



ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559

NOTICE OF PUBLIC HEARING

MANUFACTURING CLAUSE STUDY

The following notice of public hearing was submitted by the Library of Congress, Copyright Office, to the *Federal Register* on December 10, 1980, for subsequent publication.

LIBRARY OF CONGRESS

Copyright Office

[Docket LPR-80-10]

Manufacturing Clause Study

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of public hearing.

SUMMARY: At the request of Congress, the Copyright Office is undertaking a study of the possible economic impact of the elimination of the so-called "manufacturing clause" from the United States Copyright law as provided by section 601 of Title 17 of the United States Code. The "manufacturing clause" is scheduled to be eliminated from the law on July 1, 1982. The Copyright Office must prepare its final findings and recommendations for the Congress to be filed on or about July 1, 1981.

DATES: The hearing will be held on January 13, 1981 at the James Madison Building of the Library of Congress, First and Independence Avenue, S.E., Washington, D.C., in the Assembly Room, on the sixth floor, beginning at 9:30 a.m.

Anyone desiring to testify should submit a written request to present testimony by January 5, 1981, to the address set forth below. To assist the Copyright Office in scheduling witnesses we urge the public to scrupulously observe the date for requesting time to testify, even if written statements are submitted later. Ten copies of written statements must be received by the Copyright Office by 4:00 p.m. on January 9, 1981.

ADDRESSES: Written requests to present testimony and ten copies of written state-

ments or of supplementary statements should be submitted as follows:

If sent by mail:

Office of the Register
U.S. Copyright Office
Library of Congress
Department D. S.
Washington, D.C. 20540

If delivered by hand, the copies should be brought to:

Office of the Register
James Madison Building, Room 405
First and Independence Ave., S.E.
Washington, D.C.

All requests to testify should clearly identify the individual or group desiring to testify and the amount of time desired. The Copyright Office will try to contact all witnesses to confirm the time of their appearances.

FOR FURTHER INFORMATION CONTACT:

Anthony P. Harrison
Assistant Register of Copyrights
Copyright Office
Library of Congress,
Department D. S.
Washington, D.C. 20540
Telephone: (202) 287-8350

SUPPLEMENTAL INFORMATION:

1. *Background and purpose of the Study.*

Under the copyright law now in effect, certain nondramatic literary materials in the English language must be manufactured either in the United States or in Canada in order for the work to enjoy the full remedies provided by the copyright law in an action for infringement of the rights of reproduction or distribution. The "manufacturing clause" now applies only to works by American citizens or domiciliaries, and under special cir-

cumstances, even such works may be exempt from the manufacturing clause.

In 1976, the House Committee on the Judiciary, after evaluating the arguments in favor of and against retention of any "manufacturing clause" in the copyright law concluded that "there is no justification on principle for a manufacturing requirement in the Copyright statute . . ." H. Rep. No. 1476, 94th Cong., 2d Sess., (1976) at 166. The Committee amended section 601 of the then pending copyright revision bill so as to repeal the manufacturing requirement on July 1, 1981. Following a conference with the Senate, the House amendment was accepted, but the date for termination of the manufacturing requirement was extended to July 1, 1982.

Senator Hugh Scott, in the course of Senate debate on the copyright revision bill in 1976, stated that the extension of the phase-out date for the manufacturing requirement from July 1, 1981 to July 1, 1982,

"will enable Congress to take a close look at the dangers faced by the printing industry in this country.

To insure that Congress has adequate and accurate information on which to base its reassessment before the phaseout takes place, Senator McClellan and I have written to the Register of Copyrights requesting that such a study be timely undertaken."
122 Cong. Rec. S17252, 94th Cong., 2d Sess. (1976).

The subject matter of the study will consist of addressing the issues relating to the "economic impact on United States book manufacturing industry; United States labor rates compared with those abroad; industry health; impact on jobs in U.S. and U.S. industry; advances in printing technology that are relevant; progress on implementation of

the Toronto Agreement of 1968;¹ ramifications of granting copyright on book manufacturing industry; and other relevant factors that . . . [the Copyright Office] should deem appropriate." 122 Cong. Rec. S17253, 94th Cong., 2d Sess. (1976).

As part of the study development process, the Copyright Office will conduct a hearing on January 13, 1981 in order to give all interested parties an opportunity to express their current views on the scheduled phase-out of the "manufacturing clause" of the 1976 law and to present any economic data or other information that would assist the Copyright Office in preparing its report.

2. Specific Questions.

The Copyright Office is interested in receiving comments and testimony about any issues relevant to the phaseout of section 601 which copyright owners, publishers, printers, and any other person whose informed opinion may aid this Office in preparing the study.

¹ Congress exempted copies manufactured in Canada from the "manufacturing clause" of the Copyright Act because it found that "usage standards in Canada are comparable to those in the United States . . ." H. REP. No. 1476, 94th Cong., 2d Sess. (1976). The Canadian exemption was made possible in part also by a memorandum agreement known as the "Agreement of Toronto," signed by representatives of some, but not all American and Canadian business and labor printing organizations in February 1968. American representatives agreed that they would seek an exemption for Canadian-manufactured copies from the "manufacturing clause" of the United States copyright law. The Canadian representatives agreed that they would "urge the Canadian Government to accept the Florence Agreement as soon as exemption for Canada has been adopted by the U.S. Congress." ["Agreement of Toronto" as contained in Chapter XIV of the "Second Supplementary Report of the Register of Copyrights" (1975) at page 24].

Of particular interest are answers to the following questions:

1. If the "manufacturing clause" were to be phased out, which types of non-dramatic English-language works would most likely be susceptible to be printed outside the United States?
 - a. What factors make these works susceptible for foreign printing?
 - b. What percentage are these works of the overall total of works currently printed in the United States?
2. If the "manufacturing clause" were to be phased out, which type(s) of non-dramatic English-language works would be least likely to be susceptible to be printed outside the United States?
 - a. What factors make these works not susceptible for foreign printing?
 - b. What percentage are these works of the overall total of works currently printed in the United States?
3. In general, when selecting a printer, which of the following factors are considered the most important and why?

The factors to be considered are paper quality and availability; craftsmanship; ready accessibility; distribution capabilities; and timeliness of delivery. If there are other factors that should be considered, please add them to this list and discuss their importance.
4. How do printers abroad (Europe, the Far East, Australia, Canada and Mexico) compare to United States printers in terms of the factors of paper quality and availability; craftsmanship; ready accessibility; distribution capabilities; and timeliness of delivery?

If there are other factors that should be considered, please add them to this list and discuss their importance.

5. Is the printing industry in the United States labor intensive or capital intensive? What are the future trends?
6. Are the printing industries abroad (Europe, the Far East, Australia, Canada and Mexico) labor intensive or capital intensive? What are the future trends in each of the printing industries?
7. How do wage rates for printing industry employees in the United States compare with the rates of similar employees in the printing industries abroad (Europe, the Far East, Australia, Canada and Mexico)?
8. What technological changes are likely to occur in the production of books and periodicals during the 1980's and how will the changes, if any, affect the types of labor skills and size of the labor force utilized by the industry today in the composition, printing and binding process?
9. What developments have occurred since 1976 which Congress should consider in evaluating whether the manufacturing clause should expire?

[17 U.S.C. 601]

Dated: December 5, 1980

David Ladd,
Register of Copyrights.

Approved:
Daniel J. Boorstin,
The Librarian of Congress.