Introduction

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As most librarians surely know by now, the Congress of the United States finally passed a copyright measure in 1976. This bill, the fourth comprehensive copyright revision[1] since the original act of 1790, had been in the legislative mill since the 1960s.[2] When it was signed into law as Title 17 of the *United States Code* late in 1976, it was hailed by publishers, scholars, librarians, and others interested in copyright as a landmark measure. The act provided that it would take effect 1 January 1978. Section 108(i) also provided that the Register of Copyrights conduct a five-year review to monitor the effectiveness of that section, which, again as most librarians know, regulates library photocopying.

The Register has conducted his public hearings, and he has issued his mandated report, which, not surprisingly, has turned out to be highly controversial. In addition, there has been continuing controversy in several other areas—e.g., off-air videotaping of television programs and duplication of personal papers in archives. It seemed to the editors to be a good time to put together an issue of *Library Trends* on some of these problems, in the hope that measured views of them might be useful to the library and broader communications communities in assessing the current state of affairs in at least a few areas of the copyright world. Deliberately excluded is any direct consideration of areas such as the sections of the act which regulate manufacturing, imports, etc., as being only of peripheral concern to librarians.

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The first paper is a librarian's view of the Register's report. Its author, Nancy H. Marshall, has been involved in copyright matters for a number of years, and has served as chairperson of the Copyright Subcommittee of the Legislation Committee of the American Library Association. In a closely reasoned paper, she reviews the events which led up to the review, including an outside study of the extent of photocopying in libraries, which was commissioned by the Register, the results of which were seen to have been largely ignored by him in writing his own report. Marshall details the portions of that report, including both statutory and nonstatutory recommendations, which at least part of the library community finds troublesome.

Roger D. Billings, Jr., Professor of Law at the Salmon P. Chase College of Law,Northern Kentucky University and formerly a publisher's attorney, reviews the celebrated *Williams & Wilkins* case of the early 1970s, its influence on Section 108, and that section's effectiveness. He looks briefly at subsequent legal actions against alleged infringers, the Copyright Clearance Center, the off-the-air question, computer programs and databases, public domain government and legal materials, and music. Billings concludes with a hard look at Section 107, which governs "fair use," and its place in all of these areas.

Jerome Miller, a member of the faculty of the University of Illinois Graduate School of Library and Information Science from 1975 to 1983, has long been interested in copyright matters, is a frequent writer on them, and has been a frequent speaker at conferences and workshops. Most recently, he has been operating a consulting firm, Copyright Information Services. In his paper, Miller examines in detail those provisions of the Copyright Act of 1976 which govern computer programs, databases and works derived from them. Deliberately omitted from the act originally, the present protection derives from a revision passed in 1980, subsequent to the final report of the National Commission on the New Technological Uses of Copyrighted Works (CONTU). He reviews briefly the provisions of the newly revised Section 117 governing copyright protection for computer programs, then examines copyright protection for computer databases (this is not included in Section 117), emphasizing the implications of this part of the law for libraries and information centers.

When we first planned this issue, Jerome Miller and I extended an invitation to John C. Stedman, Emeritus Professor of Law at the University of Wisconsin-Madison (UWM), to write a paper on "Reproduction of Multiple Copies of Journal Articles for Reserve Reading Collections." This was to have served as an update to his well-known article in the *AAUP Bulletin* and *College & Research News*.[3] Stedman

agreed to undertake the assignment with some reluctance, because of his precarious health. He began work on the article, but had to put it aside because of frequent and prolonged hospital stays. Nancy Marshall hoped to use his notes to complete the article, but she in turn was prevented from doing so by heavily increased responsibilities (as acting director of the UWM library). We greatly regret that this article did not materialize, and we are particularly saddened that such serious health problems have plagued one of the most outspoken and consistent advocates of the needs of library users.

William Troost has years of experience as a media specialist at the secondary and higher education levels, and has long been concerned about effects of the 1976 act on the operation of media centers. After a detailed review of effects, he concludes with an eminently practical set of guidelines for living with the present law and for seeking changes, addressed particularly to school media persons.

Archivists have long been caught up in the uncertainties of copyright. Some cases have been notable, such as the one in which heirs of President Warren G. Harding were successful in blocking, under common law, the publication of certain letters of the president to a woman friend, resulting in a book which had to be pruned in several places after it had been composed. Linda M. Matthews, an experienced archivist with an active interest in copyright, surveys the problems of duplication, quotation and even use of unpublished personal papers in archival collections.

Finally, we take a look at one of the real peculiarities of the Copyright Act of 1976—its treatment of music. Carolyn O. Hunter, an active music librarian and member of the Music Library Association's Legislation Committee, explores the reasons for this anomaly and details MLA's struggle to get recognition of the needs of scholars in the field of music, particularly copying privileges akin to those of scholars in other disciplines.

One of the difficulties in putting together an issue of *Library Trends* on a topic of great current interest and concern is that the fast flow of events often makes particular statements invalid in a very short time, even overnight. This issue is a reflection of tides and currents up to 1 August 1983 after which time the issue went into production. We hope that our readers will take this into account if they encounter any seemingly out-of-date statements.

We also wish to acknowledge the assistance of one of our colleagues, Professor D. W. Krummel, in unraveling a number of tight editorial knots.

References

1. The others were in 1831, 1870 and 1909.

2. The Copyright Office funded a study in 1955, which culminated in the *Copyright Law Revision Studies* (34 vols., 1960-61; 35 vols. 1960-63). Washington, D.C.: USGPO.

3. Stedman, John C. "Academic Library Reserves: Photocopying and the Copyright Law." *AAUP Bulletin* 64(Sept. 1978):142-49; and _____ . "Academic Library Reserves Photocopying and the Copyright Law." *College & Research News* 39(Oct. 1978): 263-69.