

Letters

Copyrights, Royalties, Reprints, and Scholarly Interests

Hayward Cirker, president of Dover Publications, writing on scientific paperbacks [*Science* 140, 593 (10 May 1963)] urges defeat of what he calls "the proposed bill" for revision of the United States Copyright Law. Specifically, Cirker hopes that members of the scientific and academic community will oppose extension of the period during which authors may own and thus derive income from the literary property they create.

As of 10 May no copyright revision bill was before Congress. The Copyright Office was then, and is still (10 June), in the midst of drafting a revision of the copyright law to be sent to Congress. As part of this process various proposals have been under consideration. One of these, the proposal to which Cirker objects, was aimed at fixing the maximum duration of copyright protection at 76 years.

Cirker mentions only this one supposed feature of the copyright revision "bill," but he makes a plea for the defeat of revision legislation in its entirety. It seems to me to be poor practice to ask the readers of *Science* to condemn a bill the full nature of which cannot be known because it has not been finally drafted. Moreover, since efforts are being made to get new legislation that will protect the interests of science writers along with all other writers, Cirker's recommendation is particularly unfortunate.

Under existing law, which will remain in effect if there is no revision, an author may receive protection for his work for as little as 28 years. If the author for any reason fails to renew the copyright during the 28th year, the work goes into the public domain. If the author does renew, the work is protected for another 28 years. Fifty-six years is the maximum duration of copyright. Laws about such publicly useful property as real estate, oil wells, factories, and others do not

normally place such severe time limits on private ownership.

When a literary property does enter the public domain, any publisher can reprint the work and obtain income from it without any obligation to the author who created it. Cirker calls this literary property a "public heritage," and says there will be "unwarranted usurpation" of this heritage if authors are able to own rights to their works for a period as long as 76 years.

He also states that inexpensive reprints depend "somewhat on public domain." The implication is that royalties paid to authors will keep books from reaching as many readers as they should. However, Cirker doesn't—and can't—give any credible guarantee that the savings effected by eliminating authors' royalties would be passed along to book buyers, and he does not mention how small these royalties actually are.

On a popular mass market paperback reprint that retails for \$1 or less, the royalty for the first 150,000 copies is usually 4 percent, to be divided 50-50 between the original publisher and the author. This means that on a dollar reprint the author gets 2 cents, and on a 25 cent reprint he gets ½ cent. The royalty rate is often no higher on reprints of more specialized books that retail from \$1 to \$2.50. Such books, Cirker notes, are usually printed in small editions varying between 5000 and 10,000. Even if the royalty were 10 percent on a specialized scientific reprint priced at \$2.50, Cirker would surely not contend that circulation of this book would be significantly increased if the entire royalty were eliminated and the price reduced to \$2.25.

Cirker implies that royalties are big enough to be a limiting factor on the circulation of paperbacks. Royalties are limiting factors, of course, but only to the extent that any similar legitimate costs are, and it is surely reasonable to expect that the price of a book should be high enough to pro-

vide payment to its author as well as to its printer and distributor. The present flourishing sale of scientific paperbacks is possible because authors have written books that people want to buy. Moreover, a considerable number of these books came into being—in part at least—because their authors hoped to derive income from them. It would surely not hurt and might well help the development of good paperbacks for the future if new copyright legislation provided greater incentives for the creation of such books.

Accordingly, I hope the scientific and academic community will urge extension of—rather than mere retention of—the present period of copyright protection. The Authors League of America recommends that this country fall into line with the practice used in a number of countries of western Europe by making copyright last for the lifetime of the author, plus fifty years. I hope that *Science* readers will see the advantage of this proposal to the future development of good books and will give their support by writing to their congressmen and to Abraham L. Kaminstein, Register of Copyrights, Library of Congress, Washington 25, D.C.

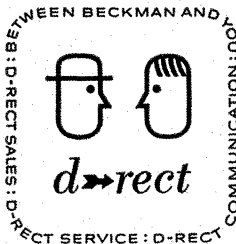
FRANKLIN FOLSOM
Roosevelt, New Jersey

I disagree with Folsom, but I am glad that his point of view and mine are publicly stated. A major bill for copyright revision is before Congress, but although this bill importantly affects every writer, reader, and person concerned with the dissemination of ideas, editors have not exposed the public to the issues involved. My adverse comments in my article in *Science* comprise one of the very few published statements in opposition to the bill.

It is apparent to me that the major forces behind the bill are powerful publishing interests who want to see their monopolistic grants of copyright strengthened and extended. They are quietly, but vigorously, pushing this bill through. When occasional individuals suggest that the bill may benefit the property interests of authors and publishers but not the public, they present a completely false picture of the economics of publishing to show that the prices of books, records, and music are not affected by royalty. The proponents of the bill avoid talking about the most important aspect of copyright: the grant of copyright

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is a grant of monopoly, and the extension of copyright is an extension of monopoly. If a bill were now before Congress to extend patent protection from its present 17-year period by only 5 to 10 years, in order to "encourage and better reward the inventor," it would be quite apparent to all that the major beneficiaries would be large commercial interests, and that the public would suffer through higher prices and further extension of restrictive practices. Doesn't the same hold true for the monopolistic grant of copyright? In a hearing on the bill, the Department of Justice quite properly opposed this aspect of the bill, on the grounds that the bill was an extension of monopoly.

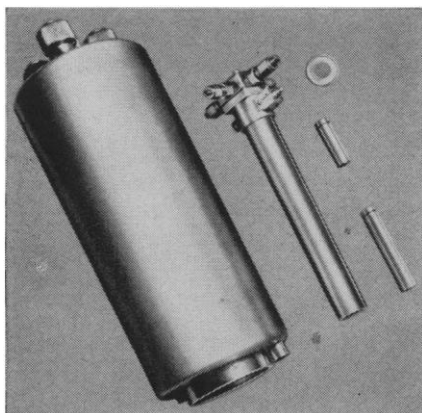
Unfortunately, the public is under the misapprehension that most copyrights are controlled by individual authors and composers who can be relied upon to do the right thing for the public (shades of the noble garret inventor!). This is not the case. By and large, copyrights are held and controlled by large music, book, and magazine publishers. Dominant forces such as Time-Life, Grolier, and Encyclopedia Britannica own and control the copyrights on everything they publish. Even when copyright is not owned by the publisher, it is usually controlled by him. Publishing is becoming bigger and more centralized. What we need now is legislation to slow down this trend. The public is not fully aware that a grant of copyright gives full and final control over material copyrighted. Since our law does not allow for compulsory licensing (as does the copyright law of many other countries), we grant this privilege to all copyright holders, not only in this country but in all other countries that are members of the International Copyright Convention. Isn't 56 years a long enough period for this privilege of unilateral restriction? Will it serve the national interest to further limit our use of foreign literature?

Censorship through copyright restriction is a common and serious problem. An unexpurgated English translation of *Mein Kampf* never appeared in the United States because the Hitler regime decided it would be better propaganda if Americans were given an abridged version, and American courts necessarily supported the Nazi position because the work was copyrighted. There have been, and there will be, other such cases. It is clearly against the public's interest to extend this

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privilege of censorial restriction beyond 56 years.

Copyright restriction can be a serious roadblock in scientific writing and research. Anyone who has attempted to obtain permission for reproducing work that is more than 30 years old knows how difficult and time-consuming it can be to locate the copyright holder, and how frequently the quest is unsuccessful. If scientists and educators are interested in disseminating knowledge, they certainly should not favor a law that makes such dissemination difficult, if not impossible.

Folsom presents a false picture of pricing methods in publishing—a not uncommon error of people who don't fully understand trade practice. Royalty is a cost which almost always increases the retail price by three times the amount of the royalty payable. If you take a book in the public domain that is usually priced at \$2.25 and add a 10 percent royalty of 22½ cents per book, the retail price will have to be increased to \$3, not to \$2.50. This factor of 3 is necessary to take care of booksellers' discounts and overhead. In the same way, a saving of 25 cents in binding cost can lower the price of a book by \$1.

Having a large body of literature in the public domain makes it possible to publish cheaper editions of this literature, and the availability of these cheap editions tends to limit the price for all books which are still protected by copyright. It is very difficult to price a paperback at \$5 when others are available from 25 cents to \$2. As the source of books in the public domain becomes smaller, the price of books protected by copyright will increase. There is no law or regulatory body which limits the pricing of copyrighted literature, even though the prices may be exorbitant and restrictive.

If the public is willing to pay considerably higher prices for thousands of books, records, and musical scores, it has the privilege of supporting the bill for copyright revision. However, I do object to statements that create the false impression that there will be little or no increase in price, and that these miniscule sums will aid hard-working, somewhat indigent authors. The increase in price will be substantial, and most of the money will go to a small group of publishers and authors who have already greatly profited from 56 years of copyright protection. I have never seen the present

copyright law inflict a hardship on any long-lived author, and I challenge proponents of the bill to present more than an occasional and unusual case where it has done so. On the remote possibility that this legislation may benefit these very few individuals, isn't it rather foolish to support legislation that contributes to monopolistic growth, further limits the circulation of ideas, and asks the public to pay additional millions of dollars to private interests?

The bill for copyright revision may pass because, as in the case of so many special-interest bills, minority property interests are strongly represented and no one is speaking for the public—a public that does not realize that the proposed bill is not calling just for a longer copyright period for new works but is granting an additional 20 years for all works copyrighted during the past 56 years. Except for the Department of Justice and a very few private citizens such as myself, no one has made any effort to inform congressmen of the full implications of the bill. The bill can be defeated if there is some resistance to it by an informed citizenry. Congress does not generally give public property to private interests, but it may very well do so unless the public asserts its rights and indicates that it objects to this usurpation of public property. I hope that, as scientists and educators become aware of all the implications of the bill, they will speak out against it, and that Congress will then be less susceptible to the pressures and blandishments of the special-interest groups that are pressing for this unfortunate piece of legislation.

HAYWARD CIRKER

*Dover Publications,
180 Varick Street, New York 14*

University Education and Applied Science

In approaching the subject of education in a university engineering department, I propose to take quite a broad view, for what I have to say is applicable to almost any university department and is not special to departments of engineering.

What is the objective of a university? As I see it, the preeminent objective of a university is developing students' minds: to take in good brains from high school and make them work as well as possible.