers, one from each official language group, the Consultative Committee works over the next four years with Writing and Publishing head Naïm Kattan, officer Katharine Benzekri and other Council staff to research and design a PLR program for Canada
- Paper, “Library Royalties in Canada: a Status Report,” by Rudolph C. Ellsworth, a librarian member of the Consultative Committee, is published in international library journal *Libri*
 - Union des écrivaines et des écrivains québécois (UNEQ) is founded. In advocating for PLR, UNEQ will take position that it should administer the program on behalf of francophone authors
 - PLR adopted by Austria
- 1979 – PLR adopted by United Kingdom
- 1979-81 – Canada Council Consultative Committee conducts extensive two-year

national survey of book authors in both official languages. Using a mail questionnaire, survey seeks to determine the number of authors and titles potentially eligible to participate in a Canadian PLR program. After a series of 10 meetings, Committee produces detailed framework for a system based on library holdings, specifying author and title eligibility criteria, payment rates, etc.

- 1981 – Using results of its author and title survey, Consultative Committee tests program design in a sample of six major libraries in different regions of the country, four in English and two in French
- (June) Consultative Committee puts final touches on program design. Committee membership now includes Gilles Archambault (author), Michel Bonneau (librarian), Lyn Harrington (author), Marsh Jeanneret (publisher), Andreas Schroeder (author) and Pierre Tisseyre (publisher)
 - (Sept.) Submission presented to Canada Council board proposing creation of program as recommended by Consultative Committee. Proposal includes 3-year budget rising from \$1.2 million in Year 1 to \$1.8 million in Year 2. Council gives its approval and endorses request to be made to the Minister of Communications for funding necessary to implement program beginning in 1982
 - (Oct.) Timothy Porteous, Canada Council Associate Director, writes to Hon. Francis Fox, Minister of Communications, with a copy of Council's PLR (still known as Payment for Public Use) proposal and requests government funding
 - (Nov.) Margaret Atwood, as Chair of TWUC, writes Minister Fox expressing Union's "strong and unequivocal support" for Canada Council's proposal
- 1982 – Federal Cultural Policy Review (Applebaum-Hébert) Committee *Report* endorses PLR on the basis of fair treatment of authors and recommends establishment of a program by the government. But it favours payments based on authors' royalty payments, not library holdings. Committee also includes in its proposal compensation to authors for reprographic uses
- 1984 – In response to government inaction, TWUC holds its annual general meeting in Ottawa, marches on Parliament Hill, and meets with Minister Fox
- In fall election, Progressive Conservative party, which has promised action on PLR, comes to power
- 1985 – Writers' organizations lobby new Minister of Communications, Hon. Marcel Masse, on PLR
- Minister Masse expresses public support for PLR and instructs his officials to develop Cabinet submission seeking approval for a budget of \$3 million. Officials work with Canada Council to confirm policy rationale, governance (by a

Commission) and operational details of program, based on Council's earlier work

1986 – PLR adopted by Israel

- (Feb.) Government announces commitment to PLR in federal budget, at annual cost of \$3 million
- (March) Cabinet approves creation of program of “Payment for Public Use”, making Canada 13th country in world to have PLR
- (April) Canada Council Writing & Publishing section convenes consultative meeting of representatives of national literary associations (of writers, librarians, publishers, translators) to advise on role, membership, voting procedures and staffing of a Commission to administer the program
- (June) Canada Council board approves establishment of a Payment for Public Use Commission, based on recommendations from the April consultation, and authorizes disbursement of program funds received from the government as a permanent annual allocation to the Council's budget
- (Oct. 9) Treasury Board approves Payment for Public Use Program “under the aegis of the Canada Council. Its policy and management will be entrusted to the Payment for Public Use Commission whose voting members are writers, publishers, librarians and a literary translator”
- Andreas Schroeder, Commission's first Chair, writes to Peter Roberts, Director of Canada Council, informing Council of first decisions by the executive committee: Commission's administrative head will be designated Executive Secretary, working under direction of Commission; and Public Lending Right will replace Payment for Public Use as official program title
- Minister of Communications Flora MacDonald publicly announces Treasury Board decision and sitting members of Commission. Minister says funds for 1986-7 will be disbursed by end of 1986/7 fiscal year on March 31
- PLRC hires first Executive Secretary, Michel Blanc. Commission sets up operations within Canada Council offices, updates registration of authors and titles conducted by Council's Consultative Committee in 1979-81, and undertakes library sampling process

1987 – (March 17) Minister MacDonald attends news conference at PLRC office to start printing of first PLR cheques to be mailed to 4,432 Canadian authors

3 Historical Context

As the PLRC's first Chair, author Andreas Schroeder, noted in a recent speech to The Writers' Union of Canada (TWUC) on PLR's 25th anniversary, it took 13 years to achieve the program after it was first advocated by the newly formed Union in 1973. TWUC was joined in that effort by l'Union des écrivaines et écrivains québécois (UNEQ) after its founding in 1977.

Various reasons have been cited to explain the delay in adopting PLR in Canada: differences in viewpoint among writers' and librarians' groups; conflicting versions of how the program should be designed and administered; the slowness of bureaucratic processes in Ottawa; a lack of political will by governments of the day. Yet there was no lack of precedents. By 1986, when the program was finally created, a PLR system of one kind or another was already established in 12 other countries. Within the global context, Canada was not operating in a vacuum.

International Context

Denmark was the first nation to adopt PLR, establishing in 1946 a program that had been delayed for several years by the Second World War. Norway adopted PLR the next year, followed by Sweden in 1954, Finland in 1963 and Iceland in 1968.

It's understandable why the idea of PLR first made sense to policymakers in Scandinavia. Each of these five countries has a small population – ranging from eight million in Sweden to only 200,000 in Iceland – with its own distinctive national language not widely spoken outside its borders. As stated by the Danish national librarian Preben Kirkegaard in a speech to the Canadian Library Association (CLA) in 1972, “authors in the Scandinavian countries cannot expect a reading public exceeding the number of inhabitants of their country” (excepting the relatively few whose works are translated and published abroad). Consequently, books by the great majority of Scandinavian writers are sold in small editions, and the authors' earnings are correspondingly small.

And yet, according to Kirkegaard, the Scandinavian countries have developed “elaborate and very well organized networks of public libraries operating on public funds,” maintained for the benefit of the whole population. Hence a large proportion of the readers of Scandinavian books tend to be library patrons borrowing them free of charge. Ultimately, the Scandinavian countries agreed with their authors that in their “struggle for an improvement in their financial conditions,” it was reasonable to provide them with compensation for extensive free public use of their intellectual property.

Similar national conditions led to adoption of PLR by the Netherlands in 1971. West Germany, with a much larger population, followed the next year.

By 1972, then, seven nations had some kind of a PLR program. The various systems in place differed in methodology and benefits provided to authors. Some systems were based on a statistical sample of library holdings of an author's works, some on actual library loans. Some systems paid financial contributions directly to authors on a pro-rata basis, while others used PLR funds for other, related purposes – e.g. providing literary prizes, scholarships, grants, pensions or other financial support to needy authors or their families. In Sweden, a hybrid loans-based system paid part of the funds directly to authors and the other part through related programs.

The first English-speaking nations to institute PLR were New Zealand in 1973 and Australia in 1974. Both chose a sampling of library holdings as the basis for direct payments to authors (with Australia also providing small payments to publishers). In 1979 the United Kingdom adopted PLR after a long, acrimonious public and parliamentary debate over the issue, using library loans as the basis for payments directly to authors.

By that time, the PLR debate in Canada had been well under way for several years.

Domestic Context

The first recorded instance of advocating a domestic program is attributed to the Canadian Authors Association (CAA) in 1949. The CAA made a presentation to the Royal Commission on National Development in the Arts, Letters and Social Sciences (Massey-Lévesque Commission), which was holding hearings at that time. But if the CAA addressed PLR in its presentation, it is not mentioned in the Commission's 1951 *Report*.

During the 1960s and later, the Canadian Library Association helped keep discussion of PLR alive. In 1961 the CLA annual conference heard from novelist David Walker, who proposed an alternative PLR method based on authors' royalties. In 1963 Swedish librarian Bengt Hjelmqvist spoke to the CLA membership about the loans-based scheme operating in Sweden. At the CLA's 1972 annual conference, Basil Stuart-Stubbs, head librarian at the University of British Columbia, organized a symposium to examine PLR as variously practised in Scandinavia. The keynote speaker was Denmark's national librarian, Preben Kierkegaard, who gave the speech cited above, "Authors' Lending Right in Scandinavia."

Stuart-Stubbs had travelled to Scandinavia in the 1960s and had been impressed by seeing PLR in action. He and a UBC colleague, the late George Woodcock, a prolific author and widely admired critic who founded the scholarly journal *Canadian Literature*, collaborated on a prescient magazine article about PLR. The article, "When You Read a Library Book, Should the Author be Paid? The Case for the Public Lending Right," was published in *Saturday Night* in March 1974. In it, Woodcock and Stuart-Stubbs argued for PLR as a form of natural justice:

"Ever since lending libraries first appeared in the nineteenth century [wrote Woodcock and Stuart-Stubbs], the writers of books have increasingly become public servants without any financial recognition.... Whenever a book is taken out of a library, or consulted there, a

public service in terms of information or entertainment is performed by the writer as certainly as a service is performed by a doctor [treating] his patient. For this service the author in Canada is not at present compensated. This is hardly fair, because one hundred people may well read a copy of a book in a public library, as against the two or three people who may normally read a book bought by an individual.”

Woodcock and Stuart-Stubbs went on to describe PLR schemes practised in other countries and to suggest how they might be applied in Canada. The scheme they proposed was remarkably similar in many respects to the program that would be introduced a dozen years later.

4 Protagonists

When the *Saturday Night* article appeared in 1974, the Writers’ Union of Canada had just begun its own crusade for PLR. TWUC and later its francophone counterpart, UNEQ, would become key driving forces in the campaign to achieve the program: a campaign that writers’ representatives sometimes characterized as a struggle against unsympathetic opposing forces within the library community and the government.

Although sometimes sharp differences of opinion existed, these other protagonists would also be critical to the success of PLR. They included the CLA; the CLA’s francophone counterpart, l’Association pour l’avancement des sciences et des techniques de la documentation (ASTED); the Canada Council for the Arts; and the federal government as embodied by the department responsible for culture, Communications (previously the Secretary of State’s department, now the Department of Canadian Heritage), and its successive Ministers.

Each of these entities would play their respective parts in the lengthy process of debate, research, negotiation and decision-making that would lead to creation of the PLR program – and to creation of its guiding body, the Public Lending Right Commission, on which all protagonists would eventually be represented.

In his PLR 25th anniversary speech, Andreas Schroeder recalled how the debate caught fire when TWUC’s first Chair, the novelist Marian Engel, chose PLR as her priority issue and began meeting with library groups to explain the concept in hopes of winning their support. Frustrated by what she perceived as the librarians’ lack of sympathy for the authors’ cause, Engel lost her temper in front of an audience of Ontario librarians: she accused libraries of “ripping off Canada’s writers,” a charge that appeared in the media and became widely quoted and resented.

Librarians had very different views of their profession and its relationship to authors. They saw themselves not only as champions of literature and authorship, but guardians of the principles of free speech and free public access to books and information – the lifeblood of a

democratic society. As far as librarians were concerned, they were not exploiting authors, but making their books accessible to readers and assuring them of a wider public.

Yet even within the library community, opposing ideas about PLR existed. A prominent librarian such as Basil Stuart-Stubbs was a public crusader for PLR, but some of his closest colleagues spoke out vigorously against its introduction. These included Samuel Rothstein, whom Stuart-Stubbs considered his mentor, and Anne and George Piternick, all of whom were professors in the UBC School of Librarianship [Stuart-Stubbs].

Briefly put, librarians opposed to PLR had two major concerns. Philosophically speaking, they objected to the idea that authors had a “right” to be compensated for library use, since it implied that libraries had been ignoring or denying that right and thus exploiting authors, rather than performing a valuable service to them and their readers. Practically speaking, librarians also feared that their institutions and/or patrons would be stuck with the bill for PLR. Recognition of an authors’ “right” could come at the expense of library users, who might be charged lending fees; or at the expense of libraries’ human and financial resources, which could be burdened with the costs of funding and administering the program [Ellsworth, article]. Such a burden would reduce, ironically, libraries’ acquisition budgets for buying books.

There is a story, possibly apocryphal, that students of Stuart-Stubbs and Rothstein actually came to blows over PLR in the halls of the UBC library school [Schroeder, speech]. In any case, the CLA succeeded in making peace on the issue, at least among the librarians of English Canada. Two years after creating a PLR committee to examine the question more closely, the CLA convened a PLR Forum at its annual conference in 1976, involving TWUC representatives Marian Engel and June Callwood. After hearing all sides, the conference passed a compromise resolution, moved by PLR critic George Piternick and seconded by PLR advocate Frances Halpenny of the University of Toronto’s Faculty of Library Science.

The compromise resolution urged the federal government “to develop and fund a system of increased financial rewards to writers including the administrative costs of such a system.” The resolution explicitly recognized Canadian authors’ cultural contribution and their financial need, while supporting “the use of library holdings data” (N.B., not circulation) in the “development of an appropriate system.” But equally explicitly, the resolution did not recognize “any legal entitlement to recompense for library use, i.e. a public lending ‘right’.” A similarly supportive motion followed from ASTED a few months later.

With these overtures from the nation’s library community in hand, TWUC made a proposal to the Canada Council. Previously the Council had declined to become involved in the PLR debate until some degree of consensus evolved within the constituent parts of the book community. Now TWUC proposed to the Council’s Writing and Publishing section that the Union be funded to undertake research on implementing a program for Canada.

The Council’s response was to decline the request and instead to conduct the necessary research itself. In 1977 the Writing and Publishing section created a six-person study group known as the Consultative Committee on Compensation for Authors for Library Use (later

amended to “Consultative Committee on Payment for Public Use,” in deference to librarians’ views that “compensation” implied the righting of a wrong.) The Consultative Committee’s mandate was to advise the Council on the design and implementation of a national program and to project the funding necessary to implement the system, without any certainty that the resources would be found.

Canada Council officials’ interpretation of the committee members’ role was that they functioned as advisors to the Council, not as representatives of their professional associations. The Council also considered it essential that any PLR study it funded include both official language communities and the main contending forces in the debate. Thus the Consultative Committee consisted of francophones and anglophones who were a mixture of authors, librarians and publishers. Initially its members were authors Gilles Archambault and Andreas Schroeder, TWUC executive director Alma Lee, librarians Georges Cartier of l’Université de Montréal and Rudolph C. Ellsworth of Queen’s University, and book publisher Pierre Tisseyre. This composition would change over time – see below.

In the view of Council officials, a Council-funded study of a PLR / Compensation for Authors / Payment for Public Use program for Canada could not be turned over to an individual association. Any association would inevitably be in a conflict of interest and would lack the capacity to carry out research to the extent necessary. Nor would any single association be nationally or linguistically representative. The writers’ associations represented only their members and did not include in their membership all Canadian authors in either language [Kattan, Benzekri].

That position would soon bring the Council, and later the Public Lending Right Commission itself, into conflict with l’Union des écrivaines et écrivains québécois, formed that same year. Like TWUC, UNEQ anticipated a sense of “ownership” of the program on behalf of writers. UNEQ took the view that it should be given responsibility for administering the program on behalf of all francophone authors in Canada – a position that caused the Council difficulty, particularly because the Union did not represent francophone authors outside Quebec [Kattan].

The federal government, meanwhile, stayed informed of the Consultative Committee’s progress, anticipating a request for funding from the Council. Representatives of the Secretary of State’s department, and later the Department of Communications, were invited to attend the committee’s meetings.

5 Research and Design

Over the next four years, the Consultative Committee, coordinated by Canada Council program officer (later Associate Head of Writing and Publishing) Katharine Benzekri, researched, discussed and planned the design of a Canadian PLR program. This part of the paper will briefly outline the committee’s tasks, while the following section will discuss the

committee's conclusions in terms of the principles and needs on which a program could ultimately be based.

Among the committee's first tasks was to study the various PLR programs in place in other countries, in order to determine which aspects would be most appropriate and adaptable to Canada. Major questions included: whether to recommend a holdings-based or loans-based program; whether the program should be established inside or outside Canada's Copyright Act; whether funds should be disbursed as direct payments to authors only, to both authors and publishers, to related programs of a literary nature, or some combination of these.

Another key question was eligibility criteria: which categories of authors and titles should qualify to participate in the program? Should eligibility be universal for all published Canadian books in Canadian libraries? Or should the program apply some restrictions in order, for example, to direct the funds toward certain categories of authors or titles?

In coming to grips with these questions, the Consultative Committee realized that it lacked sufficiently complete data about Canada's authors and their books. Accurate data would be necessary to design a system and recommend appropriate funding levels.

At the outset, there were many unknowns [Benzekri]. Estimates of the numbers of published Canadian authors varied wildly between 3,000 and 10,000. The available bibliographical resources in both French and English were obtained for the Committee to consult, along with publishers' backlists and membership lists of writers' associations, but these all contained gaps. After several meetings, the committee decided to conduct its own comprehensive registration campaign to capture, to the extent possible, an accurate and up-to-date profile of living Canadian authors and their titles.

The registration took two years to complete, 1979 to 1981. It involved designing a questionnaire and sending it, in multiple mailings, to authors in both official languages. Names and mailing addresses were culled from a variety of sources. Authors who did not return the questionnaire received follow-up letters. A last call to writers was publicly issued in January 1981, urging them, if they had received a questionnaire, to return it, and if not, to request one from the Council. Since the Consultative Committee would be basing its recommendations on a study of the returns and a subsequent sampling exercise in Canadian libraries, the Council stressed the importance of registering all authors for the (still non-existent) program.

The registration exercise required considerable resources. The Council hired temporary staff to conduct the mailings, process the returns, code them and register them in a specially designed, computerized author and title database. The secretary of the Head of the Writing and Publishing section was seconded to coordinate part of the process during her maternity leave. Files on the Consultative Committee's work are replete with memoranda from Katharine Benzekri updating Canada Council management on progress, explaining the next phases of the work to be done, and requesting further funding to complete the process. Madame B., as she was known to her staff, was dedicated, persistent and highly effective in

marshalling the resources necessary to lay the groundwork for PLR [Porteous, Kattan, Schroeder, speech].

By the cut-off date of March 1981, the registration campaign had yielded 5,469 individual author questionnaires, registering a total of 17,302 titles. In addition to storing this data in retrievable form, the Council's information technology staff had to devise computer programs for accomplishing the next research stage: recording the results of the library sampling test, and calculating theoretical payments based on budget scenarios.

By this time the membership of the Consultative Committee had undergone several changes. Georges Cartier, Rudolph C. Ellsworth and Alma Lee had left, to be replaced by Michel Bonneau of ASTED, publisher Marsh Jeanneret of the University of Toronto Press, and author Lyn Harrington. Gilles Archambault, Andreas Schroeder and Pierre Tisseyre remained.

Bonneau and Jeanneret were particularly knowledgeable in helping to design the final stage of the committee's work, the library sampling test. Six major libraries in different regions of the country were recruited to collaborate on conducting the sample: Halifax City Regional Library, Bibliothèque de l'Université Laval, Bibliothèque de Montréal, University of Toronto Robarts Library, Regina Public Library and Vancouver Public Library.

Prior to the test, the Consultative Committee had agreed on a set of eligibility criteria that reduced the numbers of authors and titles participating in the sampling exercise. After application of those criteria, a total of 4,215 responding writers remained, representing a total of 11,285 titles – 7,464 in English and 3,821 in French. The committee had also concluded that a Canadian system must be based on library holdings data, not actual loans (see below under section 6 for the policy rationale for this decision).

The holdings of the six libraries were sampled to determine the presence of the titles in their collections. The Consultative Committee's conclusion, as reported in the submission to the Canada Council board summarizing its research findings and recommendations, was that, "The results of the library sampling exercise indicated that a national sampling of libraries should work fairly for all categories of titles and regions of the country." The committee recommended, however, that the sample size be increased to 10 libraries for English-language titles and five libraries for French-language titles, in order to obtain a more statistically accurate and regionally representative sample.

The Memorandum submitted to the Canada Council board's quarterly meeting on September 21-22, 1981 outlined the four-year process of the Consultative Committee and the characteristics of the system it had designed for a Payment for Public Use program. The scheme included a draft payment scale to authors, which produced a budget projection for the first three years. The estimated budget ran from \$1.2 million in Year 1 to \$1.8 million in Year 3, allowing for 10% administrative costs as well as additional costs for processing previously unregistered titles and increases in new titles. The Committee recommended that (presumably scarce) program funds be targeted entirely to direct payments to authors, rather than being dissipated through ancillary programs.

The submission, signed by Council Associate Director Timothy Porteous and Writing and Publishing Head Naïm Kattan, requested Council approval of the Consultative Committee's recommendations, as well as authority for the Council to approach the Minister of Communications to request the funding necessary to implement the program. The program should be up and running in the 1982-3 fiscal year, the submission stated, "so as not to lose the momentum gained over the past two years of intensive input."

With the Council's approval, Porteous wrote formally to the Minister of Communications, the Hon. Francis Fox, on October 6, 1981, forwarding the Council's proposal and requesting government funding to begin in the next fiscal year.

6 Policy Principles and Practical Needs

The submission that went first to the Council's board, then on to the federal government through Minister Fox, articulated certain policy principles and practical needs providing the rationale for introducing PLR.

The government would not act on the matter for another five years, and then under a different governing party. But those same principles and needs would survive more or less intact throughout the long (and for many, frustrating) delay, underpinning the program that was ultimately introduced in 1986. (Further details of the political context for that decision appear below in section 7.) The principles and needs themselves are discussed here, with interpretive commentary by some of those interviewed.

Why PLR?

The principles underlying PLR in Canada have been well articulated in several places. It may even be possible that policymakers took PLR seriously as a legitimate program concept in the 1980s precisely because it combined fundamental principles of natural justice with actual financial need.

As we saw earlier, the 1974 *Saturday Night* article by George Woodcock and Basil Stuart-Stubbs stressed the principle of *fairness*. They characterized free public use of books in libraries as a public service on the part of authors, who received only a single-copy royalty on purchase of the book: "This is hardly fair, because one hundred people may well read a copy of a book in a public library, as against the two or three people who may normally read a book bought by an individual."

Woodcock and Stuart-Stubbs contrasted the free availability of library books with the accepted practice of paying royalties to playwrights and composers each time a play or musical composition is performed: "As performance is to music, reading is to the book."

Later PLR advocates also drew the analogy between payment for library use and broadcast royalties paid to singers and songwriters every time their music is aired on Canadian radio or television.

Yet Woodcock and Stuart-Stubbs did not advocate that user fees be charged to library patrons. Acknowledging the long tradition of free public libraries, they said that charging money for services in this case “would be antithetical to the philosophy of the library movement.... Because of the value we attach to the freedom to know, books are perhaps the only marketable items which are almost universally purchased communally for communal use.”

Woodcock and Stuart-Stubbs were also careful to acknowledge the importance of public libraries to authors: libraries help writers to reach a larger community than would otherwise be possible. Yet the unfairness of the situation remained, given that libraries, and the act of reading itself, depend for their very existence on the creative work of authors. They argued that the symbiotic relationship between writers and libraries means that “the interests of the community and of writers are equally involved in the question of public lending right.”

The principles underlying PLR were also rigorously discussed in a paper presented to a conference held in 1996 at the National Library of Canada to celebrate the program’s 10th anniversary. “The Political and Legal Environment of PLR in Canada” was written by Jules Larivière, director of the University of Ottawa Law Library and a founding, long-standing member of the PLRC, representing ASTED.

Larivière found that the basis for Canada’s PLR system lies in recognition that “consultation and free lending in the library constitute a public service made available to the community at the expense of writers.” Nonetheless, he argued, “this recognition cannot serve as the basis of the legal enshrinement of a right.” Hence Public Lending “Right,” in the Canadian context, is something of a misnomer: there is no foundation in law for such a right.

In an interview for this paper, Larivière confirmed that he considers the fundamental principle behind PLR to be financial recognition for a benefit provided to the Canadian public: “It is normal that society would recognize that books are freely made available in libraries to its citizens, and that society would recognize that free availability by compensating the authors.... This is a public service, hence the argument for the government providing the money.”

In an interview with Naïm Kattan, now retired as the Canada Council’s Head of Writing and Publishing, he too construed the principle as a question of *fairness*. Kattan characterized the motivation behind PLR as payment of a debt that the public owes to authors: “The real reason for PLR is that writers get little benefit for the presence of their books in libraries. They receive a one-copy royalty in return for potentially hundreds of loans. This is unfair to writers, because each reader benefits from the works they have written. The author needs some financial recognition of those benefits: recognition that writers work and have to be paid as professionals, just as lawyers or engineers are paid.”

Kattan's point about *equity* with other working professionals has never been lost on the writers themselves. From the beginning of the PLR debate, the writers' unions in either language based their argument on equitable (not special) treatment for writers. As Andreas Schroeder put it in his 25th anniversary speech: "While we all supported Canada's public library system, we couldn't see why writers should be the only people giving up part of our income to finance it. Librarians weren't being dinged a percentage of their salaries; neither were the janitors or the administrators. Where was the logic in that?"

While asserting the principles of public service, fairness and equity, the writers' lobby also raised practical questions of *financial need*. Like Scandinavian writers who had received the benefits of PLR years earlier, Canadian writers publish into small domestic markets, whether anglophone or francophone. Unlike the Scandinavians, however, Canadian writers lack the advantage of a distinctive national language – their markets are wide open to competition from same-language books from the U.S., the U.K., France and elsewhere. This means that their book sales and incomes from writing are chronically low, considerably lower than those of writers in larger countries. Schroeder's speech put the situation bluntly: "Canadian writers needed a new source of income; we were averaging a miserable \$5,000 per annum in those days, barely enough for a single person to live on."

In making its case to the government for introducing PLR in 1981, the Canada Council too cited writers' financial need, quoting the most recent research on authors' writing incomes gathered by Statistics Canada. A survey conducted by Stats Can in 1978 had shown that 80% of all published Canadian authors reported earnings from their books of between \$1,000 and \$3,000 per year. This demonstrated, the Council said in its submission to Minister Fox, "the need to supplement a writer's income for his services to the country." PLR would help to meet that need.

The Council's idea of authors' "services to the country" introduced yet another justification for PLR. Interpreted more specifically in terms of contribution to the development of Canadian culture, this idea found its way, along with related policy rationales, into the wording of the official documents that finally created the program in 1986.

Treasury Board document 9-0147-86 RD (file DOS 64944), dated October 9, 1986, requested "Approval of the Payment for Public Use (PPU) Program under the aegis of the Canada Council."

The Treasury Board document stated the program's core objective, referring to Cabinet's earlier approval, on March 26, 1986, of "*the establishment of the PPU program to compensate authors for the use of their works through Canadian libraries.*"

The document also contained the following definition of intent: "The program is intended to increase the revenues and improve the financial situation of Canadian writers and give public recognition to their important contribution to protecting Canada's cultural identity."

Thus the Treasury Board accorded pride of place to the objective of compensation to authors for library use, adding the supporting justifications of authors' financial need and cultural contribution, without specifically upholding the notion of a *right*.

An earlier draft Memorandum to Cabinet shared with the Canada Council on December 4, 1985, in which Cabinet would be asked to approve "Establishment of a Canadian Payment for Public Use (PPU) program for books written by Canadian writers held or borrowed in Canadian libraries," did, however, address the principles of fairness and equity. The first paragraph under "Rationale" in the Cabinet document stated the need to redress an injustice or "imbalance": "Writers receive an agreed upon rate of royalties whether their books are bought by an individual or purchased by a library. The same book in a library will, however, be read by a large number of people, and it is this imbalance which this program seeks to redress."

The Cabinet document's "Rationale" went on to cite writers' low income figures from the 1978 Statistics Canada survey and noted: "The PPU plan would provide a modest but stable supplement to earnings which would help Canadian writers devote more of their time and creative abilities to their writing." The notion of stimulating writers' creativity by supplementing their earnings added further reinforcement to the arguments for PLR.

International Precedents

An additional factor contributing to Canada's adoption of PLR (or PPU) was not so much a point of principle, but an important policy influence nonetheless. This was the existence of numerous international precedents: the fact that so many other developed countries had already introduced PLR in recognition of society's obligations to its authors.

Under "Rationale," the draft Cabinet document quoted above cited the existence and effectiveness of "similar PPU programs" in 11 other countries. These included, it said, Great Britain, West Germany, Australia and France (an error in the case of France; in fact, France did not institute PLR until 2003). Thus there was a sense that Canada needed to catch up with enlightened cultural policy in other parts of the developed world.

Jules Larivière discussed in an interview the decisive intervention of the minister responsible for culture in 1985-6, Communications Minister Marcel Masse. From his knowledge of Masse's thinking on the issue, Larivière cited two fundamental policy reasons for the Minister's desire to establish PLR. The financial need of authors was not one of them, according to Larivière, although it was an argument forcefully used by representatives of the writers' unions, to whom Masse was inclined to listen: "Masse's first reason was that PLR was a matter of principle [in regard to compensating authors for use of their books in public libraries]. The second was the fact that the program was established in so many other countries."

The foregoing discussion dwells on the reasons for PLR's existence. Policy issues related to the program's actual structure and design evolved out of both principle and pragmatism: i.e.,

a concern to husband the available funds in ways that maximized their availability to writers, and targeted them in certain directions considered desirable. Those issues are discussed next.

Copyright Act and Status of the Artist Act

An option that was considered for giving PLR a firm and lasting foundation was to incorporate it within Canada's Copyright Act, which was undergoing revision at the time. This would have given PLR the force of law, enshrining in legislation the notion that it constituted a "right" belonging to authors in the disposition of their intellectual property. For several practical reasons, however, this was not done.

Copyright Act revision is a notoriously slow process, subject to negotiation and compromise between the interests of creators and consumers as brokered by different federal departments. As time dragged on and PLR wasn't consummated, the prospect of housing it within Copyright and delaying its adoption still further, even jeopardizing it altogether, held little appeal for its advocates.

The most commonly stated objection to inclusion in the Act, however, was that it would have compelled Canada, as a signatory to international Copyright conventions, to provide PLR benefits to the many foreign authors whose books are in Canadian library collections. West Germany was the only country to have included PLR in Copyright. In the case of Canada, with so many foreign-authored French- and English-language titles in its libraries, the bulk of PLR funds would have left the country. No one expected that a PLR budget would ever be so large as to warrant such generous treatment and still leave meaningful payments to Canadian writers.

Finally, as Jules Larivière argues in the paper cited earlier, inclusion in Copyright would have made PLR a universal right accessible to all Canadian authors, as well as to non-Canadians. This would have prevented the architects of Canada's PLR program – the Canada Council Consultative Committee in particular – from limiting eligibility for PLR to certain categories of books.

Nonetheless, PLR was retroactively accorded some degree of legal standing in 1992 when Parliament passed the Status of the Artist Act. Although once again no explicit right was promulgated, nor reference made to PLR itself, the principle of compensation for public use and lending was recognized. Section 2(e) of the Act states that the Government of Canada recognizes "the importance to artists that they be compensated for the use of their works, including the public lending of them."

Eligibility Criteria

The Canada Council's involvement influenced the structure and design of the PLR program in various ways. A principal area of Council influence was author and title eligibility

criteria. Once it was agreed that PLR should remain outside Copyright, eligibility could be restricted to authors who were Canadian citizens or landed immigrants, consistent with the Council's own criteria for assistance to authors and books. This was in line with the views of the writers' unions and other stakeholders.

The categories of books chosen as eligible for PLR benefits also reflected Council practices. As a federal cultural agency mandated to support the arts, the Council had confined its own programs of publishing support, e.g. the Block Grant program for book publishers, to titles consistent with the Council's mandate: fiction, poetry, drama, and creative non-fiction. Excluded were categories of books deemed to be self-supporting from the commercial marketplace, such as how-to books, travel guides, cookbooks, etc; and textbooks written specifically for the educational market, which were viewed as falling under the provincial jurisdiction over education.

Eliminating such titles would allow the program to concentrate payments on writers and books deemed to require it most in the small domestic market. No means test, however, was applied to either authors or books. As Katharine Benzekri pointed out in an interview, "Had the program been based solely on financial need, a totally different system would have been designed on a scale of need, excluding writers with an income over a certain level."

Although Naïm Kattan had been impressed by the Australian PLR system on a visit to that country, the Council and its Consultative Committee elected not to replicate the Australian practice of including book publishers in PLR benefits. When consulted on the issue, Canadian publishers agreed that PLR payments should go solely to writers, at least initially. It was on this understanding that publishers Pierre Tisseyre and Marsh Jeanneret contributed to the work of the Consultative Committee. The submission to Council and the Minister stated: "It is felt that publisher participation could introduce copyright considerations unnecessarily and that the publishing incentive is best supported by other programs of assistance already in place."

Holdings vs. Loans: What Constitutes "Use"?

A major decision facing the Consultative Committee and the federal government was whether to base the system on library holdings, i.e. the presence of titles in a representative sampling of Canadian libraries, or actual library loans of individual titles. International precedents existed for both.

As much as the precision of a "payment for public use" scheme based on actual borrowings might have appealed to policymakers, the idea was a non-starter in Canada with both librarians' and writers' groups.

Again the reasoning was pragmatic. In an era before widespread computerization of library catalogues and operations, administration of a loans-based system would have required manual calculations of loan counts using library card catalogues. The imposition on library budgets and staff would have been enormous. Consequently, both ASTED and CLA made

it very clear, as Jules Larivière said, that “You won’t have the cooperation of libraries. So the matter was decided very quickly.”

It was equally apparent that a labour-intensive, loans-based system would be much more costly to administer. And since librarians, even if they were forced to accept the idea, resolutely refused to pay for it out of their own operating budgets (which come, in any case, from provincial and municipal governments), the expense would have come out of PLR’s administrative budget. Writer representatives were determined to keep that budget as low as possible, in order to maximize PLR returns to authors.

Andreas Schroeder described the writers’ position on the issue in his 25th anniversary speech. He illustrated the problem by stating that, in countries that adopted loans- or circulation-based PLR systems, such as Germany and the U.K. “over a third of the annual PLR budget went directly into the pockets of clerks, not writers.”

Schroeder had another criticism of basing the program on library loans: “A circulation-based system simply mirrored the marketplace, which, after all, was the *cause* of the problem we were trying to fix. What would have been the point of going to all this trouble if most of the program’s benefit was going to go to the 10% of Canada’s writers who didn’t need it?”

Ever since Canada’s adoption of the holdings- or presence-based system, discussion has continued on this point: specifically, the issue of what constitutes public “use” in the PLR context, and whether the design of Canada’s program reflects it adequately. Views differ on this question. Even the original Treasury Board document leaves the door ajar. Paragraph F. under “Remarks” states: “The Payment for Public Use will be based on the number of Canadian books held by libraries in Canada and perhaps eventually on the number of Canadian books borrowed.” The only aspect of this matter on which the Treasury Board document is unequivocal is the following: “It has been agreed, however, that no additional administrative burden will be imposed on participating libraries.”

In interviews for this paper, interesting shades of interpretation were expressed on the “use” question. It was observed, for example, that digitization of Canada’s library systems over the past 25 years has reduced considerably the administrative and financial burdens of calculating loans of individual titles. Thus an affordable circulation-based system is now much more feasible.

Notwithstanding that development, some suggested that loans are still not a complete or accurate measurement of in-library *use*. Douglas Burnet-Smith, a longstanding member of the PLRC as representative of the League of Canadian Poets (LCP), and PLRC Chair in 1994-6, stated that even now, a holdings-based system remains the best way to calculate benefits: “It is not known how often books are used in libraries by being consulted or read by patrons taking them off the shelf but not borrowing them.” A loans-based system, on the other hand, “simply favours those whose books are already popular at a given time.”

The principle underlying PLR, in Burnet-Smith's view, is that "the public has the benefit of free access to the books in library collections." In that case, "Payment for Public Access" might be a more apt term. Burnet-Smith felt that the original term used by the Consultative Committee and the government, "Payment for Public Use," might have served better than "Public Lending Right," by demonstrating that the program is based on payment for a benefit to the public.

From the librarian's perspective, Larivière commented that even though libraries are now fully digitized, the fact remains that books continue to be used in libraries without necessarily being borrowed: "And how can librarians be expected to record the books removed from shelves but left by patrons on tables?"

Stuart-Stubbs contributed the observation that circulation of books can be influenced by circumstance: "Books circulate or not for peculiar reasons, such as their physical location on the shelf or the book's condition," factors that vary from library to library. On the other hand, a book's presence in a library collection has meaning in itself, based on what might be termed a curatorial decision: "Library holdings can be used as a measurement of a book's value. Librarians know something about books [in deciding which titles to acquire for their collections]. The book's presence in libraries in turn gives it the potential for being used by the public."

Another difference worth noting between the two types of systems may not be proven statistically (to this author's knowledge), but seems have a high degree of likelihood. A holdings-based system tends in all probability to grow more rapidly than a circulation-based system: i.e., the annual increase in eligible authors and titles rises proportionately faster than the annual increase in library borrowing. A statistical study would bear out the facts of the matter. If this assumption is correct, it means that the pressure to augment the PLR budget for a holdings-based system is even greater than for a loans-based system, in order to maintain author payments at a reasonably consistent level year over year.

Ceiling

One other aspect of the program should be singled out, since it bears on the level of PLR payments to individual authors. From the outset, the program has used a ceiling on payments as a mechanism to limit the amount received by any one author. The annual ceiling (currently \$3,392.20 in 2011) performs the function of spreading payments out more evenly to all authors participating in the program.

The ceiling raises the median payment (currently \$282.00) by limiting payments to those authors with a particularly long list of eligible titles, and/or with particularly high representation in libraries. Andreas Schroeder has noted that when this mechanism was introduced, it received the blessing of many highly popular authors most affected by it.

Clearly the ceiling can be used in either a holdings-based or circulation-based system, assuming the intent is to distribute the program funds in a more broadly based manner.

7 Politics

At this point it is necessary to return briefly to the narrative of how PLR became a federal program in 1986, in order to elucidate the issue of governance.

As we've seen, the Canada Council submitted its proposal for a PLR program to the government in October 1981. The government deferred a decision on the matter until the Federal Cultural Policy Review (Applebaum-Hébert) Committee, appointed to make recommendations on the future of the federal role in culture, reported the next year.

As detailed in its *Summary of Briefs and Hearings*, the Applebaum-Hébert Committee received a number of presentations from book industry organizations on what was then termed Payment for Public Use. Virtually all were in favour of the idea. UNEQ argued that authors would welcome the income from such a scheme for its regular arrival on an annual basis, as opposed to the unpredictability of federal grants. TWUC and the League of Canadian Poets termed the program their "foremost priority." The CLA repeated the qualified support expressed in its 1976 resolution.

When the Applebaum-Hébert Committee issued its *Report* in November 1982, it too came out in favour of a federally funded Payment for Public Use program. But the Committee diverged in two important ways from the Canada Council's proposal. One, the program recommended by Applebaum-Hébert would provide compensation for both library and reprographic uses of Canadian authors' books. And two, payments for both purposes would be based on the annual royalty statements of living Canadian authors.

The Committee argued that its vision of the program would be more likely to stimulate further literary creativity by rewarding authors who were currently productive. Moreover, it would include all Canadian books in print and actively selling, not only those categories targeted by the Canada Council. Interestingly, the Committee also endorsed the idea of a ceiling on individual payments.

The effect of the Committee's recommendation was to delay government action on PLR still further, naturally angering PLR advocates, while the Minister and his officials mulled over competing versions. Officials also suggested that the federal government needed the agreement and cooperation of the provinces before acting on PLR, since libraries are a provincial responsibility [Schroeder, Larivière, paper].

With no action forthcoming from the government by mid-1984, TWUC held its annual general meeting in Ottawa. To publicize and gain support for their cause, the authors marched with pro-PLR placards on Parliament Hill, obtaining an inconclusive meeting with Minister Fox.

Later that year, the Liberal government lost the general election and was succeeded by the Progressive Conservative government of Prime Minister Mulroney.

Appointed Minister of Communications in the new government, Marcel Masse met with representatives of the writers' unions and heard their arguments for PLR. Sympathetic to the proposal, Minister Masse instructed his officials to work toward creating a program as researched and developed by the Canada Council.

During a meeting with his provincial counterparts in September 1985, Masse announced publicly that the federal government would fund the program. The provinces had been consulted and had no objection. Accordingly, the program was included in the government's February 1986 budget at a cost (revised upwards from earlier estimates) of \$3 million per year. Cabinet approval and Treasury Board authorization followed as cited above.

It is forthrightly stated by both Larivière and Schroeder that in the end, getting PLR established as a federally funded program was an act of political will. A Minister who believed in the principles behind the program, and had the conviction and ability to persuade Cabinet colleagues to think likewise, was essential to a successful outcome.

After Treasury Board approval in October 1986, one of the first decisions by the Payment for Public Use Commission (to be discussed in the next section) was to replace Payment for Public Use as the program's title with the more internationally familiar Public Lending Right. The Commission also designated the program's administrative head as Executive Secretary, working under the direction of the Commission. The PLRC and the Canada Council made arrangements to house the Commission within the Council offices and to use the Council's computer capacity to get the program up and running.

The PLRC staff, led by its first Chair, Andreas Schroeder, and its first Executive Secretary, Michel Blanc, had barely four months to update the program's registry of eligible authors and titles, conduct the first sampling of 10 anglophone libraries and five francophone libraries, run the payment formula, and get cheques into the mail to 4,432 writers before the March 31 year-end. Schroeder's 25th anniversary speech has vividly described the exceptional collaborative effort involved in bringing off this small miracle.

The fact that Minister Masse's successor at the Department of Communications, the Hon. Flora MacDonald, appeared at the news conference celebrating the printing of the first PLR cheques underlines the ultimately political nature of the decision to launch the program.

8 Governance

When the Canada Council sent its PLR proposal to Minister Fox in October 1981, it suggested that the Council administer the program itself. "In view of the information which

has been assembled by the Council,” Associate Director Timothy Porteous wrote on October 6, “and the Council’s continuing contacts with those most directly affected by the plan, there would seem to be good reasons for assigning its administration to the Council. However, the Council has expressed its support for the proposal whether or not the government decides that it should be administered by the Council.”

Porteous added that the proposal could not be funded from within the Council’s existing resources. The program would be an entirely new responsibility, which would require new funding from the government.

When the Progressive Conservative government created PLR nearly five years later, the Treasury Board document established the program “under the aegis of the Canada Council,” and assigned its “policy and management” to a Commission “whose voting members are writers, publishers, librarians and a literary translator. The Canada Council, the National Library of Canada and the Department of Communications will also be represented on the Commission but these members will not have a vote.”

The government transferred the original \$3 million for the program as a permanent budget allocation to the Canada Council, along with responsibility for creating the Commission. In April 1986, the Council convened a consultative meeting with representatives of the national associations of writers, translators, librarians and publishers to advise on the Commission’s role, membership, voting procedures and staffing arrangements. In June 1986, the Canada Council board approved establishment of the Payment for Public Use Commission along the lines recommended by that consultative meeting. The Council also authorized the necessary disbursement of the program funds to be administered by the Commission.

Although Minister Masse had not acceded to the writers’ organizations’ wish to administer the program themselves, he agreed that authors should represent a voting majority on the Commission, sitting alongside translator, librarian and publisher representatives. The Commission’s structure satisfied certain organizations that had lobbied successfully for PLR, particularly TWUC and the League of Canadian Poets. UNEQ was a different matter. The Quebec writers’ union believed that it and the anglophone writers’ associations should operate the program within their respective language communities. Supported initially by the Quebec government, UNEQ waged a running battle with the federal government and the PLRC over the governance issue for several years, beginning in 1986. As long as the battle continued, UNEQ refused to sit on the Commission, until it finally elected to take its assigned seat in 1993 [Larivière, paper].

For TWUC and the LCP, the Commission structure gave writers the advantage of being able to collectively exercise control over the PLRC’s policy and management decisions. Writer representatives attributed this outcome to their successful direct lobbying efforts with the Minister. Subsequently, from time to time, they have defended the PLRC’s autonomy against developments they perceived as encroachments on its independence. They have also sought to maintain direct contact with successive Ministers responsible for culture, in order to press the case for budgetary increases to keep pace with the rapid annual growth rate in

authors and titles funded by the program [Larivière, Schroeder, Burnet-Smith, Benzekri, Hoover].

The history of these governance and funding issues is not the subject of this paper. Nonetheless, it is noteworthy that the PLRC has seriously considered the complex question of whether it should pursue a separate, potentially more permanent foundation for PLR in legislation, or whether the program is better served by continuing under the original administrative arrangements with the Canada Council.

9 Conclusion

The achievement of Public Lending Right in Canada was a protracted and sometimes difficult process. It was realized only through the efforts of many players working, not always in a coordinated or harmonious fashion, toward that end. They included writers' and librarians' organizations in both official languages, publishers' and translators' associations, the Canada Council for the Arts, the Government of Canada, and dedicated individuals operating from a sense of principle.

In examining the policy foundations of PLR, this paper has summarized that process and the roles played by the various players. It has documented the program's original objective as being "to compensate authors for the use of their works through Canadian libraries." And it has tried to elucidate the policy principles and practical needs that animated the PLR debate, shaped the program, and ultimately defined its mandate. Those principles and needs are:

- The principles of fairness, equity, and recognition of a public service provided by authors, for which a public benefit is paid;
- The needs to improve authors' financial return from their creative work, recognize their contribution to Canadian culture, and reinforce their creativity.

Because of their fundamental, foundational nature, the program's objective and the underlying principles and needs have remained essentially unchanged over the past 25 years, and are unlikely to change over the next 25. In spite of very substantial changes in the technological, political and fiscal environments for PLR, the same objective, principles and needs can be expected to inform planning for the program well into the future

Appendices

Bibliography

Brongers, R.J. "The Author's Lending Right." *British Columbia Library Quarterly*, January 1967.

Ellsworth, Rudolph C. "Library Royalties in Canada, a Status Report." *Libri*, vol. 27, no. 3, 1977.

Hjelmqvist, Bengt. "Compensation to Authors for Library Loans in Sweden." Canadian Library Association, Proceedings of Annual Conference, 1963.

Kelly, Keith. "Assuring the Future of the Public Lending Right." Report to the Public Lending Right Commission, 2007.

Kirkegaard, Preben. "Authors' Lending Right in Scandinavia." Canadian Library Association, Proceedings of Annual Conference, 1972.

Larivière, Jules. “The Political and Legal Environment of Public Lending Right in Canada.” Public Lending Right Commission, Proceedings of 10th Anniversary Conference, 1996.

Schroeder, Andreas. “The First Ten Years.” Public Lending Commission, Proceedings of 10th Anniversary Conference, 1996.

Schroeder, Andreas. “Canada’s PLR Program: The Untold Story.” The Writers’ Union of Canada, Annual General Meeting, 2011.

Woodcock, George and Stuart-Stubbs, Basil. “When You Read a Library Book, Should the Author Be Paid? The Case for the Public Lending Right.” *Saturday Night*, March 1974.

List of interviews

Benzekri, Katharine, former program officer, Writing and Publishing, later Associate Head of Writing and Publishing, Canada Council for the Arts

Burnet-Smith, Douglas, former member of PLRC and Chair, 1994-6

Hoover, Gwen, former Executive Secretary, PLRC, 1990-2005

Kattan, Naïm, former Head of Writing and Publishing, Canada Council for the Arts

Larivière, Jules, former member of PLRC

Legault, Michelle, Executive Secretary, PLRC

McGoogan, Ken, member of PLRC and Chair, 2010-12

Porteous, Timothy, former Associate Director, later Director, Canada Council for the Arts

Rollin, Benoît, program officer, PLRC

Schroeder, Andreas, former member of PLRC and Chair, 1986-88

Sirman, Robert, Director, Canada Council for the Arts

Stuart-Stubbs, Basil, former Head Librarian, University of British Columbia

Associations/organizations represented on the Public Lending Right Commission:

Association nationale des éditeurs de livres

Association of Canadian Publishers

Association pour l'avancement des sciences et des techniques de la documentation

Bibliothèque et Archives nationales du Québec

Canada Council for the Arts

Canadian Authors' Association

Canadian Library Association

Écrivains francophones d'Amérique

Department of Canadian Heritage

The League of Canadian Poets

Library and Archives Canada

Literary Translators' Association of Canada

Playwrights Guild of Canada

Regroupement des écrivains acadiens

Union des écrivaines et des écrivains québécois

The Writers' Union of Canada