Inside Washington

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Even members of the House Judiciary Committee looked a bit skeptical when Irwin Karp, counsel for the Authors League, dismissed out of hand the librarians' suggestion that establishing a nationwide licensing system to capture royalties for library photocopying was impractical.

"It's poppycock to talk about these problems," exclaimed the irrepressible Karp when Representative Edward Pattison (D—N.Y.) asked during hearings on May 14 on copyright law revision whether "some sort of very complicated mechanism" would be required to collect these licensing fees.

Why, it's just "meretricious," added Charles Lieb, counsel for the Association of American Publishers, to say that "payment cannot be made because payment systems have not been established." In fact, if it weren't for the capriciousness of librarians, a licensing mechanism would already have been invented, Lieb implied. "We stand ready to establish a licensing system at our expense," he told the committee. But the librarians keep backing out of the agreement at the last minute. "They keep going up to the altar and backing away."

A former academic library director in the hearing room audience leaned forward and muttered, "You'd back away from the altar too, Charles, if you were about to be sacrificed."

Twenty minutes earlier, testifying for the six library associations concerned (ALA, ARL, SLA, Music, Law, Medical), ALA's Edmon Low had described the latest efforts of librarians and publishers to discuss the possibility of defining and licensing "systematic photocopying" as ambiguously described in the pending copyright bill (HR 2223).

"It must be emphasized, however," Low told the committee, "that there has been no agreement as to whether such a payment mechanism is acceptable to librarians even if it is workable, and also I may say no seemingly workable mechanism has yet been advanced in that it still appears it would take dollars to collect dimes."

In fact, representatives of ALA and other library groups have met eight times with the publishers since last December in a vain effort to patch up differences over photocopying. Held under the auspices of the Register of Copyrights and the National Commission on Libraries and Information Science, the meetings are the third series to be convened on this subject since 1972. In the previous two, no agreement was concluded because, as Barbara Ringer, Register of Copyrights, has said, "both sides agreed completely to do nothing."

On February 5 the current conferees again decided that they could all agree to do nothing —except keep talking. After admitting that "it was presently impossible to achieve any meaningful consensus concerning the existence of any obligation of libraries to compensate copyright proprietors for photocopies . . ." and adding that all parties reserved "their respective rights and positions as to the obligation of libraries . . . ," the conferees agreed to do a study.

A small working group has drawn up a set of objectives for the study and NCLIS has agreed to fund it. According to the working group's memorandum, written by ALA Executive Director Robert Wedgeworth, the study would take three months and will draw data from several representative communities of libraries located in Standard Metropolitan Statistical Areas throughout the country. "A basic assumption is that the larger the holdings of an SMSA, the larger will be the number of journal interlibrary loans," said the memorandum.

The individual libraries included in the test will be instructed to provide data on all interlibrary loan requests for journal articles they fill for other libraries. The data will then be analyzed for frequency and for geographic patterns. There is also the "understanding that such a study would include some testing of a payment mechanism." Members of the working group hope the study can get under way early this fall.

The purpose of the study is essentially twofold in order to satisfy both parties. The publishers, laying aside the skepticism of librarians, hope it will demonstrate that a workable licensing system can be put into effect with minimum expense and disruption to them or their customers. The libraries, while anticipating the experiment will show this licensing mechanism is impractical, also expect the data will show that multiple or large-scale duplication of individual journal articles by libraries is not occurring at all.

Meanwhile, the seven members of the Judiciary Committee's subcommittee on courts, civil liberties, and the administration of justice will continue to weigh the arguments. Not the least of these was Edmon Low's concluding point before the subcommittee at the May 14 hearing. In the final analysis, said Low, since "there is no evidence that the libraries' policies have caused publishers any harm whatsoever and may actually increase their subscriptions, it is clear that such demands are completely unjusti-

fied and the public interest requires that they be rejected by Congress."

But to members of Congress, the clearest definition of public interest may have been submitted by Father Robert Drinan (D—Mass.). A worried colleague who came to Drinan as a committee member to inquire about the bill said he had already received more than 300 letters from librarians and educators on the subject. If it came to a battle for the bill on the House floor, said the congressman to Drinan, this would determine his vote. "He told me, 'Well, there are more educators and librarians out there so I'd better go with them,'" said Drinan.

The lesson: good arguments are fine in committee, but numbers are best when it comes to a vote.

Keep writing. ■■

ACRL Membership

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May 31, 1974	12,483
May 31, 1973	12,100

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