

## APPENDIX "B"

(See p. 3509)

## COPYRIGHT ACT

BILL TO AMEND — REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE  
ON MESSAGE FROM COMMONS AND MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENTS

TUESDAY, May 31, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

## TWENTY-FIFTH REPORT

Your Committee, to which was referred the motion of the Honourable Senator Doyle dated 18th May 1988 and the Message from the House of Commons dated 17th May 1988 relating to certain amendments to Bill C-60, An Act to amend the Copyright Act and to amend other Acts in consequence thereof, has, in obedience to the Order of Reference of Tuesday, 24th May 1988, examined the said motion and Message and now reports as follows:

## Background Information

On 24th March 1988, the Standing Senate Committee on Banking, Trade and Commerce presented to the Senate its report on Bill C-60, An Act to amend the Copyright Act and to amend other acts in consequence thereof. The report, which recommended that the Bill be amended in clauses 2 and 26, was formulated after hearing evidence from 22 groups of witnesses and receiving written submissions from 40 groups in addition to letters and telegrams from interested parties.

The weight of evidence received from those groups with concerns about Bill C-60 revolved around two main issues: the introduction of a new right for visual artists called an exhibition right and the lack of provision in the Bill for further exceptions from copyright.

With respect to exhibition rights, art exhibitors were concerned about the potential inhibition of curatorial freedom that could be exercised by rights holders. Exhibitors were also concerned about the administrative burden connected with determining and locating the owner of the exhibition right to a work of art. The Committee also heard evidence concerning failure to reach an agreement between artists and exhibitors on a new form of the exhibition right. The Minister of Communications, the Honourable Flora MacDonald, noted before the Committee that a revised definition of "artistic work", a term used in the exhibition rights clause, would be included in the second phase of copyright amendments.

Thus, a majority of the Committee believed it was advisable to recommend the withdrawal of clause 2 respecting exhibition rights.

Regarding the lack of provision for user exceptions from copyright in phase one of copyright reform, the Committee heard evidence from a number of user groups. Among them, those representing educators and librarians were concerned about their ability to negotiate equitable fees for use of copyright material without knowledge of what specific exceptions the Government intended to introduce in phase two of copyright reform.

Pending determination of what specific exceptions would be provided to users of copyright material, a majority of the Committee recommended postponement of the provisions of Bill C-60 providing the statutory foundation for the establishment of the collective administration of copyright. It was, therefore, recommended that clause 26 of the Bill be amended to provide such postponement.

The Committee's report was accepted by a majority in the Senate and Bill C-60 was sent back to the House of Commons with the Senate's suggestions for amendments. The House of Commons rejected the Senate amendments. It adopted a motion moved by the Honourable Flora MacDonald, Minister of Communications, that a message be sent to the Senate to this effect. The motion and the message were referred by the Senate on 24th May 1988 to the Standing Senate Committee on Banking, Trade and Commerce.

The Committee decided to hear evidence from the Minister of Communications, on the Message from the House of Commons.

## Evidence

In her appearance before the Committee, the Minister indicated that the Department of Communications has been holding consultations with creators and users of copyright material regarding possible exceptions for educational use of copyright materials. She further noted that draft provisions had been discussed and consensus seemed to have been reached on all but one issue. Consensus was reached on: manual copying of works; the use of copyright materials in exams; the use of live performances for educational purposes; playing a radio or television in the classroom; collectives giving teachers and students