BILL	DATE	PAGE(S)
S. 646	3/29/71	S 5939-42

ACTION: Passed with Committee amendments.

CREATION OF A LIMITED COPYRIGHT IN SOUND RECORDINGS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 74, S. 646.

The PRESIDING OFFICER (Mr. KENNEDY). The bill will be stated by title.

The legislative clerk read as follows:

S. 646, to amend title 17 of the United States Code to provide for the creation of a limited copyright in sound recordings for the purpose of protecting against unauthorized duplication and piracy of sound recording, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments on page 2, line 9, after the words "copyrighted sound recording; or to", to strike out "single ephemeral recordings" and insert "reproductions"; in line 10, after the words "made by transmitting organizations", insert "exclusively"; in line 10, after the words "Sound recordings", to strike out "other than fixations of sound accompanying a motion picture"; on page 3, line 10, after the words "on the surface", to insert "of reproductions"; in line 10, after the words "considered to be a copy thereof.", insert the following:

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture. "Reproductions of sound recordings" are material objects in which sounds other than those accompanying a motion picture are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device, and include the "parts of instruments serving to reproduce mechanically the musical work," "mechanical reproductions," and "interchangeable parts, such as discs or tapes for use in mechanical music-producing machines" referred to in sections 1(e) and 101(e) of this title.

SEC. 2. That title 17 of the United States Code is further amended in the following respect:

In section 101, title 17 of the United States Code, delete subsection (e) in its entirety and substitute the following:

"(e) INTERCHANGEABLE PARTS FOR USE IN MECHANICAL MUSIC-PRODUCING MACHINES.—Interchangeable parts, such as discs or tapes for use in mechanical music-producing machines adapted to reproduce copyrighted musical works, shall be considered copies of the copyrighted musical works which they serve to reproduce mechanically for the purposes of this section 101 and sections 106 and 109 of this title, and the unauthorized manufacture, use, or sale of such interchangeable parts shall constitute an infringement of the copyrighted work rendering the infringer liable in accordance with all provisions of this title dealing with infringements of copyright and, in a case of willful infringement for profit, to criminal prosecution pursuant to section 104 of this title. Whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, relying upon the compulsory license provision of this title, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at his last address disclosed by the records of the copyright office, sending to the copyright office a duplicate of such notice.";

On page 5, line 9, to strike "SEC. 2." and insert "SEC. 3"; after the word "three", insert "four"; in line 10, following the words "months after its enactment", insert "except that section 2 of this Act shall take effect immediately upon its enactment"; and in line 12, following the words "United States Code", insert "as amended by section 1 of this Act," so as to make the bill read:

S. 646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 17 of the United States Code is amended in the following respects:

(a) In section 1, title 17, of the United States Code, add a subsection (f) to read:

"To reproduce and distribute to the public by sale or other transfer of ownership, or by rental, lease, or lending, reproductions of the copyrighted work if it be a sound recording: *Provided,* That the exclusive right of the owner of a copyright in a sound recording to reproduce it is limited to the right to duplicate the sound recording in a tangible form that directly or indirectly recaptures the actual sounds fixed in the recording: *Provided further,* That this right does not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording; or to reproductions made by transmitting organizations exclusively for their own use."

(b) In section 5, title 17, of the United States Code, add a subsection (n) to read:

"Sound recordings."

(c) In section 19, title 17, of the United States Code, add the following at the end of the section: "In the case of reproductions of works specified in subsection (n) of section 5 of this title, the notice shall consist of the symbol P (the letter P in a circle), the year of first publication of the sound recording, and the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner: *Provided,* That if the producer of the sound recording is named on the labels or containers of the reproduction, and if no other name appears in conjunction with the notice, his name shall be considered a part of the notice."

(d) In section 20, title 17, of the United States Code, amend the first sentence to read: "The notice of copyright shall be applied, in the case of a book or other printed publication, upon its title page or the page immediately following, or if a periodical either upon the title page or upon the first page of text of each separate number or under the title heading, or if a musical work either upon its title page or the first page of music, or if a sound recording on the surface of reproductions thereof or on the label or container in such manner and location as to give reasonable notice of the claim of copyright."

(e) In section 26, title 17, of the United States Code, add the following at the end of the section: "For the purposes of this section and sections 10, 11, 13, 14, 21, 101, 106, 109, 209, 215, but not for any other purpose, a reproduction of a work described in subsection 5(n) shall be considered to be a copy thereof. "Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture. "Reproductions of sound recordings" are material objects in which sounds other than those accompanying a motion picture are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device, and include the "parts of instruments serving to reproduce mechanically the musical work," "mechanical reproductions," and "interchangeable parts, such as discs or tapes for use in mechanical music-producing machines" referred to in sections 1(e) and 101(e) of this title.

SEC. 2. That title 17 of the United States Code is further amended in the following respect:

In section 101, title 17 of the United States Code, delete subsection (e) in its entirety and substitute the following:

"(e) INTERCHANGEABLE PARTS FOR USE IN MECHANICAL MUSIC-PRODUCING MACHINES.—Interchangeable parts, such as discs or tapes for use in mechanical music-producing machines adapted to reproduce copyrighted musical works, shall be considered copies of the copyrighted musical works which they serve to reproduce mechanically for the purposes of this section 101 and sections 106 and 109 of this title, and the unauthorized manufacture, use, or sale of such interchangeable parts shall constitute an infringement of the copyrighted work rendering the in-

42

fringer liable in accordance with all provisions of this title dealing with infringements of copyright and, in a case of willful infringement for profit, to criminal prosecution pursuant to section 104 of this title. Whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, relying upon the compulsory license provision of this title, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at his last address disclosed by the records of the copyright office, sending to the copyright office a duplicate of such notice."

SEC. 3. This Act shall take effect four months after its enactment except that section 2 of this Act shall take effect immediately upon its enactment. The provisions of title 17 of the United States Code as amended by section 1 of this Act, shall apply only to sound recordings fixed, published, and copyrighted on and after the effective date of this Act and nothing in title 17 of the United States Code shall be applied retroactively or be construed as affecting in any way any rights with respect to sound recordings fixed before that date.

Mr. McCLELLAN. Mr. President, S. 646, as reported by the Committee on the Judiciary, amends the Copyright Act of 1909 to establish a limited copyright in sound recordings, and provides stronger damage provisions in the event of a violation of the mechanical royalty section of the copyright law. The legislation, of which I am the principal sponsor, is cosponsored by the distinguished senior Senator from Pennsylvania (Mr. SCOTT), the senior Senator from Texas (Mr. TOWER), the senior Senator from Tennessee (Mr. BAKER), and the junior Senator from California (Mr. TUNNEY).

The recent rapid increase in the unauthorized commercial duplication of legitimate recordings has become a serious problem both in this country and abroad. The widespread availability of inexpensive equipment has encouraged extensive commercial pirating of recordings and tapes. While it is difficult to establish the exact volume or dollar value of current pirating it is estimated by reliable trade sources that the annual volume of such piracy is now in excess of $100 million. The pirating of records and tapes is not only depriving legitimate manufacturers of substantial income, but performing artists and musicians are being denied royalties and contributions to pension and welfare funds. Federal and State Governments are losing tax revenues. By granting a limited copyright in sound recordings this legislation will make a major contribution to the suppression of this unethical and unfair business competition.

The Committee on the Judiciary on April 21 received a report from the Department of State declaring that the Department "fully supports S. 646 and recommends its early enactment into public law." The Department of State indicates that the United States is playing an active role in the development of an international treaty that would include provisions similar to S. 646. The report of the Department further states that:

United States ratification of or adherence to the proposed treaty depends, of course, upon enactment of a domestic law such as S. 646. Accordingly, passage of the proposed legislation is necessary to give the Department of State an effective basis for continuing its efforts to secure international protection for American sound recordings.

The Committee on the Judiciary has been informed that the Library of Congress and the Copyright Office are "fully and unqualifiedly in favor of the purpose the bill is intended to fulfill." I concur in the view of these agencies that "the national and international problem of record piracy is too urgent to await comprehensive action on copyright law revision."

This legislation in no way restricts fair business competition in the production of phonograph records and tapes. By virtue of the mechanical royalty compulsory license, any record manufacturer is authorized to use a copyrighted song that has been licensed for use in a recording. Any of the so-called pirates who wish to make the investment in production and talent that is being made by the legitimate record companies may make use of the same copyrighted songs.

The extension of copyright protection to recordings has been recommended by the Copyright Office after protracted study in connection with the general revision of the copyright law. This legislation has the support of all segments of the artistic community—authors, composers, performers, music publishers, and record companies. At the executive session of the Judiciary Committee which considered this bill there was no opposition indicated by any of the members who were present. I urge the Senate to pass S. 646 as reported and pass it today.

Mr. President, I have received a number of communications supporting this bill from interested parties and organizations.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a few of the many letters which I have received describing the need for this legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL TAPE DISTRIBUTORS OF NEW JERSEY, INC.,
Linden, N.J., March 29, 1971.

Hon. Senator JOHN L. MCCLELLAN,
Chairman of the Sub-Committee on Patents, Trademarks, and Copyrights, The Senate, U.S. Capitol, Washington, D.C.

DEAR SENATOR MCCLELLAN: This is to inform you of my feelings toward your recently introduced antipiracy Bill #S646. As Director of Sales on the East Coast for my company, I speak for my entire sales force when I say we've long awaited introduction of such a Bill as #S646. I cannot emphasize enough, how important it is to us to have this Bill become a law as soon as possible.

In my three years with National Tape Distributors, I have seen what was a minor backroom counterfeit problem grow into what is today; a mass array of illegal duplicators of Pre-recorded Music. These pirates who illegally duplicate music pay no royalties nor taxes and are simply stealing. Their stealing from: legal recording companies, recording artists, distributors, retail stores, and most important the buying public who can't always tell the difference between "Bootleg" and honest merchandise. They soon find out though because in most cases "Bootleg" recordings are of poor quality and carry no guarantee of workmanship to protect the consumer. Now I ask you is it fair that all these taxpayers lose out to bands of thieves who could care less who is hurt by their get rich quick scheme's all because there are no adequate laws against such cheating? But now there is a way to curb this piracy and I hope you will do your part by voting for the passage of Bill #S646.

Not too long ago I received in the mail from one of my salesmen a "Bootleg" tape and a letter. In the letter he asked me if there was anything that could be done to stop the sale of "Bootleg" tapes to his stores. In the past year he has lost thousands of dollars in sales because of this "Bootleg" problem which for him only means dollars lost in commissions. He was looking to me for help. Now we are looking toward you.

Respectfully,

THOMAS J. CATANZARITE,
Director of Sales.

D. & D. DISTRIBUTING CO.,
March 31, 1971.

Senator JOHN L. MCCLELLAN (Ark.),
Chairman, Subcommittee on Patents, Trademarks, and Copyrights, Senate Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR MCCLELLAN: I urge you to do everything you can to speed through passage of "Bill S-646" the bill for Piracy which you introduced on February 8, 1971.

I am manager of the Phonograph Record and Tape Division of the D&H Distributing Company with branches in Harrisburg, Pa. and Baltimore, Md., servicing over 600 R[illegible]ord and Tape Dealers in the states of Pen[illegible] Md., Va., W. Va., and Delaware.

In the past year piracy has become so flagrant in our markets as to affect the competitive position of many legitimate dealers and place them in a position that they have been forced to give almost if not all of their profits away in order to keep many of their customers.

These pirates have gone to the extreme of offering their pirated tapes to dealers and even gas stations on a consignment basis. Many of these don't even realize that this merchandise is pirated, others are advertising in their stores that these records and tapes are "Bootlegged and Pirated" and are offering them at ridiculously low prices.

One of our largest tape customers who has been fighting this situation competitively all along is now considering buying duplicating equipment to make his own pirated tapes in order to maintain his business and the image it has taken him years to build.

If this bill is not passed quickly I can see more legitimate retailers giving up the fight and joining these pirates to get a pie[illegible] of the action I can also envision dea[illegible] and distributors like ourselves who refuse to buy these tapes and who refuse to sell ev[illegible] legitimate merchandise to dealers who handle these bootlegged and pirated tapes suffering loss of sales, profits and potential legitimate growth in what could be a beautiful industry. It will be discouraging to see pirating responsible for as many dollars at retail as legitimate product.

We can't afford to fight these people in civil courts where we would be wasting our time, effort and money.

Your introduction of this bill points out your concern for the effect these people have on our economy, now please don't let this thievery go on and on.

Hopefully,

DAVID PRESS,
Manager, Record—Tape Division.

GRT CORPORATION,
Sunnyvale, Calif., February 16, 1971.

Senator JOHN L. MCCLELLAN,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MCCLELLAN: Needless to say, I am delighted that you reintroduced bill S. 4592 (now S. 646) amending the copyright

statute "to provide for the creation of a limited copyright in sound recordings for the purpose of protecting against unauthorized duplication and piracy of sound recordings, and for other purposes." The import of this bill cannot be underestimated.

Not a single day passes that I do not receive a field report of new incursions by bootleggers into my business. How is a legitimate businessman to compete with someone with a fraction of the expenses who is therefore able to sell the product for a fraction of the price, said advantage being gained by unlawful appropriation?

This mighty nation of ours was built upon the cornerstone of Adam Smith's philosophy of free enterprise. And for decades the federal government has been passing laws encouraging competition while seeking to dissuade unfair business methods. The present situation of tape piracy is just such an area which needs federal safeguards to foster "legitimate" competition.

Your leadership in this area is setting an example to all Americans of the function of the federal government in fostering and preserving our system of free enterprise. Keep up the good work.

Very truly yours,

ALAN J. BAYLEY,
President.

COUNTRY MUSIC ASSOCIATION, INC.,
Nashville, Tenn., April 13, 1971.

Senator JOHN L. MCCLELLAN,
Chairman, Subcommittee on Patents, Trademarks, and Copyrights, Senate Office Building, Washington, D.C.

DEAR SENATOR MCCLELLAN: The Country Music Association is an international trade organization consisting of some 3,000 members divided into twelve categories.

The bootlegging and counterfeiting of musical recordings is a menace to all of our membership. The Country Music Association strongly urges your support of the Anti-Piracy Bill and strongly recommends that the bootlegging and counterfeiting of musical recordings be made a federal offense.

I am sure that I do not need to point out to you and other members of your Committee the evils of piracy in any field. We can, however, cite examples of this evil in the music industry and shall be happy to do so, if the information is needed.

Thank you very much for your consideration.

Sincerely,

(Mrs.) Jo WALKER.

BENDER & WIGGINS MUSIC CO.,
Clinton, Iowa, March 5, 1971.

Subject: Bill #S 646 Anti-Piracy.

Senator JOHN L. MCCLELLAN,
U.S. Senate, Senate Committee on the Judiciary, Washington, D.C.

DEAR SENATOR MCCLELLAN: I know you have received many letters from the so-called "biggies" in regards to anti-piracy. As an ordinary music store, quite frequently sales representatives freely try to sell us copies of the original at a much reduced price. It is quite tempting, especially with keeping the doors open not too easy any more. However, we have not done it. The salesmen tell us we are very foolish because many do it and make a much finer profit. However, I believe there should be some ethics in business.

We would be much more interested if our government would practice economy and cut the ridiculous inflationary period we are going through back to normal.

I have a suggestion: Ever think of what would happen if steel, for instance, instead of going along with strike requests they would hold the line and cut the cost of basic steel 10%. I am sure if a lot of this was done, our inflation would be controlled. However, the government would lose quite a chunk in payroll taxes through losing the added raises in pay.

Sincerely,

ART J. BENDER.

D. & H. DISTRIBUTING CO.,
Baltimore, Md., April 14, 1971.

Senator JOHN L. MCCLELLAN,
Chairman, Subcommittee on Patents, Trademarks, and Copyrights, Senate Committee on the Judiciary, Washington, D.C.

DEAR SENATOR MCCLELLAN: As Salesmanager for D&H Distributing Company in their Tape Division, the situation has come to pass whereby we are being punished business-wise because of bootleg and counterfeit tapes that are circulating in our market by many companies. This is affecting not only us, but many of our dealers who try to be legitimate and not handle this type of merchandise.

We feel the time has come for copyright laws to be passed that will afford protection for us and the people with whom we do business.

Thanking you for your consideration, I remain,

Yours truly,

A. E. VOGT,
Manager, Record and Tape Division.

MOTOWN RECORD CORP.,
March 1, 1971.

Hon. JOHN L. MCCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MCCLELLAN: I am writing as a concerned member of the recording industry with respect to legislation now pending in the Senate of the United States, Bill #S.646, regarding limited copyright in sound recordings aimed at the problem of record and tape piracy.

For myself personally and for not only those of us at Motown Record Corporation but our colleagues in the record industry, we strongly endorse this legislation and concur entirely your statement of December 18, 1970 on this subject.

In view of the fact that this legislation is noncontroversial in nature and has been endorsed by the Senate Sub-committee; the Copyright Office via L. Quincy Numford, the Librarian of Congress; and the House of Representatives, I would certainly hope and request that prompt and speedy action on this legislation could take place in the Senate.

I am further advised that certain international conferences and conventions are presently taking place which would greatly lend to the elimination of piracy in foreign territories. As you probably know, as bad as this problem is in the United States there are certain foreign territories where this problem is even worse. It is very encouraging to see a worldwide awareness of this problem and concrete steps being taken to create a legislative framework within which to deal in a lawful and regulated manner with this problem.

I understand that for American Record Companies and their artists and producers to be effectively protected by the international agreements now pending, it is necessary for the instant legislation granting limited copyright in sound recordings to become law. This is, of course, an extremely important additional reason I am personally requesting your favorable and prompt consideration of this legislation.

I am sure it can conservatively be estimated that the artists, the producers, the musicians (through A.F. of M.), as well as the owners of the master tapes are, by the illegal acts of the pirates, being deprived of enormous sums to which they are rightfully entitled. The passage of this legislation could possibly, in its own way, assist in keeping the price of sound recordings at or close to their present level rather than being raised and contributing to inflation.

Sincerely yours,

RALPH L. SELTZER,

Mr. HART. Mr. President, the able Senator from Arkansas has correctly reported to the Senate the course that the pending bill followed in the subcommittee and the full committee. Most particularly, when the bill was considered at the executive session of the full committee, no opposition and no questions were raised. Unfortunately, my schedule had me in attendance at a hearing of the Commerce Committee in Seattle, Wash. on the day of the executive session of the Judicial Committee. As a consequence, the questions I raise now were not raised in committee. For this, I am in a sense apologetic.

Mr. President, the Founding Fathers authorized Congress to exercise legislative power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." This grant of and limit upon the power of Congress has given rise to copyright protection, a power to impose "a tax on readers for the purpose of giving a bounty to writers." T. Macaulay, Speeches on Copyright 25—C. Gaston, ed., for 1914.

Although there is little by way of "legislative history" on this provision of the Constitution, it is clear that copyright protection was intended to benefit "authors" of "writings" for a limited period of time in order to promote the progress of science and the useful arts. Like the other constitutional delegations of authority to Congress, the copyright clause is both a grant of power and a limitation upon the power of Congress to act in this field.

The bill pending before the Senate, S. 646, is sound in purpose, troublesome in design, and vague in reach. Its purpose is to prevent record "piracy," both the illegal form of piracy, where statutory copyright is not paid and legal piracy where all statutory liabilities are met. The latter practice is characterized by the committee report as unauthorized as well as the former; even though the latter complies with all that the law requires. The committee report makes no measure of the extent of the problem, the availability of alternative remedies, nor the effectiveness of the remedy chosen. Indeed, the report implicitly acknowledges that this activity is a recent phenomenon. The report is a further indication that rapid technological change may have left us with an inadequate legislative record from which to formulate precise remedies for carefully defined wrongs.

The bill is troublesome in design since the protection granted is not precisely located. The committee report acknowledges that "the copyrightable work comprises the aggregation of sounds and not the tangible medium of fixation." However the report then goes on to state:

The copyrightable elements in a sound recording will usually, though not always, involve "authorship" both on the part of performers whose performance is captured

and on the part of the record producer responsible for setting up the recording session, capturing and electronically processing the sounds, and compiling and editing them to make the final sound recording.

Consequently, the location of copyright protection is left unclear—is it in the performer, the recorder, or the record—as the report acknowledges. Granting copyright to the record would seem inconsistent with the constitutional grant to provide copyright protection where one cannot be classified as an author of a writing.

The reach of the proposed bill is vague even if authorship is located. The "author" is granted the exclusive right to "reproduce and distribute to the public by sale or other transfer of ownership, or by rental, lease, or lending, reproductions of the copyrighted work." A proviso limits the right of reproduction to the duplication of the sound recording in a "tangible form that directly or indirectly recaptures the actual sounds fixed in the recording." The committee report does not define the reach of this grant of exclusivity to reproduce and distribute. How much further the right extends beyond exclusion of a "pirate" to reproduce an exact copy on a disc or tape is not clear. In a field of rapid technological change we should be careful not to erect barriers to the evolution of technology.

In part, my confusion results from the use of the copyright grant to attack the problem of record piracy. Presumably, the committee believes record piracy imperils the investment of risk capital in the recording industry, although no measure of this peril is made. This may well be so, and it may be a wrong in need of a remedy. But neither the patent grant nor the copyright grant were intended to protect the separate interest of an entrepreneur's investment of risk capital. They are limited to the protection of authors and inventors for the purpose of encouraging the disclosure of inventions and the publication of writings. Consequently, the use of copyright to protect the investment of risk capital by nonauthors is not within the scope of the constitutional grant.

This does not mean we should be unconcerned with the problem of protecting the investment of risk capital, if investigation reveals that the current state of the general law is incapable of protecting worthwhile investment of risk capital in the music industry. Granting record companies copyright protection in the process of reducing a performance to a tangible recording capable of reproduction, is being done to protect the "substantial income" these nonauthors derive from the sale of records. This kind of remedy for the problem of "piracy" may well stamp out the "pirates," but at the same time may well secure the monopoly profits of record companies for activity which is not within the purpose of granting copyright protection.

While I am not an expert on the economics and jurisprudence of copyright, much less the practical problems of the music industry, it would seem to me that careful thought and investigation of alternatives may yield a less questionable and more precise remedy for any wrong which exists.

For example, the extension of copyright protection to the performer of a musical work captured in a tangible form, coupled with adequate remedies, may prove a more successful but less drastic step to curb unjust piracy. Some thought might be given to restricting the channels of distribution of unfairly pirated musical performances by penalizing anyone who knowingly distributes pirated recordings. Compulsory licensing of whatever right is granted by S. 646 would at least reduce the scope of the monopoly granted if the Congress is unsure of the economic facts for and against this proposal.

As I have indicated, I am not an expert on copyright or the music industry. However, the extension of copyright protection should not be lightly taken since it has the effect of carving out an exclusive monopoly over an expression of an idea. It is also the creation of a form of property which gives the property holder a right to tax the use of the property or totally exclude any use. I am not prepared to say that an artist's creation or performance is not entitled to copyright protection, although there are some who seriously suggest that the best interests of society may be served by abolishing some forms of copyright protection. S. Breyer, "The Uneasy Case for Copyright: A Study of Copyright in Books, Photocopies and Computer Programs," 84 Harvard Law Review 281 (1970).

By the same token, I am not willing to extend copyright protection without clear and convincing evidence that we reward an author for his writings in order to promote science or the useful arts. And, I must reluctantly vote no when we extend copyright protection for any other purpose, regardless of how laudable that purpose may be. It is a misuse of the copyright grant; it is the extension of a monopoly over the expression of ideas; and it is doubtful that we will constitutionally remedy the problem of piracy without further thought and examination of alternatives available.

An artist's expression should be as free as possible, consistent with the need to compensate the artist to induce the expression. Vesting copyright protection in the record manufacturer may end the free ride of the pirate, but it may well restrict the widest dissemination of the artist's expression without adding to the compensation of the artist. Thus, my vote nay is not a vote for the pirate and against the artist or even against the record company. My vote nay is for the widest dissemination of the expression of ideas in a manner consistent with the constitutional grant of copyright authority. My vote nay is for further study of the issue of piracy with a view toward clearer definition of the problem and a more precise remedy consistent with our constitutional authority.

Mr. McCLELLAN. Mr. President, I think my previous statement explaining the bill will suffice to confirm the need for this legislation and also it is sufficient to answer the doubts expressed by my distinguished friend, the Senator from Michigan.

In view of the overwhelming support for the measure and the urgency of it, I shall ask for immediate consideration of the committee amendments.

Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.