

Administration Supplement

Number 1

law litigation & theatre

On How Not to Get Sued For Copyright Infringement

A DIALOGUE ON THE SUBJECT

by and between

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and

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GALLAGHER: This season, hopefully, the USITT will supplement its regular Newsletter with a series of short, but biting pieces on Law, Litigation and Theatre.

GROSSMAN: (*Trying to feel like Diogenes, but only succeeding in feeling like Grossman*) Damn-it-the hell.

GALLAGHER: Quite the contrary: There's nothing like preaching The Truth! The Pure Truth! Truth, the Beautiful.

GROSSMAN: And nothing about the Dirty Truth?

GALLAGHER: We need a short, incisive article: one that will provoke our readers.

GROSSMAN: Fine. Reprint my article on the naked truth, that appeared under the title "Whoa Luv" in the USITT Journal, Number 29, May 1972 issue. All about how Theatre can throw a period out of dimension and into frustration. It has some quotable quotes on "those foolishly fond people who become vampires, or their victims". And another thought from the same: once upon a time it was the Law that the cop on the beat who came upon a couple publicly "enjoying sex for

its own qualities" could legally boom out at them: "YOU THERE - MOVE ALONG." Or you could reprint mine out of the *Performing Arts Review*, Vol. 1, N° 2, 1969, published there under the title "Need Theatre Breed the Ridiculous." This issue they are running my "On Great Plays and Players."

GALLAGHER: Too scholarly. We need a bread and butter piece, something on copyright infringements, under the new Copyright Law; something on the practice of re-copying, or of re-recording a work already under copyright, so it can be used legally, ethically, and safely in the classroom lesson.

GROSSMAN: Fine. On that, let me refer you to the source of all light: to - the Office of the Register of Copyrights, address, Washington, D.C. 20559. They issue (free) a solidly informative Bulletin on copying, viz.

Circular R-21 - Reproduction of Copyrighted Works by Educators and Librarians.

This 26 page pamphlet specifies the circumstances under which the making or the distribution by librarians or archives of single copies of a work for non-commercial purposes do not constitute a copyright infringement.

Contents of the Pamphlet:

A. Fair Use.

Text of the Law
Discussion
Statements re: Classroom Reproduction
Guidelines
Discussion of Guideline

B. Reproduction by Libraries and Archives.

Text of the Law
Discussion
A copy; multiple copies; systematic reproduction
Discussion
General Exemptions and Exclusions
Discussion
Guidelines

C. Copyright Office Regulations.

D. Liability if you overstep.

new legislation

by JEFF PRAUER

S 2971

The proposed "Lobbying Reform Act of 1978" (The Ribicoff bill): Ribicoff is Chairman of the Senate Governmental Affairs Committee. As it presently stands, the bill would require registration and quarterly reporting by groups that utilize lobbyists for remuneration. The companion House bill, (HR 8494) also applies to grassroots lobbying communications (encouraging local members to correspond with Congress) (as USITT members from time to time may do). Committee decisions on comparable provisions in S 2971 have yet to be made (disclosure of grassroots lobbying has been attacked on First Amendment grounds).

HR 3383

Introduced over a year ago by Congressman Frank Thompson, Jr. (D-NJ), is closely related to HR 8441. HR 3383 would have the effect of facilitating the union shop as the norm for all performing arts institutions, while HR 8441 would subject such institutions to secondary boycotts. The key language in HR 3383 would legitimate collective bargaining agreements which require, as a condition of employment, membership in the bargaining unions "after the seventh day following the beginning of such employment or the effective date of the agreement, whichever is later". No action will be taken in this Congress on either bill, in light of organized labor's all-out effort to secure passage of the "Labor Reform Act of 1978", which passed the House as HR 8410 and for several weeks was the subject of extended debate in the Senate.

Despite attempts to simplify and deregulate, the Federal Government manufactures more legislation instead of less. Arts organizations throughout the country have only just begun to realize the impact some of this legislation has on the arts, even though much of it does not address them directly. Congressional appropriations to the National Endowment for the Arts have obvious significance to all of us involved in the performing arts, but issues such as tax reform and changes in Social Security are not as blatant.

This column is the result of an effort to familiarize USITT members with significant legislation currently before Congress. We will attempt not to editorialize or create a position for USITT, but rather to report on issues which relate to the arts in general and theatre technology in particular.

We urge you, however, to use your right as a citizen to contact your elected representatives when you, as an individual, feel strongly one way or another. Your voice does make a difference, and the economic and social role of the arts is ubiquitous in Washington. Further information on the legislation summarized here and/or other pending legislation can be obtained from Jeff Prauer, Pasadena Symphony, 300 East Green Street, Pasadena, California 91101.

A SUMMARY OF CURRENT LEGISLATION CONCERNING THE ARTS IN GENERAL AND USITT IN PARTICULAR

HR 12932

FY 1979 - Appropriations for Interior and Related Agencies:

On Wednesday, May 24, the House Appropriations Committee approved without change the action of the Interior Subcommittee granting full funding of the Administration's FY '79 requests for the National Endowments for the Arts (\$149,660,000) and the Humanities (\$145,600,000).

The House Subcommittee and Committee decisions for full funding should not be read as unqualified endorsements of the two Endowments. The Committee Report makes clear that the Subcommittee remains unsatisfied with the answers it received during the hearings process concerning the programs, policies, and long-range goals of the Endowments. The Report announces that the Committee's investigative staff will undertake an in-depth review of the operations of both Endowments, with a view to determining "the fairness and effectiveness of their procedures, policies, and programs" (including "their treatment of applicants and applications") their prospective needs for the future, and their compliance with the Congressional mandate as expressed in the authorizing legislation".

ADMINISTRATION TAX PACKAGE

Although the Administration tax program effectively does not exist, two alternative tax programs have been presented. One involves a compromise tax package assembled by Congressman James R. Jones (D-Okla.) which would provide a tax cut of \$15 billion rather than the \$25 billion cut sought by the Administration. IT WOULD DELETE THE ADMINISTRATION'S PROPOSAL FOR ELIMINATION OF BUSINESS EXPENSE DEDUCTIONS FOR BUSINESS-RELATED ENTERTAINMENT, INCLUDING THE "THEATRE TICKET DEDUCTION," which the American Arts Alliance, among others, has supported as important to performing arts institutions.

The Handicapped and the Arts

IMAGINE a society where you were prohibited from ever seeing a play, a concert, or an art exhibit. Yet this society would be rich in arts that were readily available to almost everyone else. Only you, and a few others like you would be kept out of the cultural mainstream. IMAGINE being unable to enter an important conference meeting, without being escorted through the hotel kitchen. IMAGINE having management and labor wrangle for over forty-five minutes over how you are going to pass the threshold, when all you wanted to do was attend a concert inside Carnegie Hall. IMAGINE being handicapped ... and having your handicap stop you at virtually every turn simply because someone else had forgotten that you might want to get from here to there. IMAGINE your frustration when you discovered that the only reason for most of the obstacles and demeaning incidents in your life came because of a lack of planning and not because of your inability to overcome your handicap. YOU MIGHT GET A LITTLE MAD!

That is exactly what has happened with groups like The National Center for a Barrier Free Environment, and others representing wheel chair bound, blind, deaf or otherwise handicapped individuals. They organized and have had laws passed to enforce their rights to equal access and equal protection. Others have sued for both punitive and compensatory damages when neglect of their special needs caused them harm. Attention to the needs of people who happen to bear a handicap is an idea whose time has come.

THE NEW LAW

The most important new development for the Theatre will be Sections 503 and 504 of the Rehabilitation Act of 1973, Public Law 93-112. Section 503 mandates affirmative action programs to employ the handicapped. Exactly what that will mean for Technical Theatre is uncertain at this time. Section 504, on the other hand, requires full ac-

gree is specifically for those students who enter college with a firm idea of their professional goals and for those who discover their goals soon after entering undergraduate study." The training of professional designers (scenic, costume, lighting, and sound), costumers, and technical directors is a sufficiently complex and comprehensive process that may commence at the undergraduate level, but normally requires additional study. The undergraduate education of costumers and technical directors will normally encompass some subject matter preparatory for advanced study in arts management and theatre administration.

1. BASIC COMPETENCE IN GENERAL STUDIES FOR THE BFA

It is realized that a greater part of a student's study for the BFA will be in theatre and allied arts and that one will therefore have less time to devote to other subjects. Nevertheless, the basic competencies in general studies should encompass the same areas indicated above in the general studies section of the BA degree. All students intending to enter a BFA program in theatre must have as their academic advisor a member of the theatre arts faculty. We endorse U/CTA; 1., Sec. C., paras. 1, 2, and 3. Our editorial comments appear in brackets.

"C. Minimum Theatre Competencies

All theatre artists, scholars, and teachers share common professional needs. Every artist must to some extent be a performer, an audience member, a historian, a theorist, and a teacher. For this reason, certain subject matter areas and learning processes are common to all baccalaureate degrees in theatre. The precise format and details of the curricula utilized to achieve this breadth of skills and understandings are best determined by the individual institution in ways that are commensurate with its unique goals and resources. The competencies described below are presented in the context of minimal levels of accomplishment or artistry. We assume that the student need not to excel in these areas, but that he/she will demonstrate basic knowledge or competency in each of the areas.

1. Theatre History, Literature, Theory, and Criticism

- a. The student must demonstrate that he/she has read and understood representative plays from the major periods of theatre history.
- b. The student must demonstrate knowledge of the physical theatres, the patterns of production organization, and the production techniques of major periods of theatre history.
- c. The student must know the conventional standards by which dramatic art has been judged and should have used them in conjunction with participation in a program of both traditional and nontraditional modes of theatrical production.
- d. The student must demonstrate a cultural awareness of more depth than that of the superficial observer and

be able to explain and defend views about culture and the performing arts in their professional and educational components.

2. Performance/Design/Technical

- a. The student must demonstrate the ability to perform and understand the basic tasks of the actor. Though not necessarily possessing the level of talent required for a professional career, the Bachelor of Arts student should demonstrate an understanding of the actor's process to include the practice of character analysis; memorization of text; application of a character makeup; participation in ensemble; sufficient volume of sound and clarity of speech to communicate to an audience and use of the body in an expressive and communicative way.
- b. The student must demonstrate a basic understanding of the fundamental skills required of the director; script analysis; communication of directorial intent/concept; audition procedures; rehearsal procedures; communication with collaborative artists.
- c. The student must demonstrate an understanding of the process involved in the design of costumes, lighting, [design and stage] [settings, and sound.]
- d. The student must demonstrate the ability to handle basic technical theatre operations such as: operating a sewing machine; hanging and focusing a stage lighting instrument; operating basic power tools of a scene shop. [; operation of basic sound equipment.]"

2. BASIC COMPETENCE IN DESIGN AND TECHNICAL SKILLS

At the BFA level, the student should work as much as possible in all the technical areas and study design in all areas. It is possible, however, for the student to emphasize one area of design over another, or one technical area over another according to his aptitudes, interests, and career goals. (see "Realization" below) This must not be allowed to happen at the expense of development of the basic skills in all of the technical areas. This preparation should be at a level which will enable the student to obtain employment in some area of the entertainment industry upon completion of the degree.

3. THE COMMON CORE OF BASIC SKILLS

All BFA students in the design and technical areas will have competence in a common core of four design and technical skills. These are: Conceptualization, Research, Presentation and Realization.

All students must have the opportunity to exercise their theatre skills under fully realized production conditions on a regular basis. Those students who show promise in the areas of design, costume shop management and technical direction should have an opportunity to experience these duties under fully realized production conditions.

a. Conceptualization

- (1) Playscript Analysis: The ability to ex-

tract from the script and articulate its stated, inherent, and implied environmental requirements; the ability to work with the director and other design artists to reach a unified, agreed upon, and appropriate interpretation of the script; the ability to visualize the production's thematic statement, style (dramatic theatricality), period, and relevant practical considerations.

- (2) **Informed Perception of the Playscript:** The ability to utilize one's knowledge of the basic competencies in general studies to represent the theatrical microcosm in terms of the macrocosm.

b. Research

- (1) **Research Habits:** The ability to use resources efficiently, responsibly, accurately, and intelligently. This includes the ability to quickly and accurately record, by means of notes or sketches, the data researched.
- (2) **Design Research:** The ability to research other cultures and other times with respect to: decor, architecture, costume, fine arts, stage design, music social mores, environmental sound, and zeitgeist.
- (3) **Technical Research:** Becoming familiar with the characteristics, properties, sources and uses of a variety of materials, fabrication methods, and tools in both their contemporary and historic contexts.
- (4) **Retention:** It is essential that a working knowledge of the information listed in (2) and (3) above be taught to, and retained by, the student.
- (5) **Synthesis:** The artist's process of selection which makes the design unique. The student must demonstrate the ability to extract the essence of the data and apply it appropriately (in terms of: Audience sophistication, local customs and color, taste, and thematic requirements) to the design problem in order to amplify, define, and complement the thematic statement.

c. Presentation

Presentation skills: One of the principal aspects of design skills is graphic communication. The student must be able to communicate his concepts through the following demonstrated abilities:

- (1) Mechanical drafting to produce at a commercial level, plans, front and rear elevations, sections, projections, and plots. Familiarity with the variety of reproduction media should be included.
- (2) Free-hand drawing to accurately represent space, volume, and perspective in an unmannered style.
- (3) Use mechanical perspective methods with facility.
- (4) Knowledge of the elements and principles of two- and three-dimensional design, and their application to an aesthetic context.

- (5) Effectively use two- and three-dimensional presentational media including at least the following: opaque and transparent paints, ink, charcoal, pastel, and appropriate model-making materials including both amorphous and rigid media.
- (6) Attendant documentation related to all areas of design and technology including an understanding of:
- (a) Light plots, instrument schedules, dimmer schedules, hook-up charts, and cue recording methods.
- (b) Costume plots and charts.
- (c) Sound plots and cue recording methods.
- (d) Production flow charts, schedules, calendars, and shifting plots.

d. Realization

- (1) **Translation:** The ability to translate the presented designs into actuality for use by the actors and the audience. In order to accomplish this, there must be an understanding and utilization of existing or available resources: budget, time, facilities, materials, equipment, and personnel (to include their level of expertise). This ability must apply to doing one's own design as well as faithfully executing the design of another. While it is recognized that individual teaching artists favor certain methods or materials, students must have the opportunity to work and experiment with materials other than those primarily in favor.
- (2) **Execution:** The execution of the design or designs is traditionally divided into four categories: Scenery, Costumes, Lighting, and Sound.
- (a) **Scenery.** The making of scenic elements requires acquisition of a wide variety of skills and knowledge of techniques including the following:
- i. **Construction -** The ability to fabricate scenery using woods, ferrous and non-ferrous metals, textiles, resins, adhesives, paper products, plastics, and other common scenic materials. A knowledge of the essential processes and the safe operation of all hand and power operated tools used with such materials and processes is mandatory. The processes and equipment used should be the equivalent of those commonly found in commercial/professional scenic studios.
- ii. **Painting -** The ability to faithfully translate the presented design into a full-scale painted or treated surface, using appropriate materials and processes. This must include a variety of techniques and materials. It is understood that those students who intend to become designers may be required to do pictorial painting.

- iii. Rigging - The Student must have the knowledge to safely and properly erect and install scenery as well as common scenic-shifting and stage equipment.
- iv. Properties - The student must have the manual dexterity and fine skills to fabricate properties as well as a knowledge of appropriate methods of finding and securing properties for use.
- (b) Costumes. The fabrication of costumes requires the acquisition of a wide variety of skills and knowledge of techniques including the following:
- i. Construction - Clothing and costume construction techniques using hand and power tools and methods such as found in commercial/professional costume shops. Materials used normally include textiles, craft materials, and notions. The safe use of materials and equipment is an essential part of instruction. This area includes garments, accessories, footwear and millinery.
 - ii. Fabric Modification. Understanding the uses of dyes and distressing techniques to achieve a fabric suitable within the design concept.
 - iii. Patterns. Utilization of various cutting, sizing, draping, pattern-making, and pattern-altering skills to interpret the designer's rendering into a physical actuality which will enhance the spirit of the characterization.
 - iv. Movement. Understanding of material choice, pattern, and construction techniques and their influence upon actor/dancer/singer movement and breathing.
 - v. Wardrobe Management. A working knowledge of costume maintenance techniques, and dresser's responsibilities including fast changes and dressing the performers to appear in a given production.
 - vi. Make-up. In addition to that knowledge of standard make-up required of all theatre artists, a detailed knowledge of prosthetic make-up, masks, hairpieces, wig-making, dressing, and maintenance is also required. Further, an understanding of the properties and uses of the wide variety of make-up materials with respect to physiology and physiognomy is required. Students must have an understanding of the inherent relationship that exists between the costume designer's costume and make-up designs as an extension of the visualization of the character, and the actor's interpretation of that character. (We
- recommend that U/CTA emphasize this relationship under III, C, 1, h.)
- (c) Lighting. The creation of lighting design requires the acquisition of a wide variety of skills and knowledge of equipment including the following:
- i. Properties. Development of a working knowledge of the controllable properties of light for aesthetic purposes.
 - ii. Instrumentation. Understanding of the construction, photometric characteristics, and safe application of the wide variety of instruments and allied equipment used in the entertainment industry. A significant amount of the equipment used shall represent, in both scope and variety, the advances in the state of the art.
 - iii. Control. A working knowledge of the safe use of all aspects of electrical distribution, circuit distribution, and control devices. In addition, students must have an understanding of the operational theory of all kinds of control equipment found in the entertainment industry. The control equipment available must permit the execution of high quality lighting designs.
 - iv. Application. Experience in the safe mounting and focusing of lighting instruments and the operation of control equipment under both pre-production and performance situations equivalent to the best professional level.
- (d) Sound. The execution of sound designs and effects requires a theoretical understanding of, and some experience in the operation of, sound equipment for such purposes as sound reinforcement and sound reproduction by electronic and mechanical means. Such experience should include the set-up and interconnection of equipment, preparation of sound recordings, fabrication of special sound devices, and the operation of equipment under both pre-production and performance situations.
- III. The Relationship of the Instructional and Production Programs
- Theatrical productions are an essential academic laboratory experience for the study of the theatre arts. Therefore, adequate, safe, and properly maintained laboratory facilities and equipment are required of any institution offering a BA or BFA degree program in theatre arts. The realization of a theatrical production necessitates separate and distinct laboratory spaces for performance, scenery construction and painting, costume building, and the storage and maintenance of lighting and sound equipment.

We endorse the U/CTA statement on facilities and budget in III., E., but would apply it to both BA and BFA programs. Our editorial comments appear in brackets.

"E. Facilities and Budget

The Bachelor of Fine Arts [and the Bachelor of Arts] should be offered only by institutions that can support a regular program of theatre production of a high caliber [.] [Students seeking either degree must be involved in theatre production programs for academic credit. In the case of the BFA student, the involvement should be intensive. For the BFA program, the department must have:

1. Sole booking authority over at least one properly equipped major production facility.
2. Sole control over the selection of dramatic works and their production.
3. Sole control over casting and technical assignments.
4. Sole control over internal fiscal operation and budget. Interdisciplinary productions such as dance programs, musicals, and television/film productions are excepted.]"

IV. Qualifications of the Faculty

We endorse the U/CTA statement on faculty (I., D) for the BA with the addition of our editorial comment which appears in brackets.

"D. Faculty

Bachelor of Art degree programs offering a major in theatre must have a minimum of three (full time equivalent) theatre-trained faculty positions. Among them there must be adequate training and experience in both the production and academic areas [, particularly including directing, acting, design, and technical expertise] of theatre that can provide the student basic theatre knowledge and skills in theatre production, theatre history, criticism, and theory."

With regard to the BFA degree, we endorse the basic U/CTA concept stated in III., D., that "... faculty must include persons with experience in the professional theatre." However, in the design and technical area at least three tenure track (full-time equivalent) positions filled by professionally qualified persons teaching in the required areas of specialization must be provided.

A professionally qualified person is one who:

1. Has at least the BFA degree, or the BA and equivalent professional experience. The usual degree for continuing employment is the MFA or the MA with professional experience. Membership in United Scenic Artists of America may constitute evidence of professional standing, for example. Some persons may be of such eminence in the field that any degree requirement is inappropriate.

2. Exhibits continuing competency by design and/or technical activity outside the academic world by being a working artist with theatrical organizations of recognized stature. It is appropriate for a student or students to be included to some extent in this activity.
3. Has as his primary interest the training and education of students.
4. Has demonstrated dedication to the art of the theatre in general, and to his own production organization in particular.
5. Remains current with his profession and auxiliary subject matter.

It must be recognized that, with respect to "2" and "5" above, faculty must be allowed sufficient release time to engage in both academic and professional technical and design assignments on a regular basis.

V. Conclusion

The undersigned committee is resolved that the above described standards each represent the minimum educational level to be permitted in accredited institutions, and recommend their adoption and use by the U/CTA of ATA and the NAST.

Date: July 9, 1978