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BOOKS REVIEWED

Behind the Shield, the Police in Urban Society. By Arthur Niederhoffer. Garden City, New York: Doubleday & Co. 1967. Pp. 253. \$5.95.

American society is undergoing a none too quiet revolution of attitudes. The gap between what we do and what we say we believe in is being exposed on a number of fronts. A society which espouses democracy, freedom and equal protection of the law for all has been made aware that a significant number of its citizens are not equally treated. A society which prides itself on its affluence and technology has realized that large numbers of its citizens are poor and ill-equipped to live in a mobile, technological world of materiality. A society which has espoused fairness in the administration of criminal justice has been forced by the Supreme Court to admit to its unfairness and inadequacies in that area. These are just a few of the areas where theory and reality have been shown forcefully to diverge. Hence, Americans are being required to reevaluate their attitudes and their values so as to try to close the gap.

In most of these turbulent areas of change, the police stand involved. They are involved because they are charged with administering the status quo. But that is just what is now under challenge. Mr. Niederhoffer addresses his book to an analysis of the "police" both as an organization of law enforcement and as individuals. Although his focus is primarily upon the individual police officer and his attitudes, Mr. Niederhoffer's book reveals a great deal about the police organization as a bureaucratic system. Police organizations are caught in a divisive struggle between the new drive for "professionalism" and the old order or authoritarianism. The thrust toward "professionalism" represents an effort, primarily by college educated superior officers to raise the status of the police, to raise their level of expertise and qualification, to create a sense of ethics and dedication to idealistic social service. A number of factors, not the least of which being the low esteem in which police are held by the public, tends to frustrate this drive. The efforts of the police elite to create an atmosphere of the policeman as social scientist and professional is also resisted from within by the lower level members of the force where success (if not survival) is measured by a tough "lock-them-up" philosophy.

So, the individual police officer is faced with a double leveled dichotomy: (1) the laws to be enforced and the traditional methods of enforcing them are under wide social and legal challenge; (2) the urban police department in which he is nurtured, trained and plays a role is riven by the struggle between the "professional" philosophy and the bureaucratic authoritarian policies of the traditionalists. What effect does this have on the individual policeman? This is the primary focus of the author's concern.

Mr. Niederhoffer is a police lieutenant become sociologist. He is now Professor of Sociology and Anthropology at the John Jay College of Criminal Justice at the City University of New York. His book is based on personal experience as an officer in the New York City Police Department for twenty-one years, framed in

the light of his studies and training in sociology. The approach is sociological with many of the conclusions based on interviews and questionnaires. Inevitably, the social scientist author interprets data in light of his pragmatic career experience as a police officer. This is the strength of the book; for, although it is sometimes unevenly written, the reader gains new insight into the working of the police system. Most importantly, insight is obtained as to the influence of the police organization and milieu in shaping the mind of the individual police officer.

The value of the book is that it does not speak of the police as merely a vague organizational entity but takes the reader inside the system. The reader gains new knowledge of how policemen think. He gains a disturbing view of the depth of the problem of reshaping an urban police force into an agency of law enforcement which is both effective and responsive to new concepts and challenges.

Most disturbing are the findings that, despite efforts to improve selection, training and compensation of police officers, new recruits who come to police service with idealistic thoughts quickly become cynics. The development of the cynical view is traced and tested by the author from the beginning to the end of a police officer's career. "Cynicism charts" and tables are presented to document the fact that most police officers believe that one progresses in police work by being tough, by having political influence, by playing the game of selective law enforcement, and even, in a significant number of instances, by taking graft. So, too, the police officer acquires a conservative and cynical view of life. He becomes antagonistic to forces for change, legal or social. He develops an authoritarian personality, perhaps even a fascist outlook. Thus, he is generally attracted to conservative political groups and antagonistic to minority groups. The feeling of group unity causes him to resist investigation of what he feels are properly "police secrets," and to oppose civilian efforts to reorganize or reshape the police force. In short, one gets the impression that the typical urban policeman is alienated not only from the forces now at work to improve the standing of minority groups and criminal defendants, but alienated from the professional set of values being espoused by modern police administrators.

To the extent this is true, mere additional compensation, new training programs, civilian review boards and other panaceas suggested by civil rights groups and such a prestigious group as the President's Commission on Law Enforcement and Administration of Justice¹ may be inadequate to make police officers responsive to the rights of individuals, minority groups, and to social change. This is what the author implies. Unfortunately, he presents no real alternatives of his own.²

A "cynic" has been defined as one who believes that human conduct is motivated wholly by self-interest. The author of this book refines and analyzes the concept of cynicism in the context of the police world. Without going into all the nuances here, it suffices to say that the police attitude is composed of the view that they are the maligned guardians of order, people are degraded, society is

1. See "Task Force Report: The Police," U.S. Gov't Printing Office, 1967.

2. See also American Civil Liberties Union, "Police Power and Citizens' Rights," 1967.

hypocritical, and do-gooders will wreck this great society we have. If that sounds inconsistent, recall that attitude need not be internally consistent to be firmly held. Is it possible that the police and the hippies have something in common after all?

A cynic reading this book might simply conclude that the police are not cynics but realists. They see the world as it is. Lawyers (and perhaps an occasional law teacher) sometimes take this view. Is it possible Mr. Niederhoffer fits here? He does not say so, and indeed ends his book on a note of hope (which his facts refute); but the context of the book reveals perhaps he is cynical as to real hope for change. Or, is it possible he hopes for change in the police because he senses that some of the challenges of today may presage some lesser degree of hypocrisy in American society? It could be he thinks that out of all our present social upheaval the hypocrisy gap will be narrowed. If so, there would be less cause for cynicism. But the author tells us not.

There is one other point that ought to be mentioned. The work done by the author basically was in connection with the New York Police Force. Perhaps New York police are more cynical than any others. The writer of this review has dealt with police in and around Boston as a practising attorney for fifteen years and professor of criminal law. The cynicism which Mr. Niederhoffer describes is confirmed by personal experience, but the extent of it is not. It could be that larger urban departments suffer from greater cynicism than somewhat smaller departments. Being neither a psychiatrist nor sociologist, this writer is not equipped to answer the point. In any event, the existence of the attitudes Mr. Niederhoffer describes and the fact that the police system creates them is a significant social fact. Until this fact is understood, and the problems it raises are resolved, meaningful progress will not be achieved in this area.

Is this book worth reading? Anyone interested in improving law enforcement should read it; for, whether you accept this author's thesis or not, you will gain some fresh insight into the mind of a policeman. In light of current challenges to order and the fact that the police are in the forefront of response to that challenge, it is important to understand them whether your ideology makes you their partisan or their adversary. Reading this book will enhance such understanding.

PAUL J. LIACOS*

Genesis of American Copyright Law. By Bruce W. Bugbee. Washington, D.C.: Public Affairs Press. 1967. Pp. vii, 208. \$6.00.

Introduction

Dr. Bugbee's stated purpose is to trace the European and early American ancestry of the United States patent and copyright systems. His tenet is that colonial and state development of legal protection for intellectual property was

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of "fundamental importance" as precedent for our law in this area.¹ The timely appearance of this scholarly work at this juncture is most opportune. Our patent and copyright systems are being closely scrutinized by the Congress at this time.² Fundamental principles are being challenged and a re-evaluation of historical perspective is quite appropriate. This, Dr. Bugbee has effectively accomplished with magnificent depth of scholarship.³ The author observes that we are aware of relatively little of the origins of legal rights in intellectual property⁴ and that errors and misconceptions about such beginnings frequently damage the system. Armed with this prefatory warning the reader embarks upon a remarkable voyage into a thorough and learned examination of the labor pains suffered during the birth of American patent and copyright law.

Dr. Bugbee's well organized presentation is undertaken in chronological order, except that copyright law is usually developed in separate sections since it did not grow identically to the patent system. The first, second, third, and sixth chapters are so divided. Chapter IV is exclusively about state patents, and Chapter V is on state copyrights. The author has consulted mostly primary sources, such as state and national archives, state and congressional journals, and other original records. He has relied to some extent on the work of other notable historians, such as E. Wyndham Hulme, Allan A. Gomme and Pasquale J. Federico. Each chapter is replete with numerous references listed in footnote form at the end of the book;⁵ almost every statement is adequately documented. Cases and statutes are liberally cited. The 5½ page index appears to be quite useful.

This book is not only for the legal historian. Experienced attorneys will not find the reading elementary. Indeed, Dr. Bugbee's proficiency⁶ with technical concepts and terms may occasion the layman some difficulty. Some glossorial

1. B. Bugbee, *Genesis of American Patent and Copyright Law* 2-3 (1967) [hereinafter referred to as Bugbee]. I am convinced that the American Patent Law is firmly founded upon the English system, if not directly copied from it. See Klitzke, *Historical Background of the English Patent Law*, 41 *J. Pat. Off. Soc'y* 615 (1959).

2. See note 35, *infra*, and accompanying text.

3. A short, cursory review of the book is to be found at 2 *Idea* (Pat. T.M. & Copyr. J. of Res. & Ed.) 265 (1967). The reviewer feels a strong "need for much more information, particularly of a legal nature," but it is my observation that Dr. Bugbee has discharged his responsibility to the early patent and copyright law remarkably well for a non-lawyer. But see p. 623 *infra*.

4. Dr. Bugbee adopts Arthur W. Weil's definition of intellectual property as "rights which result from the physical manifestation of original thought, either naturally or on compliance with statute." A. Weil, *American Copyright Law* 5 (1917). Bugbee 3.

5. Some idea of Dr. Bugbee's thoroughness may be obtained from the number of footnotes: Ch. I: 60; Ch. II: 170; Ch. III: 76; Ch. IV: 55; Ch. V: 71; Ch. VI: 74; and Ch. VII: 30. Most of the footnotes do not merely cite references but clarify and explain them and contain a considerable amount of supplementary information not suitable for inclusion in the text. The review in *Idea* criticized the excess literature quotation in the text, but unjustifiably so.

6. The *Idea* reviewer found "some minor errors relating to legal terms . . ." but concedes that the book is "a workmanlike job." 2 *Idea*, *supra* note 3, at 265.

effort towards basic terms is recorded in the introductory chapter, but the body of the work frequently assumes familiarity with patent and copyright practice. Such terms as "claims,"⁷ "infringing" and "specifications"⁸ are used with little detailed explanation. Thus, the attorney should not expect a mere proliferation of simple historical facts. Dr. Bugbee serves us a diet of erudition pitched to the intellectual appetite of the average lawyer.⁹

It must not be inferred that this work constitutes a total history of American patent and copyright law. Such was not Dr. Bugbee's intent. His primary efforts end with the patent and copyright law enactments of 1790. cursory reference is made to ensuing history in the short Epilogue, Chapter VII, but to other historians is left the monumental task of developing the passage of the 1836 Patent Act and the 1909 Copyright Law, which remain the basic law forms today. The Journal of the Patent Office Society is replete with work in this latter area, as well as articles about the earlier history.¹⁰ But the period to which Dr. Bugbee directs our attention is nowhere more lucidly and completely unfurled than in his 138 pages of text.

European Origins

Renaissance Italy boasted the first known patents and copyrights, the 1421 Florentine grant to Filippo Brunelleschi for a river vessel being the world's earliest true patent of invention.¹¹ The first regular system of patent grants

7. Bugbee 103. The text refers to a 1789 Pennsylvanian patent grant to one Robert Leslie. "Claims" are enunciations of the specific elements of the invention and define its limits. They appear at the end of the patent specification and are the basis for suits for infringement.

8. Admittedly the first paragraph introducing "specification" ends with "a full description of the invention and its operation which would show the scope of the patent." Bugbee 41. Subsequent use of the term is, however, not so enlightening. See, e.g., Bugbee 103. The first American patent specification is not denoted as such. Bugbee 87. For the use of "infringing" see Bugbee 18, in connection with the world's earliest true patent of invention, that to Filippo Brunelleschi.

9. Dr. Bugbee is a history professor at Gettysburg College, Pennsylvania, but has assisted his father, a patent attorney in drafting patent specifications. His patent background is evident in the zeal with which he differentiates between patents and monopolies in the introductory chapter, occupying three full pages of text to do so. Bugbee 6-9. Most patent attorneys eagerly disclaim any resemblance of patents to monopolies because of the unsavory connotation of the latter term, due, no doubt, to the historical repugnance. Considered as an exclusive right to manufacture a particular article (Black's Law Dictionary 1158 (4th ed. 1957)), the term monopoly is not incongruent with patent. The United States Patent Act grants the patentee the right to "exclude" others from making, using or selling the invention throughout the United States. 35 U.S.C. § 154 (1964).

10. See, e.g., Klitzke, Historical Background of the English Patent Law, 41 J. Pat. Off. Soc'y 615 (1959), and the synopses of the European and American Patent Systems in The Encyclopedia of Patent Practice and Invention Management 384-404 (R. Calvert ed. 1964).

11. Bugbee 17-19. Brunelleschi's grant extended for three years and the work of anyone imitating his invention was to be burned. A. Gomme, Patents of Invention; Origin and Growth of the Patent System in Britain 6 (1946). There were, of course, a number of

developed in Venice a few decades after the Brunelleschi patent and the first general patent law was enacted in the Venetian Republic in 1474, one hundred and fifty years before the English Statute of Monopolies.¹²

Little patent progress prevailed elsewhere on the Continent but a number of English grants appeared, inspired by the memorable petition of Jacobus Acontius in 1559. His patent was not issued until 1565, and Burchard Cranick's 1563 patent for water draining "Engeynes" was probably England's first grant for true invention rather than for mere importation. Parliament's enactment of the famed Statute of Monopolies of 1624¹³ ended a period of arbitrary monopolistic grants by English monarchs to favored subjects who were not necessarily inventors. It specifically gave exclusive grants to the first and true inventor of a manufacture, but specified no procedure by which the inventor might obtain his "privilege" or defend against infringers. The Statute, therefore, was no advance over its Venetian predecessor of 1474, under which the inventor received his patent as a matter of right. Furthermore, the granting of monopolies for non-inventions did not, in fact, end with the passage of the English Statute.¹⁴

Like the earliest patents, the first known copyrights also appeared in Renaissance Italy. Privileges relating to books and printing were granted by the Venetian government between 1469 and 1517, the first being that awarded John of Speyer in 1469. The Venetian Senate enacted a copyright statute in 1517, but it failed to require publication within a certain time, nor did it define a new work, and the Venetian presses frequently printed copyrighted works of authors without their consent. Sixteenth century Germany evolved a highly developed copyright system. Musical compositions, designs and even trademarks were protected.¹⁵

The British copyright system was to become the most influential in the world. At first, only printers' licenses were granted. The first recorded English copyright issued to an author was awarded in 1530 to John Palsgrave. The 1710 copyright Statute of Anne¹⁶ enacted by Parliament, although bearing some

earlier recognitions of invention which Bugbee does not mention. See Klitzke, *Historical Background of the English Patent Law*, 41 *J. Pat. Off. Soc'y* 615, at 617 (1959). In about 500 B.C. in Sybaris, a Greek colony famous for luxurious living and self-indulgence, if any confectioner or cook invented a peculiar and exclusive dish, no one else was allowed to make it for a year. Athenaeus, "The Deipnosophists," 3 *Bohn's Classical Library* 835 (1854).

12. Bugbee 22-24.

13. 21 *Jac.* 1, c. 3 (1624).

14. Bugbee 38-40, English industry, lagging behind the rest of the world, needed careful fostering at this time. The early sixteenth century saw England as still mainly pastoral and mining. The English cloth industry was the first to gain any prominence and was developed through early privilege grants, many of which were not for invention. The growth of the English patent system at this time can be directly attributed to England's conscious awareness of the need for manufacturing industry.

15. Bugbee 43-49.

16. 8 *Anne*, c. 19 (1710).

resemblance to the Statute of Monopolies, was much more concerned with rights and remedies than was the latter.¹⁷

American Colonial Period

The American colonial period witnessed some attempts to stimulate industry by means of exclusive grants, but patents to original inventors constituted only a small proportion of colonial grants. America's first patents of invention appeared in Massachusetts in the 1640's and 1650's, a 1641 patent to one Samuel Winslow for a salt-making process being the first known patent for invention in America. The precursor of general patent statutes in the future United States was a 1641 clause passed by the General Court of Massachusetts Bay, prohibiting monopolies but excepting new inventions. The first copyright statute in the New World was passed by the Massachusetts Colony in 1672, in response to a petition of John Usher, the first bookseller in that Colony.¹⁸

The early American patent institution was modest in its proportions and irregular in its course. Born in Massachusetts in the 1640's, the system was most prominent in South Carolina by the middle of the eighteenth century. Colonial patents had greater legal and constitutional than economic significance because American industrialists were not sufficiently interested to press for widespread recognition of property rights in inventions. Although no province erected a true patent system, a reservoir of patent-granting experience emerged because of scattered colonial enactments, to be drawn upon by future legislatures when political and economic conditions were more favorable.¹⁹

State Patents

The distractions and conflict of the Revolutionary War halted the intermittent progression of the American patent system. The 1780's, however, brought a new outpouring of patents of invention, stimulated by a widespread desire to develop domestic industry. The first American patent associated with a written description of the invention, *i.e.*, a specification, was awarded by Pennsylvania to Henry Guest in 1779 for the manufacture of oil and blubber, and soon thereafter other states began to require some disclosure of operation. One grant by Pennsylvania to Robert Leslie in 1789 contained an early set of patent claims. The state patents of the 1780's, despite their colonial origins, showed greater similarities between states than had the colonial predecessors.²⁰

Individual patents granted by separate states proved to be unsatisfactory. Inventions were used and sold across state lines and inventors were required to apply in every state. The advantage of the uniformity and broader protection of a centralized federal patent system was apparent. The Articles of Confederation in 1777 had not transferred the protection of inventive property to the national scene, and by 1787 the granting of state patents was at its peak.²¹

17. Bugbee 49-56.

18. *Id.* at 57-66.

19. *Id.* at 82-83.

20. *Id.* at 102-03.

21. *Id.*

State Copyrights

Towards the end of the Revolutionary War the view arose that the young Republic required a crown of literary achievement of its own equal to that of the Old World, but there was wholesale piracy by printers of foreign works. Beginning in 1782 Noah Webster, lexicographer, journalist, author and teacher, became lobbyist for copyright protection, and traveled from state to state, urging passage of copyright laws. Connecticut, Webster's home state, founded the first state copyright system by enacting a general copyright law in 1783 and by securing individual copyrights under it. Six of the original thirteen states enacted general copyright laws in 1783 and six more followed during the three ensuing years. Bugbee points out that state copyright laws of the 1780's have been widely attributed to the influence of Noah Webster, but the many errors in Webster's account of his campaign raise serious doubts as to his effectiveness. Furthermore, Webster was primarily interested in securing private, personal copyrights.²²

Like the provincial patent institutions, the state copyright laws of the 1780's furnished precedent upon which federal legislation would later be erected. Dr. Bugbee considers English influence to be of greater import in the short history of the early American copyrights than in patents because the Statute of Anne devoted so much more attention to intellectual property rights than had the earlier Statute of Monopolies.²³ It must be noted, however, that the English law of patents included several landmark cases which greatly influenced the conception of intellectual property law in America. Our founders were familiar with them.

United States Patent and Copyright Systems

James Madison, in a paper on the weaknesses of the Federation in 1787, deplored the want of uniformity of literary property rights, but made no mention of patents. When the Constitutional Convention convened some weeks thereafter, both Madison and Charles Pinckney (a delegate from South Carolina) offered proposals to give the federal government the power to grant patents for useful inventions and to secure for authors exclusive rights for a certain time. Pinckney was the primary proponent of federal power to issue patents of invention, but federal copyright authority was probably proposed by both Madison and Pinckney. It was during the crucial year of 1787 that the proposed intellectual property clause was drafted and reported to the Convention, thus marking the culmination of the provincial patent and copyright movements and the turning point in the law of intellectual property rights. The clause was approved unanimously, without recorded debate, on September 5, 1787. It had been foreshadowed by a Congressional Resolution of 1783 and climaxed the growth of intellectual property in early America. It stands as

22. *Id.* at 104-23.

23. *Id.* at 124. But see the quotation from an 1813 letter from Thomas Jefferson to Isaac McPherson that indicates that England was copied when the American patent system was formed. *Id.* at 165 n.1.

article I, section 8, clause 8 of the Constitution: "The Congress shall have the 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 . . ." Interestingly, no direct reference to property, patents or copyrights as such appears in this enabling clause.²⁴

In 1789, the 1st Congress having just opened its first session, patent and copyright petitions began to pour in. A combination patent-copyright bill was submitted in 1789 but did not pass. On April 10, 1790, a patent bill did pass and the initial legal structure of the United States patent system was formally established. The 1790 bill had provided for the publication of descriptions of inventions in newspapers, but this was deleted by the Senate. The patentee was not expressly granted a property right, but only the sole and exclusive right and liberty of making and selling his invention. This was unlike the grants of privilege of the Statute of Monopoly but more like provisions in state patents of the 1780's. On May 31, 1790, a federal copyright law was enacted which bore considerable resemblance to the 1710 Statute of Anne.²⁵ The 1790 United States patent and copyright systems represented a considerable fund of experience accumulated on both sides of the Atlantic. Inventors, quickly responsive to the federal legislation, greatly impressed Jefferson, the number of applications being beyond his anticipation. Many of the inventions were trifling, but some were, he thought, of great consequence.²⁶ With the laws of 1790, Dr. Bugbee's dissertation by and large ends.

Epilogue

Finally, in Chapter VII, *Epilogue*, all the subsequent United States patent and copyright law history is outlined. Initially, the first examining entity, the three-man "Patent Board," is discussed. Patent examination procedure had been unknown in England but had been foreshadowed by examining committees in colonial and state legislatures. Some fifty-seven awards were made by the Board under the Patent Act of 1790. The first Patent Board was comprised of Secretary of State Thomas Jefferson, Secretary of War Henry Knox and Attorney General Edmund Randolph. Part-time patent examination by busy, high government officials proved unsatisfactory. A 1793 law, repealing the 1790 patent statute, dispensed with the requirement of verification of novelty and a system of mere registration was initiated. Grants were indiscriminately awarded to applicants who alleged they were true inventors.²⁷

A Patent Office was established in 1802 as a distinct division of the Department of State. By late 1835 over 9,000 grants had been issued under the 1793 statute, but the lack of examination for novelty had opened the door to fraud and duplication. In 1836, therefore, all federal inventive property laws were repealed and the patent system was reorganized. The Patent Office was raised to the status of a separate bureau under the Department of State. Patent

24. *Id.* at 125-29.

25. *Id.* at 131-45.

26. *Id.* at 148.

27. *Id.* at 149-50.

applications were again, as originally, examined for novelty. Other nations followed this lead during the next century, although France adhered to the mere registration practice.²⁸ A Commissioner of Patents and a staff of full time professionals was provided for. As in the laws of 1790 and 1793, applications were to be accompanied by specifications and drawings, and, when necessary, models. Fourteen years was continued as the maximum patent term, but seven additional years could be obtained under certain circumstances.²⁹ A major modification was passed in 1870, and there was further revision and codification in 1952, but these were primarily improvements upon the basic statute of 1836. The Patent Act of 1952 added a new statutory criterion of patentability, the test of non-obviousness. Novelty and utility had been the sole statutory tests since the Patent Act of 1793.³⁰

In 1831 the United States copyright system was generally revised and the measures of 1790 and 1802 were repealed. As under the law of 1790, only American citizens could obtain United States copyrights, and piracy of European works by American publishers continued. In 1870 a major reform of the copyright system was undertaken, and the granting of copyrights was assigned to the Library of Congress, which still discharges this function. It is Dr. Bugbee's opinion that American literary property legislation was, in some respects, less progressive than British statutes. In 1909 a third general revision of the United States Copyrights System was undertaken and it substantially assumed its present form.³¹

The patent bar is currently immersed in a dispute over revision of the United States Patent Act. A presidential Commission to study the Patent System has proposed sweeping revisions and an administration-sponsored so-called Patent Reform Act was submitted to both houses of the Congress in early 1967.³² The Section of Patent, Trademark and Copyright Law of the American Bar Association, at its 1967 annual meeting, supported some of the principles of the proposed legislation but vigorously opposed other provisions. The House of Delegates went on record as opposing enactment of these bills, being particularly anxious to defeat the proposal to award a patent to the first applicant to file rather than to the original inventor, as under present law.³³ The proposed bills would also eliminate the one-year grace period within which an applicant can file after the public use or sale of his invention. Many patent

28. Dr. Bugbee briefly discusses the later development of the French and British patent systems near the end of the book. *Id.* at 153-54. The French law actually evolved in 1790-91.

29. The present seventeen-year term was enacted in 1861 as a compromise to eliminate the seven-year extension.

30. *Id.* at 150-53.

31. *Id.* at 155-57.

32. S. 1042, 90th Cong., 1st Sess. (1967); H.R. 5924, 90th Cong., 1st Sess. (1967). See Report of the President's Commission on the Patent System (1966), which precipitated the 1967 Patent Reform Act.

33. 12 *Am. Bar News*, No. 9, at 3 (1967). The winner of the race to the Patent Office would be deemed to be the first inventor, as a matter of law!

attorneys have vehemently decried the proposed changes. One writer has characterized the bill as a regression to the severe law of the 1793 Act.³⁴

The United States copyright laws are also now being carefully examined by the Congress. Following twelve active years of study by both House and Senate Judiciary Committees, bills were introduced to effect basic changes in the system.³⁵ The House bill was passed in April, 1967, but the Senate version has not yet been reported out of committee. The copyright bar has supported the progressive modernization and general improvement which the legislation would effectuate. The maximum period of copyright protection would be lengthened from the present fifty-six years to the life span of the owner plus fifty years and protection would be extended to "original works of authorship fixed in any tangible medium of expression". Juke box record playing and community antenna television systems³⁶ would also be protected, although the House stripped the latter provision from the bill before passage.

Faced with these possibilities of major revision of our patent and copyright systems, it is at this time highly advisable to return with Dr. Bugbee to the historical foundations upon which they were erected. We can find no finer guide than this book, and it is definitely recommended as important reading.

RAMON A. KLITZKE*

34. See Blaustein, *The Presidential Commission and the Return to the Patent Act of 1793*, 53 A.B.A.J. 911 (1967). Conversely, the President denoted the 1967 Patent Reform Act a "long overdue" modernization. The President's Letter to the President of the Senate and to the Speaker of the House Transmitting the Proposed Patent Reform Act of 1967 (Feb. 21, 1967).

35. The current versions of these bills are: S. 597, 90th Cong., 1st Sess. (1967); H.R. 2512, 90th Cong., 1st Sess. (1967). The forerunners of these bills were introduced in the 89th Congress.

36. See *United Artists Television, Inc. v. Fortnightly Corp.*, 255 F. Supp. 177 (S.D.N.Y. 1966), *aff'd*, 377 F.2d 872 (2d Cir. 1967), holding that operation of a community antenna television system constitutes a "public performance" which infringed plaintiff's exclusive right to perform its copyrighted motion pictures in public. The Supreme Court granted certiorari. 389 U.S. 969 (1967). CATV would fare better under the limited exemption in the proposed copyright bills.

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