

THE FILM INDUSTRY COPYRIGHT COMMITTEE

Blackfriars House,
19 New Bridge Street,
London EC4V 6BY
Telephone: 01-353-0211

Parliament

Mr.

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To: The Rt. Hon Margaret Thatcher, MP
House of Commons
London SW1A 0AA

COPYRIGHT AMENDMENT BILL (Sir John Eden MP)

At a meeting of this Committee on January 6th 1983 it was unanimously agreed to express full support for this Bill (set down for Second Reading on Friday January 21st) and to send the enclosed Memorandum to all Members of Parliament.

The Committee hopes that everything possible will be done to ensure that this urgently needed Bill will be enacted as soon as possible.

F R FURBER
Chairman

14th January 1983

The British Film and Television Producers Association Limited
Society of Film Distributors Limited
The Cinematograph Exhibitors Association of Great Britain and Ireland
Association of Independent Cinemas
Motion Picture Export Association of America
British Videogram Association Limited
Federation against Copyright Theft

COPYRIGHT (AMENDMENT) BILL

Introduced by Sir John Eden Bt. MP under the
Ballot for Private Members Bills, Session 1982/83
and set down for 2nd Reading on Friday January 21st 1983

Origin of Bill

The Government's Green Paper (Cmnd 8302 July 1981) commenting on the Whitford Committee Report on the Law of Copyright and Designs (Cmnd 6732 March 1977) stated in paragraphs 11 and 12 that it accepted two Whitford recommendations to increase the effectiveness of prosecutions for criminal offences under Section 21 of the Copyright Act 1956, namely,

1. that possession of an infringing copy should be an offence if "in the course of trade" and
2. that the scale of penalties for offences under Section 21 should be increased.

Item 1 has been dealt with by the Copyright Act 1956 (Amendment) Act 1982.

Item 2 is the subject of Sir John Eden's Copyright Amendment Bill now before Parliament.

Growth of "Video-Piracy"

This has recently increased on a vast scale and the UK has become the biggest centre of such criminal activity in the world.

There are now some 3 million video-cassette recorders in private hands in the UK able to re-play pre-recorded tapes of films and television programmes on to television screens and over half of this market is being currently supplied by "pirated" tapes, illegitimately copied from material which is entitled to the protection of copyright law.

There is also a flourishing export trade in pirated material, especially to countries in the Middle-East. It is doubtful whether any Income Tax is paid on the profits of this "piracy" which are estimated at over £70 million a year - or whether V.A.T. is paid on the sale or hire of pirated cassettes (except perhaps in some cases where legitimate and pirate trade are conducted in the same premises).

A great deal of this piracy takes the form of counterfeiting - in which the pirated copies are labelled and packaged so as to deceive the public and retail traders that they are the real thing. This involves costly processing and demonstrates that piracy is no longer only the province of small back-street offenders but is part of organised crime.

Video-piracy is costing copyright owners and legitimate traders some £120 millions a year through loss of sales and hire business.

Action against Video-Piracy

The urgent need is for much stiffer and more realistic penalties for criminal offences under Section 21 of the 1956 Copyright Act, both as a deterrent to piracy and an encouragement to police action in serious cases.

Although civil proceedings have been taken against video-pirates on many occasions, it is difficult to recover damages because of the "fly by night" nature of the offenders, the use of false names and companies without assets, etc.

Inspections of retail premises carried out by Trade Standards Officers under the Trade Descriptions Act can be helpful but are dependent on the varying policies of Local Authorities. They are not aimed at catching the large scale and more profitable operations in this field.

Provisions of the Bill

Existing penalties under Section 21 of the 1956 Copyright Act are a maximum fine of £25 per infringing copy with an overall maximum of £50 per transaction. On second and subsequent offences there is also the option of 2 months imprisonment. From April 1983, under the new Criminal Justice Act the £50 maximum per transaction will be increased to £200 and the 2 months imprisonment option will apply to first convictions.

Under the Copyright (Amendment) Bill the following increases in penalties for offences under the above-mentioned Section 21, in relation to films (which by definition under the 1956 Copyright Act includes video cassettes and discs) and sound recordings, would be applied:-

1. for the offences of selling or letting such articles for hire or, by way of trade, exhibiting or possessing them, the maximum fine imposed by a magistrate would be raised to £1,000 (level 5 on the standard scale) for each offence with the present option of 2 months imprisonment being retained.
2. for the graver offences of making such articles for sale or hire, importing them for other than for private and domestic use, or distributing them commercially or in such a way as to prejudice the copyright owner, a magistrate could impose a fine not exceeding the statutory maximum (currently £1,000) or, if the accused elected to be tried by jury or the magistrate considered a higher penalty appropriate, on indictment in the Crown Court, where an unlimited fine or imprisonment for up to two years could be imposed for each offence.

The Bill would give police power to apply to a magistrate, where reasonable grounds existed for suspecting the commission of one of the above offences, for a warrant authorising entry to premises, the seizure of articles which appear to be infringing copies or evidence in relation to the offence and the searching of any

suspected person found on the premises.

These powers are necessary to equate the position of the police with that of the plaintiff's agents in civil proceedings where an Anton Piller order has been obtained.

They are similar to powers given by many other recent statutes; without them it is considered that the police would be incapable, in the majority of cases, of apprehending the wrong-doers.

Government View of Bill's Proposals

Since it will take some considerable time to prepare comprehensive legislation to amend the 1956 Copyright Act, the Government favours immediate interim legislation to increase penalties for video-piracy offences. It will give support to a Private Member's Bill for this purpose.

This was confirmed in the House of Commons on December 12th 1982 by Mr. Patrick Mayhew MP, Minister of State, Home Office who, in replying to a Question by Mr. Hugh Dykes MP said:-

"The Government are very concerned at the growth of video piracy and accept the need to increase the maximum penalties for criminal copyright offences to provide an effective deterrent. I note that (Sir John Eden) has introduced a Bill to bring about such an increase early legislation is better than late legislation we are extremely sympathetic to the Bill which has been introduced by (Sir John Eden). The extent of the damage being done is estimated at £100 million".

OLD

12 DOWNING STREET,
S.W.1.

With

The Private Secretary's

Compliments

GOVERNMENT LEGISLATIONSecond Reading

Civil Aviation (Eurocontrol)

Currency

International Transport Conventions (L)

Miscellaneous Financial Provisions

Pig Industry Levy

/ Representation of the People (L)

(ii) Standing Committee

British Shipbuilders

Conwy Tunnel (Supplementary Powers)

Divorce Jurisdiction, Court Fees and Legal Aid (Scotland)

Energy

Housing and Building Control

Police and Criminal Evidence

Telecommunications

Transport

(iii) Report and Third Reading

Water

(iv) Orders and Regulations

Financial Provisions (N.I.)

Date
LaidWhether
ControversialDate
Required

14/12

No

By P.C. meeting on
11/2

* Fishing Vessels

1/12

No

A.S.A.P.

Grants by Local Authorities

8/12

No

By early Feb.

HSG (Scotland) (2 Orders)

17/12

No

For debate, 17/1

Milk (N.I.)

19/10

No

No deadline

Quarries (N.I.)

19/10

No

No deadline

RSG Reports (England) (2 Orders)

16/12

Yes

For debate, 20/1

RSG (Scotland) (No. 2)

15/12

No

For debate, 17/1

Rating of Industry (Scotland)

16/12

No

By end of Jan.

Statutory Sick Pay

16/12

Yes

By end of Jan.

Welsh RSG Reports (3)

20/12

Maybe

For debate, 20/1

/ Consolidation

* S.I. Committee

Lords

Agricultural Marketing

Data Protection (L)

Dentists (L)

Health and Social Services and Social Security Adjudications (L)

Marriage (L)

Mental Health (Amendment) (Scotland) (L)

Merchant Shipping (L)

Mobile Homes (L)

National Heritage (L)

Plant Varieties (L)

Bills placed upon the Statute Book (4)

Commonwealth Development Corporation 1982

Electricity (Financial Provisions) (Scotland) 1982

Lands Valuation Amendment (Scotland) 1982

National Insurance Surcharge 1982