

ILLUSTRATION FOR THE CHRONICLE BY LOEL BARR

Copyrights and the writer's lot

By Michael Mewshaw

WITH Congress currently considering the first revision of this country's copyright statute since 1909, most public attention has focused on the sections of the bill concerning fair usage and the illegal duplication of material without consideration of, and compensation to, the author.

Writers and publishers have insisted that they should be remunerated when their books and articles are systematically reproduced, thus substituting a copy for the original which would have been purchased. But librarians and educators have lobbied aggressively for an "educational exemption" allowing free photocopying for classroom use and the reproduction of manuscripts for various scholarly purposes.

Any number of excellent, objective essays have been written on this issue, discussing the potential economic impact on individuals and institutions, and touching briefly upon the philosophical implications of both points of view.

I have no inclination to continue the debate on that key. I am neither a copyright lawyer nor an accountant, and I don't see that it would serve any purpose to make a pretense of objectivity. I stand to be directly affected by the bill as an educator and writer of fiction, journalism, and criticism.

While debate over the new copyright bill may be carried on at a lofty level of abstraction, its repercussions are bound to be practical, and although the profits of the publishing industry appear impressive, the picture for the overwhelming majority of authors is dreadful, very nearly desperate. But the public sees only the spectacular successes which perpetrate a mistaken notion that all writers are rich.

The paperback rights to E. L. Doctorow's novel, *Ragtime*, recently sold for $1.85-million. Yet to seize upon this one sale, or even a dozen like it, and say that authors don't need copyright protection would be as foolish and callous as pointing to a brand new, chrome-plated, gas-guzzling Cadillac and telling an unemployed automobile worker that the economy is booming.

In fact, just as there are analysts who maintain that the gas-guzzling Cadillac is a symptom of what's wrong with our economy, there are those who think blockbusting best-sellers don't build a better climate for books in general, but rather call attention to themselves, absurdly inflate the bank accounts of a handful of well-known writers, and leave the cupboard bare for everybody else.

The sorry truth is that many fine writers can't find a market for their work. With the cost of paper and production soaring, publishers have begun rejecting books which are unlikely to have broad commercial appeal—*i.e.*, ones unlikely to be taken by book clubs, bought by paperback houses, or made into movies. The effect on innovative, experimental, and unconventional writers has been particularly calamitous, and the university presses, facing financial difficulties of their own, are in no position to take up the slack.

Those writers who are fortunate enough to locate publishers often trade one set of problems and disappointments for another. It is not unusual for an author to receive less than $5,000 for a book that required years of research and writing. Such books, whatever their merit, are seldom well-promoted or even reviewed in prominent places, and are apt to be remaindered after a few months.

Prospects for publication in paperback aren't much better. Most books, especially novels, are never reprinted; unlike Mr. Doctorow, who received a cornucopia of cash, many writers sell their paperback rights for under $10,000.

"In an economic system where one expects to pay for films, record albums, and the daily newspaper, why should intellectual products be treated as throwaways, something to be used up and then discarded?"

Even this figure is misleading, since the hardback publisher skims off 50 per cent, the agent 10 per cent, and the author gets whatever is left when, and if, his book earns back its advance. It shouldn't be surprising then that, according to P.E.N., an international organization of poets, essayists, and novelists, only 3 per cent of its members can support themselves by writing.

In other nations the government has recognized the seriousness of the situation and the importance of a vibrant publishing industry, and has made an effort to improve the hard lot of writers.

Left to Sink or Swim

In Ireland, for instance, the assumption is that since writers and artists already make an extraordinary contribution to society, they should pay no income taxes. In Morocco writers and artists are offered free accommodations. Latin American countries often reward authors with sinecures in the foreign service and post them abroad as cultural attachés. In Scandinavia the government supports a well-organized authors' union by paying a small royalty each time a book is borrowed from a public library. Great Britain, which is considering a similar royalty arrangement, has long had laws forbidding the resale or loan of books for profit.

By contrast, American authors are left to sink or swim alone. The Internal Revenue Service ironically classifies royalties as "unearned" income, and although it may have taken a writer a decade to finish a book, the government takes its bite immediately. Public and private libraries are permitted to buy a single copy of a novel or journal and loan it out as often as they like. They can even charge a rental fee and still not have to pay anything extra to the author or publisher. And when the book is worn out or no longer popular, they can sell it second-hand, or, if they lack all principle, they can return it to the publisher for a full refund.

But when a writer is worn out or near the end of his career and wants to donate his papers to a library or university in the hope of obtaining a tax break, he discovers that the I.R.S. has closed that avenue of relief. For tax purposes, manuscripts owned by the author who generated them have been judged as holding no value. Only when they've been bought or inherited by another party can they be contributed for a tax advantage.

It is against this depressing background that librarians and educators have proposed cutting their costs by making photocopies of magazines, maps, novels, and manuscripts.

One explanation is that libraries and universities can no longer afford to purchase as many books and journals as they would like and have despaired of asking state legislatures or the federal government for additional funding. That would require unpleasant political wrangling, perhaps raising taxes or reducing other programs. How much simpler to demand that authors and publishers subsidize them! In effect, they are asking writers to ignore their own economic difficulties and act like good socialists, spurning the profit motive and resigning themselves to a diminished income, while the rest of the country—including the librarians and educators—continues to act like a clutch of hard-nosed capitalists.

Of course it can be maintained that culture belongs to "the people" and that intellectual products should be readily accessible to everybody. I support the spirit of this contention, but not if it means that authors have to foot the whole bill. After all, they are "people" too. If libraries can't afford to keep up with current publications, their budgets should be raised and the financial burden spread to all taxpayers. If qualified students can't afford to buy the books required for their courses, then more money should be made available for scholarships and loans. If scholars can't continue important research projects because of the prohibitive cost of books, then more fellowships and grants are needed.

These may sound like simplistic solutions, but surely they make more sense than stealing from paupers to prop up the potential audience.

Ultimately, however, the copyright debate transcends the economic issues, as crucial as they are. A more pertinent question is whether—and to what extent—our country values its writers and other cultural resources. Does a society that feels it can casually reproduce and exploit an author's work for free really respect the written word? Can an academic community that undercuts the publishing industry which it depends upon continue to survive? In an economic system where one expects to pay for films, record albums, and the daily newspaper, why should intellectual products be treated as throwaways, something to be used up and then discarded?

The Library as Publisher

A few years ago I was invited to speak at a private, expensive college on the East Coast. Before the lecture I met with students in a seminar in contemporary literature. They had been assigned one of my novels and wanted to discuss it with me. I arrived to discover each member of the class in possession of a Xerox copy of the book.

The explanation wasn't that the students couldn't afford the hardback, or that the photocopied version was cheaper. There was, in fact, a paperback edition which would have been far more economical. But it was easier for the professor to telephone the library, have 20 copies of the novel run off, and charge it to the school.

I won't claim it broke me or my publisher to miss those 20 sales. But an accumulation of such incidents does finally affect the fortunes and fates of writers and publishing houses. And meanwhile, it certainly diminishes a man's morale.

Librarians and educators may have a point when they argue that the new copyright statute will raise their operating costs. But isn't it worth the expense when the alternative is a bankrupt culture?

Michael Mewshaw's most recent novel is "The Toll." He is on leave this year from the University of Texas, working on a new novel in Rome.