

**LEGAL ISSUES THAT ARISE WHEN COLOR IS ADDED  
TO FILMS ORIGINALLY PRODUCED, SOLD, AND  
DISTRIBUTED IN BLACK AND WHITE**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
TECHNOLOGY AND THE LAW  
OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

LEGAL ISSUES THAT ARISE WHEN COLOR IS ADDED TO BLACK-AND-  
WHITE MOVIES

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MAY 12, 1987

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Serial No. J-100-23

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Printed for the use of the Committee on the Judiciary



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1988

77-848

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For sale by the Superintendent of Documents, Congressional Sales Office  
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# LEGAL ISSUES THAT ARISE WHEN COLOR IS ADDED TO FILMS ORIGINALLY PRODUCED, SOLD, AND DISTRIBUTED IN BLACK AND WHITE

TUESDAY, MAY 12, 1987

U.S. SENATE,  
SUBCOMMITTEE ON TECHNOLOGY AND THE LAW,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 9 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Patrick J. Leahy (chairman of the subcommittee) presiding.

Staff present: Ann Harkins, majority chief counsel, and Matt Gerson, majority general counsel, Subcommittee on Technology and the Law.

## OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Senator LEAHY. The subcommittee can come to order.

Thomas Jefferson once observed that, "Law and institutions must go hand in hand with the progress of the human mind. As new discoveries are made \* \* \* institutions must advance also, and keep pace with the times." We in Congress must keep Mr. Jefferson's admonition in mind as we tackle the difficult legal questions that are a natural byproduct of new technologies.

This subcommittee is the Judiciary Committee's forum for exploring whether evolving technologies require that we modify our laws to keep up with technology or in anticipation of the technological advances of the future. The subcommittee began its work this year with 2 days of hearings on the semiconductor chip industry, obviously at the heart of American technology. We produced the Semiconductor Chip Protection Act Extension of 1987.

Today we address a different issue. We are going to examine the legal issues that arise when color is added to black-and-white movies. We are not doing it with a bill before us or a legislative fix in mind.

The technology used in colorizing black-and-white films points out the need for Congress to stay ahead of the curve and begin to look at our laws with imagination equal to that of the inventors of technological innovation. We can't just sit back and try to fit new technology into old legal holes. We have to be creative while hold-

ing firm on fundamental American principles of law, fairness, and the entrepreneurial spirit that will carry us into the 21st century.

The subcommittee, with the help of the expert witnesses before us today, is going to explore how colorization affects the copyright, trademark and contract law, artistic integrity and the preservation of a major part of our national cultural heritage.

I am delighted to welcome our witnesses to the Subcommittee on Technology and Law, and we look forward to their testimony.

We are delighted to have you, Ms. Rogers, Mr. Silverstein, Mr. Pollack, Mr. Allen, and Mr. Forman.

We are also going to have one of the changes that has occurred basically only in this subcommittee. We are actually using electronic things. We have moved in the past year away from the quill pens and now we are moving all the way up to television, and we will have a tape which will first explain the colorization process, and we will hear from the witnesses before us, and then our witnesses from the second panel have prepared a videotape describing how color is added to black and white film.

When I refer to "colorization," I am speaking of a registered trademark of a company called Colorization, Inc., I use that term to refer to the general practice of adding color to black-and-white film. I mention that only because my staff knows how concerned I get when we make verbs out of nouns and so on, and I just want you to know that we are trying to use a term that is now being used by everybody else.

We are going to dim the lights and show a brief film.

[A videotape film was presented on the colorization of black-and-white film.]

Senator LEAHY. We will start, Mr. Silverstein, with you, if we might.

**STATEMENTS OF A PANEL CONSISTING OF ELLIOT SILVERSTEIN, SYDNEY POLLACK, WOODY ALLEN, AND MILOS FORMAN ON BEHALF OF DIRECTORS GUILD OF AMERICA; AND GINGER ROGERS ON BEHALF OF SCREEN ACTORS GUILD**

Mr. SILVERSTEIN. Senator Leahy, speaking on behalf of the delegation for the Directors Guild of America, I would like to thank you for giving us an opportunity to be heard before this distinguished committee and take our first steps before you in our search for redress of a grievance.

We are here to try to illuminate the Directors Guild's view of what we consider to be an assault on our national cultural heritage, the defacement of the work of film artists of the past, and the chilling hand of restraint on film artists who will create for and in the future.

Who and what is the Directors Guild of America, and why is it saying all these nasty things about the nice companies that love our black-and-white films so much that they have chosen to make them more readily available by presenting them to the Nation in computer-colored disguise?

The Directors Guild is a labor organization, consisting of almost 8,500 men and women across the country who make film and tape entertainment. A vital part of our labor contract with our employ-

ers is entitled "Creative Rights." These rights describe a list of recorded acknowledgments with the Producers' Association that directors are artists and, as such, have certain rights, not privileges, to be involved in an essential way of all phases of filmmaking.

When photography is finished, even those of us who work on the basis of a scale contract, whether in television or theatrical films, set about editing the film for no additional pay for a period which can range from days to months. The opportunity to express this devotion to the work is a right negotiated with and recognized by our employers.

Our compensation, Senator, is not in coin alone; it lies in very large part in love of the art, bringing the screenplay to life, in the satisfaction of realizing visions which we love. Having dedicated ourselves singularly and collectively to seeking the opportunity to achieve the highest quality of work of which we are individually capable, having physically and emotionally survived the rigors of the creative process, only to be robbed of the intellectual fruits of the process, we feel is an unacceptable and undeserved penalty for our aspirations toward excellence.

So our sensibilities are acutely bruised when we see our black-and-white films doused in what, in our opinion and that of almost all critics, is artificial, inferior, computer-generated color.

Apart from positions and perceptions, there is one clear and distinctive difference between the coloroids and us. That difference is money. There are those who stand to profit from the computer coloring of other peoples' works, and those and those led by the Directors Guild of America who stand to gain not one penny. Most members of the Directors Guild have never made a black-and-white film and may never have the opportunity to do so.

I respectfully suggest that the committee judge the various arguments offered to you in the light not only of merit but of motivation.

I would like to read to you now a part of a report to our National Board which outlines our philosophy on the subject of computer coloring. The ideas it expresses provide the basis for similar positions taken by almost all artistic guilds, other interested groups, and almost all critics.

The act of artistic desecration whereby a specific dramatic and photographic vision is altered, after the fact, by a group of technicians, with neither the advice nor the consent of the artists who created these images in the first place, constitutes, in the words of John Huston, "as great an impertinence as for someone to wash flesh tones on a Da Vinci drawing."

The defenders of computer coloring claim that in many instances color film was not available at the time these pictures were made. We believe that this is a pointless argument. Whether it was or not, the fact of the matter is that films, like other artistic products have personalities of their own. In many cases, black and white was chosen and color specifically rejected for artistic reasons. Some of the artists remain alive to testify to the deliberateness of their choices. The Guild must support them and lends its voice in protection of the work of those artists who are not here to defend their work for themselves.

The real point to be addressed is that if films were made in black and white, for whatever reason, their creators designed them to take advantage of the unique opportunities and possibilities as well as the limitations offered by black and white photography. "Colorization" simply undermines these values and intentions. The fundamental mistake made by those who promulgate "colorization" is that black-and-white films need to be "improved". They are what they are, for better or for worse. Adding color to original black-and-white films makes them something differ-

ent than they were. "Grapes of Wrath" in color would not be "Grapes of Wrath" as directed by John Ford. Likewise, "Citizen Kane," "Casablanca," and countless other cinematic treasures will be fatally diluted if subjected to the "colorizing" annihilation.

"Colorization" advocates also maintain that viewers who are offended by the process have the option of turning down the color knob on their television sets. We take strong exception to such a suggestion as a fundamental corruption of the artists' professional rights. The choice of the appearance of any work of art does not rest with the reader, the listener, the viewer, or the audience. It rests with the artist. It is perhaps the most basic right of the artist, and one that the Directors Guild, as you know, has fought for by means of many public debates and through many contract negotiations. But there is an equally compelling reason that we believe that the Guild should oppose "colorization." We believe that "colorization" represents the mutilation of history, the vandalism of our common past, not merely as it relates to film, but as it affects society's perception of itself. "Colorization" is a rewriting of history, which we believe to be inherently dangerous. We believe that the Directors Guild should support the notion that no civilization worthy of the name can afford to promulgate lies about itself.

If we do not preserve with fidelity images of how we once viewed ourselves, we increase the likelihood that we will arrive at a distorted understanding of who we are and how we got that way.

"But," say the coloroids, ignoring us, "many black-and-white films were not made by choice but by studio fiat, and many directors would have wanted color if they had been allowed to use it."

Putting aside the question whether any professional would still have a job after misapplying such colors, the reason that the palette was or is limited to black-and-white may be historically interesting, but it is artistically irrelevant. We work, like most artists, with what we have. For example, black-and-white photography is not color photography with the color removed. It involves a completely different technique.

Now to the question of why anyone should care, particularly the intellectual leaders and lawmakers of our society, let me offer some reasons. No art, including film art, is created in a social vacuum. Our artists have been formed and informed by our culture which, in most cases, gave them birth, and in all cases gave them an opportunity for the kind of free expression that led finally to the production of their work—work unique and special to their nation, born of a particular time and a particular place, solving particular aesthetic and technical problems with the particular tools available to them at that time.

[Submissions of Mr. Silverstein follow:]





## DIRECTORS GUILD OF AMERICA

STATEMENT OF ELLIOT SILVERSTEIN  
BEFORE THE  
SUBCOMMITTEE ON TECHNOLOGY  
AND THE LAW

MR CHAIRMAN AND SENATORS:

SPEAKING ON BEHALF OF THE DELEGATION FROM THE DIRECTORS GUILD OF AMERICA, I WOULD LIKE TO THANK YOU FOR GIVING US AN OPPORTUNITY TO BE HEARD BEFORE THIS DISTINGUISHED COMMITTEE AND TO TAKE OUR FIRST STEPS BEFORE YOU IN OUR SEARCH FOR REDRESS OF A GRIEVANCE. WE ARE HERE TO TRY TO ILLUMINATE FOR YOU THE DIRECTORS GUILD'S VIEW OF WHAT WE CONSIDER TO BE AN ASSAULT ON OUR NATIONAL CULTURAL HERITAGE, THE DEFACEMENT OF THE WORK OF FILM ARTISTS OF THE PAST, AND THE CHILLING HAND OF RESTRAINT ON FILM ARTISTS WHO WILL CREATE FOR AND IN THE FUTURE.

WHO AND WHAT IS THE DIRECTORS GUILD OF AMERICA AND WHY IS IT SAYING ALL THESE NASTY THINGS ABOUT THE NICE COMPANIES THAT LOVE OUR BLACK AND WHITE FILMS SO MUCH THAT THEY HAVE CHOSEN TO MAKE THEM MORE READILY AVAILABLE BY PRESENTING THEM TO THE NATION IN COMPUTER COLORED DISGUISE?

THE DIRECTORS GUILD IS A LABOR ORGANIZATION, CONSISTING OF ALMOST EIGHTY FIVE HUNDRED MEN AND WOMEN ACROSS THE COUNTRY, ALMOST FORTY-FIVE HUNDRED OF WHOM ARE DIRECTORS, AND ALMOST TWENTY-FOUR HUNDRED OF WHOM ARE DIRECTORS OF SCREEN PLAYS. OTHER MEMBERS ARE ASSISTANT DIRECTORS, UNIT PRODUCTION MANAGERS, ASSOCIATE DIRECTORS, AND STAGE MANAGERS IN TELEVISION, AND DIRECTORS OF NON-SCREEN OR TELEPLAY PRODUCTIONS, SUCH AS SPORTS DIRECTORS, NEWS DIRECTORS AND SO FORTH.

LAST YEAR WE CELEBRATED FIFTY YEARS OF DEVOTION TO THE PURPOSES THAT BROUGHT OUR FOUNDERS TOGETHER, THE MOST IMPORTANT OF WHICH

WAS THE ENHANCEMENT OF ARTISTIC RIGHTS AND THE ESTABLISHMENT OF STANDARDS FOR PROFESSIONAL DISCIPLINE AND GOALS.

TO BE SURE, IN OUR LABOR NEGOTIATIONS WITH THE PRODUCERS ASSOCIATION, WE PURSUE THE SAME GENERAL GOALS AS OTHER LABOR GROUPS. BUT, IN ONE WAY IN WHICH WE NEGOTIATE FOR THE RIGHT TO DO OUR JOBS WELL, THE DIRECTORS GUILD MAKES A CLAIM TO UNIQUENESS.

A VITAL PART OF OUR LABOR CONTRACT WITH OUR EMPLOYERS IS ENTITLED "CREATIVE RIGHTS." LET ME EXPLAIN THEIR PERTINENCE TO THIS HEARING. THERE ARE THREE MAJOR PHASES TO FILMMAKING: THE PREPRODUCTION PHASE (PREPARATION OF SCRIPT, CASTING, SELECTION OF STAFF AND LOCATION, BUDGETING ETC.) PRODUCTION -THE ACTUAL PHOTOGRAPHY OF THE FILM, AND THE POSTPRODUCTION PHASE WHERE ALL OF THE MATERIAL GATHERED IN PRODUCTION IS MARRIED. ACCORDING TO AESTHETIC JUDGEMENTS, THE PRINTED TAKES ARE CUT INTO SELECTED PIECES, ARRANGED SEQUENTIALLY IN THE PROCESS CALLED EDITING, THEN MUSIC AND SOUND EFFECTS ARE CHOSEN, COLOR IS BALANCED AND, IN THE BLACK AND WHITE PROCESS, THE AMOUNT OF DENSITY AND THE QUALITY OF CONTRAST ARE CHOSEN BASED ON THE INFORMATION ON THE NEGATIVE.

"CREATIVE RIGHTS" IS A TITLE GIVEN TO A LIST OF RECORDED ACKNOWLEDGMENTS, CONTAINED IN OUR BASIC MINIMUM CONTRACTS, WITH THE PRODUCERS ASSOCIATION, THAT DIRECTORS ARE ARTISTS, AND AS SUCH HAVE CERTAIN RIGHTS (NOT PRIVILIGES) CONNECTED WITH THE MAKING OF THE FILM. THESE RANGE FROM THE SIMPLE RIGHT TO BE FULLY CONSULTED ON EVERY ARTISTIC DECISION AFTER THE DIRECTOR'S EMPLOYMENT BEGINS, TO THE RIGHT TO MAKE A "DIRECTOR'S CUT", THAT IS TO MAKE HIS/HER VERSION OF HOW THE FILM SHOULD APPEAR (IN WHAT SEQUENCE SCENES SHOULD FLOW, WHICH IMAGE SHOULD APPEAR, IN WHAT RHYTHM THE IMAGES SHOULD CHANGE, WHERE PAUSES SHOULD BE LENGTHENED OR SHORTENED ETC.)

- FROM THE RIGHT OF FULL DISCLOSURE OF ANY DECISIONS PREVIOUSLY REACHED BY THE EMPLOYER WHICH MAY AFFECT THE DIRECTOR'S ARTISTIC CHOICES THROUGH MANY MANY OTHERS UP TO THE UNUSUAL RIGHT NOT TO BE DISCHARGED AFTER COMPLETION OF PHOTOGRAPHY FOR ANY REASON OTHER THAN GROSS WILLFUL MISCONDUCT. THIS, SO THAT WE CAN NOT BE DEPRIVED

OF THE PRECIOUS POSTPRODUCTION RIGHTS WE HAVE NEGOTIATED. WITH YOUR PERMISSION, A COPY OF OUR CONTRACT WILL BE OFFERED TO YOU FOR THE RECORD.

OUR DEVOTION, AS A GUILD, TO ARTISTIC STANDARDS IS SHOWN IN MANY DIFFERENT WAYS, BUT THE ONE WHICH I THINK WILL BE OF GREATEST INTEREST TO THE COMMITTEE, MR. CHAIRMAN, IS COMPENSATION -- OF A VERY SPECIAL KIND. IN ITS BASIC MINIMUM AGREEMENT WITH PRODUCING COMPANIES THE DIRECTORS GUILD ASKS ITS DIRECTORS OF SCREENPLAYS AND TELEPLAYS TO DO CERTAIN WORK FOR NOTHING. WE HAVE AGREED TO CARRY OUT PARTICULAR POSTPRODUCTION TASKS FOR NO PAY FOR A PERIOD WHICH CAN RANGE FROM DAYS TO MONTHS. WE EVEN DISCIPLINE THOSE OF OUR MEMBERS WHO SHIRK THEIR RESPONSIBILITY TO OUR PROFESSIONAL STANDARDS.

OUR COMPENSATION, THEREFORE, IS NOT IN COIN ALONE. IT LIES, IN VERY LARGE PART, IN LOVE OF THE ART OF BRINGING A SCREENPLAY TO LIFE - IN THE SATISFACTION OF REALIZING VISIONS WHICH WE LOVE - VISIONS THAT HAVE BEEN CARRIED IN THE WOMBS OF OUR IMAGINATIONS AS THEY HAVE UNDERGONE ALL KINDS OF NEEDED COMPROMISES AND ASSAULTS WHICH RUN THE GAMUT FROM INADEQUATE TIME OR MONEY, UNSTABLE PERSONNEL, NERVOUS AND/OR INEXPERIENCED EXECUTIVES, BAD WEATHER, ACCIDENTS EXHAUSTION, ILLNESS, OUR OWN LIMITATIONS - OR ALL OF THE ABOVE. WHEN PHOTOGRAPHY IS FINISHED EVEN THOSE OF US WHO WORK ON THE BASIS OF A SCALE CONTRACT SET ABOUT EDITING THE FILM FOR NO ADDITIONAL PAY, REMAINING WITH IT FOR NO ADDITIONAL PAY. HAVING DEDICATED OURSELVES SINGULARLY AND COLLECTIVELY TO SEEKING THE OPPORTUNITY TO ACHIEVE THE HIGHEST QUALITY OF WORK OF WHICH WE ARE INDIVIDUALLY CAPABLE, HAVING PHYSICALLY AND EMOTIONALLY SURVIVED THE RIGORS OF THE CREATIVE PROCESS, ONLY TO BE ROBBED OF THE INTELLECTUAL FRUITS, WE FEEL IS AN UNACCEPTABLE AND UNDESERVED PENALTY FOR OUR ASPIRATIONS TOWARD EXCELLENCE.

SO OUR SENSIBILITIES ARE ACUTELY BRUISED WHEN WE SEE "OUR CHILDREN" PUBLICLY TORTURED AND BUTCHERED ON TELEVISION BY THE VARIOUS INSTRUMENTS OF THE NEW TECHNOLOGISTS. THERE ARE A FEW EXAMPLES: FIRST, OUR FILMS ARE SPEEDED UP: AS YOU KNOW, FILM TRAVELS THROUGH

THE CAMERA AND THE PROJECTOR AT 24 FPS. BY TRANSFERRING THE FILM TO TAPE AND DROPPING THE EQUIVALENT OF ONE OR TWO OF THOSE FRAMES PER SECOND OVER THE COURSE OF TWO HOURS, A SUBSTANTIAL NUMBER OF MINUTES ARE GAINED FOR COMMERCIAL MESSAGES. ANOTHER MACHINE COMPENSATES FOR THE RISE IN FREQUENCY OF THE ACTORS' VOICES. AS YOU ALL MUST KNOW, ACTORS AND DIRECTORS WORK VERY HARD ON A SET TO ACHIEVE, AMONG OTHER THINGS, EXACTLY THE RIGHT PACE. MANY HOURS ARE SPENT TO GET A SCENE TO PLAY JUST SO LONG AND GET A PAUSE TO BE JUST SO SHORT. ALL OF THIS WORK IS OBLITERATED BY THE MARKETEEER AND THE ENGINEER! SECOND, OUR FILMS ARE "PANNED AND SCANNED." FILMS ARE PHOTOGRAPHED IN DIFFERENT ASPECT RATIOS (OR FRAME SIZES) WHICH VARY FROM A FRAME THE SIZE OF 1 UNIT HIGH TO 1.33 UNITS WIDE TO THE WIDE SCREEN CONSISTING OF PROPORTIONS OF 1 TO 2.35 UNITS. A SHOT MADE OF A CANOE, WOULD IN WIDE SCREEN, FOR INSTANCE, CONTAIN BOTH THE BOWMAN AND THE STERN MAN. WHEN SCREENED ON TELEVISION THE MARKETEEER HAS ONE OF FOUR CHOICES, SHOW THE BOWMAN, SHOW THE STERN MAN, SHOW THE MIDDLE OF THE CANOE WITHOUT EITHER, OR PAN AND SCAN - I.E. MOVE A SCANNER BACK AND FORTH ACROSS THE FILM FROM THE BOW TO THE STERN AND BACK AGAIN, FOLLOWING THE EXCHANGE OF DIALOGUE. HE THEREBY IMPOSES A RHYTHM, EMPHASIS, MOVEMENT AND IMAGERY FOREIGN TO THE FILMMAKERS IDEA. AND THEN FINALLY, THE LAST STRAW - THE LIGHTNING ROD OFFENSE THAT BRINGS US HERE TODAY -SEEING THOSE FILMS WHICH WERE MADE IN BLACK AND WHITE, DOUSED IN WHAT IS, IN OUR OPINION AND THAT OF ALMOST ALL CRITICS, INFERIOR COMPUTER GENERATED COLOR.

APART FROM POSITIONS AND PERCEPTIONS, THERE IS ONE CLEAR AND DISTINCTIVE DIFFERENCE BETWEEN THE COLOROIDS AND US. THAT DIFFERENCE IS MONEY. THERE ARE THOSE, WHO STAND TO PROFIT FROM THE COMPUTER COLORING OF OTHER PEOPLE'S WORK AND THOSE LED BY THE DIRECTORS GUILD OF AMERICA WHO STAND TO GAIN NOT ONE PENNY. MOST MEMBERS OF THE DIRECTORS GUILD HAVE NEVER MADE A BLACK AND WHITE FILM AND MAY NEVER HAVE THE OPPORTUNITY TO DO SO. MR. ROGER MAYER, PRESIDENT OF TURNER ENTERTAINMENT, WAS GENTLEMAN ENOUGH RECENTLY, TO PUBLICLY ACKNOWLEDGE THE MORAL AND ETHICAL NATURE OF OUR CAUSE. I RESPECTFULLY SUGGEST THAT THE COMMITTEE JUDGE THE VARIOUS ARGUMENTS OFFERED TO YOU IN THE LIGHT NOT ONLY OF MERIT BUT OF MOTIVATION.

LAST SUMMER OUR GUILD PRESIDENT GILBERT CATES ASKED ME TO CHAIR A COMMITTEE OF PROMINENT DIRECTORS, (A FEW OF WHICH ARE HERE TODAY) WHO WERE TO DISCUSS NEW TECHNOLOGIES THAT WERE THREATENING THE INTEGRITY OF THE FILMMAKING PROCESS. I WOULD LIKE TO READ TO YOU A PART OF THAT REPORT WHICH OUTLINES OUR PHILOSOPHY ON THE SUBJECT OF COMPUTER COLORING. IT WAS UNANIMOUSLY ADOPTED BY OUR NATIONAL BOARD AND THE IDEAS IT EXPRESSED PROVIDE THE BASIS FOR SIMILAR POSITIONS TAKEN BY ALMOST ALL ARTISTIC GUILDS, OTHER INTERESTED GROUPS AND CRITICS.

THE ACT OF ARTISTIC DESECRATION WHEREBY A SPECIFIC DRAMATIC AND PHOTOGRAPHIC VISION IS ALTERED, AFTER THE FACT, BY A GROUP OF TECHNICIANS, WITH NEITHER THE ADVICE NOR THE CONSENT OF THE ARTISTS WHO CREATED THESE IMAGES IN THE FIRST PLACE, CONSTITUTES IN THE WORDS OF JOHN HUSTON, "AS GREAT AN IMPERTINENCE AS FOR SOMEONE TO WASH FLESH TONES ON A DA VINCI DRAWING.

THE DEFENDERS OF COMPUTER COLORING CLAIM THAT IN MANY INSTANCES COLOR FILM WAS NOT AVAILABLE AT THE TIME THESE PICTURES WERE MADE! WE BELIEVE THAT THIS IS A POINTLESS ARGUMENT. WHETHER IT WAS OR NOT, THE FACT OF THE MATTER IS THAT FILMS, LIKE OTHER ARTISTIC PRODUCTS HAVE PERSONALITIES OF THEIR OWN. IN MANY CASES, BLACK-AND-WHITE WAS CHOSEN AND COLOR SPECIFICALLY REJECTED FOR ARTISTIC REASONS. SOME OF THE ARTISTS REMAIN ALIVE TO TESTIFY TO THE DELIBERATENESS OF THEIR CHOICES. THE GUILD MUST SUPPORT THEM AND LENDS ITS VOICE IN PROTECTION OF THE WORK OF THOSE ARTISTS WHO ARE NOT HERE TO DEFEND THEIR WORK THEMSELVES.

THE REAL POINT TO BE ADDRESSED IS THAT IF FILMS WERE MADE IN BLACK-AND-WHITE (FOR WHATEVER REASON), THEIR CREATORS DESIGNED THEM TO TAKE ADVANTAGE OF THE UNIQUE OPPORTUNITIES AND POSSIBILITIES AS WELL AS THE THE LIMITATIONS OFFERED BY BLACK AND WHITE PHOTOGRAPHY. "COLORIZATION" SIMPLY UNDERMINES THESE VALUES AND INTENTIONS.

THE FUNDAMENTAL MISTAKE MADE BY THOSE WHO PROMULGATE "COLORIZATION" IS THAT BLACK AND WHITE FILMS NEED TO BE "IMPROVED". THEY ARE WHAT THEY ARE, FOR BETTER OR FOR WORSE. ADDING COLOR TO ORIGINAL BLACK AND WHITE FILMS MAKES THEM SOMETHING DIFFERENT THAN THEY WERE. "GRAPES OF WRATH" IN COLOR WOULD NOT BE "GRAPES OF WRATH", AS DIRECTED BY JOHN FORD. LIKEWISE, "CITIZEN KANE", "CASABLANCA" AND COUNTLESS OTHER CINEMATIC TREASURES WILL BE FATALLY DILUTED IF SUBJECTED TO THE "COLORIZING" ANNIHILATION.

"COLORIZATION" ADVOCATES ALSO MAINTAIN THAT VIEWERS WHO ARE OFFENDED BY THE PROCESS HAVE THE OPTION OF TURNING DOWN THE COLOR KNOB ON THEIR TELEVISION SETS. WE TAKE STRONG EXCEPTION TO SUCH A SUGGESTION AS A FUNDAMENTAL CORRUPTION OF THE ARTISTS' PROFESSIONAL RIGHTS. THE CHOICE OF THE APPEARANCE OF ANY WORK OF ART DOES NOT REST WITH THE READER, THE LISTENER, THE VIEWER OR THE AUDIENCE. IT RESTS WITH THE ARTIST. IT IS PERHAPS THE MOST BASIC RIGHT OF THE ARTIST, AND ONE THAT THE DIRECTORS GUILD, AS YOU KNOW, HAS FOUGHT FOR BY MEANS OF MANY PUBLIC DEBATES AND THROUGH MANY CONTRACT NEGOTIATIONS. BUT THERE IS AN EQUALLY COMPELLING REASON THAT WE BELIEVE THAT THE GUILD SHOULD OPPOSE "COLORIZATION". WE BELIEVE THAT "COLORIZATION" REPRESENTS THE MUTILATION OF HISTORY, THE VANDALISM OF OUR COMMON PAST, NOT MERELY AS IT RELATES TO FILM, BUT AS IT AFFECTS SOCIETY'S PERCEPTION OF ITSELF. "COLORIZATION" IS A RE-WRITING OF HISTORY, WHICH WE BELIEVE TO BE INHERENTLY DANGEROUS. WE BELIEVE THAT THE DIRECTORS GUILD SHOULD SUPPORT THE NOTION THAT NO CIVILIZATION WORTHY OF THE NAME CAN AFFORD TO PROMULGATE LIES ABOUT ITSELF.

IF WE DO NOT PRESERVE WITH FIDELITY IMAGES OF HOW WE ONCE VIEWED OURSELVES, WE INCREASE THE LIKELIHOOD THAT WE WILL ARRIVE AT A DISTORTED UNDERSTANDING OF WHO WE ARE AND HOW WE GOT THAT WAY."

"BUT," SAY THE "COLOROIDS", IGNORING US, "MANY BLACK AND WHITE FILMS WERE NOT MADE BY CHOICE BUT BY STUDIO FIAT AND MANY DIRECTORS WOULD HAVE WANTED COLOR IF THEY HAD BEEN ALLOWED TO USE IT."

PUTTING ASIDE THE QUESTION WHETHER ANY PROFESSIONAL WOULD STILL HAVE A JOB AFTER MISAPPLYING SUCH COLORS, THE REASON THAT THE PALETTE, WAS OR IS, LIMITED TO BLACK AND WHITE, MAY BE HISTORICALLY INTERESTING BUT IT IS ARTISTICALLY IRRELEVANT. WE WORK, LIKE MOST ARTISTS, WITH WHAT WE HAVE. FOR EXAMPLE, BLACK AND WHITE PHOTOGRAPHY IS NOT COLOR PHOTOGRAPHY WITH THE COLOR REMOVED. IT INVOLVES A COMPLETELY DIFFERENT TECHNIQUE WHICH MY COLLEAGUES WILL ADDRESS.

NOW TO THE QUESTION OF WHY ANYONE SHOULD CARE, PARTICULARLY THE INTELLECTUAL LEADERS AND LAWMAKERS OF OUR SOCIETY. LET ME OFFER SOME REASONS. NO ART (INCLUDING FILM ART) IS CREATED IN A SOCIAL VACUUM. OUR ARTISTS HAVE BEEN FORMED AND INFORMED BY OUR CULTURE, WHICH IN MOST CASES GAVE THEM BIRTH, AND IN ALL CASES GAVE THEM AN OPPORTUNITY FOR THE KIND OF FREE EXPRESSION THAT LED FINALLY TO THE PRODUCTION OF THEIR WORK - WORK UNIQUE AND SPECIAL TO THEIR NATION, BORN OF A PARTICULAR TIME AND A PARTICULAR PLACE, SOLVING PARTICULAR AESTHETIC AND TECHNICAL PROBLEMS WITH THE PARTICULAR TOOLS AVAILABLE TO THEM AT THAT TIME.

THE CULTURE OF THE UNITED STATES, LIKE THAT OF MOST OTHER COUNTRIES, HAS BEEN SUPPORTED AND PROTECTED BY THE TAXES OF THE PEOPLE AND SOMETIMES BY THEIR LIVES. IN A VERY REAL SENSE THEREFORE, THERE IS A NATIONAL INTEREST - AN INVESTMENT IN SEEING TO IT THAT CULTURE (OF WHICH ART IS AN IMPORTANT INGREDIENT) IS PRESERVED.

IN FACT, IN SUPPORT OF THIS THESIS, THE FEDERAL GOVERNMENT MAKES FUNDS AVAILABLE TO CERTAIN ORGANIZATIONS, SUCH AS THE AMERICAN FILM INSTITUTE, THE SMITHSONIAN, AND THE LIBRARY OF CONGRESS FOR THE RESTORATION OF BLACK AND WHITE FILMS.

ONE MIGHT SAY, TO BE SPECIFIC, THAT FRANK CAPRA DID NOT CREATE "IT'S A WONDERFUL LIFE" BY HIMSELF BUT WAS NURTURED BY THE CULTURAL HERITAGE WHICH PRECEDED AND ENCOURAGED HIM. THAT WORK, THEREFORE, IN ONE SENSE, BELONGS TO THE WHOLE NATION.

WE, AT THE DGA, DO NOT CONTEST THE RIGHTS OF THE OWNERS OF ART (INCLUDING FILM) TO BUY, SELL, SHOW OR NOT TO BUY, SELL OR SHOW WHAT THEY OWN. BUT WE FEEL THAT THEY SHOULD (AND MUST BE MADE TO) ACKNOWLEDGE THAT THERE IS A MORAL COMPONENT IN THEIR OWNERSHIP RIGHT -- A CUSTODIAL RESPONSIBILITY TO PASS ON THE WORKS THEY HOLD TO THE NEXT GENERATION, UNCHANGED AND UNDISTORTED. IN TRYING TO PROFIT FROM THE PRESENT, WE SHOULD NOT BREAK CONTINUITY INTO THE FUTURE BY GREEDILY DEVOURING--IN FACT, CANNIBALIZING OUR OWN PAST.

OUR ADVERSARIES IN THIS HEARING ARE APPARENTLY INSENSITIVE TO ANY SUCH MORAL PRINCIPLES WHICH MIGHT GUIDE THEIR ENTREPRENEURIAL ADVENTURES. THEY HAVE SAID SO. THE BUCK IS THEIR ONLY BIBLE, NO MATTER HOW THEY RATIONALIZE IT. BUT THAT IS NOT ENTIRELY CORRECT. MR. TURNER, WHEN ASKED WHY HE WAS COLORING THE CLASSIC FILM "CASABLANCA", SAID HE WAS DOING IT BECAUSE "HE LOVED THE CONTROVERSY." WE FIND THAT STATEMENT BOTH IRRESPONSIBLE AND OUTRAGEOUS.

TO SUM UP, MR CHAIRMAN, SOME THINGS HAVE A VALUE BEYOND PRICE. WE LOOK TO THE CONGRESS, WHICH, THROUGH ITS LAWS, UNDERLINES THE VALUES WE ALL SHOULD HOLD MOST DEAR, TO TEACH THE NATION THAT IT SHOULD GIVE CONSIDERATIONS OF POTENTIAL PERMANENT CULTURAL LOSS PRIMACY OVER THOSE WHICH PERMIT SHORT TERM BUCCANEERING PROFIT - A PROCESS MADE MORE COMPLEX WITH THE ENTRANCE ONTO THE SCENE OF THE COMPUTER AS AN INGENIOUS INSTRUMENT OF DEFAACEMENT. AS WE ALL KNOW, HOWEVER, THROUGH OUR NATIONAL HISTORY, MANY ADJUSTMENTS IN THE LAW HAVE BEEN MADE IN ORDER TO BRING PROPERTY OWNERSHIP INTO GREATER HARMONY WITH LEGISLATORS' PERCEPTION OF THE PUBLIC INTEREST. AND SO, WE HOPE THAT WE CAN PERSUADE THE CONGRESS TO DRAW A GUIDELINE IN ORDER TO RESTRAIN SOME CITIZENS WHO PERCEIVE MORAL RESPONSIBILITIES RATHER NARROWLY AND SOLELY IN TERMS OF THEIR OWN ECONOMIC INTERESTS.

SADLY, WE HAVE SEEN RECENTLY MR. CHAIRMAN, EXAMPLES OF CASUAL ADHERENCE TO LONG TREASURED AMERICAN VALUES OF FAIR PLAY AND INATTENTION TO THE PUBLIC GOOD. FAILURES HAVE EXTENDED FROM WALL STREET TO THE MILITARY. FROM RELIGION TO INDUSTRY. HOWEVER MODEST OUR PLEA IN COMPARISON TO THE GREAT QUESTIONS THAT ARE BROUGHT BEFORE YOU, WE SUGGEST THAT THE CONGRESS HAS AN OPPORTUNITY WITH THIS ISSUE TO REMIND THE NATION THAT SOME VALUES ARE MORE IMPORTANT THAN MATERIAL REWARD. THAT SOME THINGS ARE JUST NOT FOR SALE.



*Return*  


5/12  
 Encl.

# WRITERS GUILD OF AMERICA, west, Inc.



Affiliated with the Writers Guild of America, Inc.

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MELVILLE SHAVELSON  
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 ALFRED L. LEVITT  
 Secretary/Treasurer

May 11, 1987

Senator Patrick Leahy, Chairman  
 and Senators Dennis DeConcini and  
 Gordon Humphrey, Members  
 Sub-Committee on Technology  
 U.S. Senate, Dirksen Office Bldg., Room 226  
 Washington, D.C. 20210

BOARD OF DIRECTORS  
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 KENTLE TAYLOR

RE: SUB-COMMITTEE HEARING MAY 12, 1987

Honorable Sirs:

The following written statement is submitted for the record:

BRIAN WALTON  
 Executive Director  
 JANE NEFFLOTT  
 Assistant Director in Charge  
 ANN MOOREN  
 Director of Advertis

The Board of Directors of the Writers Guild of America west, representing six thousand five hundred screen, television and radio writers, opposes any alteration or cutting of film and/or dialogue without the prior approval of the writer and director.

DOREEN BRAYEMAN  
 Director of Legal Affairs

It is the position of the WGAW that any material alteration of a completed film should be viewed as a violation of the rights of the writer and director. In many countries, the rights of the artist are protected by copyright and other laws, in recognition of the importance of their work to the cultural heritage of the nation. We believe that the laws of the United States need to recognize these moral rights of authorship.

MARTIN SWENEY  
 Public Affairs

We applaud this committee for taking up the issue of "computer alteration" of which color-conversion is only a part. The changes and alterations that developing technologies will produce present a danger far beyond the issue of damage to artists and their work. We hope to be a part of future discussions in this important area of law.

We thank the committee, and the efforts of the Directors Guild of America, for the opportunity to present our position in the public record.

Sincerely,

*Melville Shavelson*  
 Melville Shavelson  
 President

MS:jm

Senator LEAHY. Mr. Silverstein, let me play the devil's advocate just a bit.

Directors do allow others, certainly the TV networks, to tamper with their movies all the time. I won't watch movies on television because they get chopped up, edited, changed, the dialog is squeezed down, and pictures are taken out. You have got many ads for things that nobody wants to see. The broadcaster will cut out parts of the movie which may be offensive so that they can fit in an ad that would offend virtually anybody.

What about that? Movie directors allow that all the time.

Mr. SILVERSTEIN. Senator, you just outlined a series of some of the most anguishing events that occur to us in our professional lives. We have tried over the course of the past 12 years across the negotiating table to achieve some prohibition against these things but, in some cases, they are beyond the disciplines of mandatory subjects of bargaining, and in other cases the Producers Association has said to us that, particularly with regard to the screening of these films in syndication, they agree with us, that their own products are being destroyed, but they have difficulty in policing it.

If they had a policing organization, that they would see that this butchering of films, particularly on syndication TV, would be prevented. And, of course, if the Congress saw fit to provide some legislation that would supplant that policeman, we would be very happy about it.

Senator LEAHY. But that is not really the issue, if I might. How do you respond to those who say, well, they are willing to have the movie chopped up on television, interrupted by ads, scenes taken out, shortened, lengthened, whatever, but they are getting paid a great deal for that. They are not willing though to have a movie made into color from black and white because they are not being paid for that.

How do you respond to a question like that?

Mr. SILVERSTEIN. Senator, you use the word "willing." There is a question of how much control we have over that. The colorization process is the lightning rod offense that brings us here today, but there are a large series of offenses, many of which you have just listed, which precede it. This, as you would have heard in a moment later in my remarks, was the last straw that brought us here. We do not like these interruptions. We refer to them as butchering. We have tried for years to do something about it. We cannot do anything about it across the bargaining table.

We have been advised by legal counsel that would be difficult.

The other side says they have difficulty policing it. We are in effect helpless.

Senator LEAHY. The way to police it is not to sell the film to the TV networks, not to sell it to the airlines who are going to chop them up the same way to show them on their airplanes.

Mr. SILVERSTEIN. Yes, sir, but we do not have control over the buying and selling of these films. We are artists. We do not buy them and we do not sell them.

Senator LEAHY. But your company and your producers do, and they have not shown any interest in slowing that up, have they?

Mr. SILVERSTEIN. Yes, sir, they do, and there are some basic prohibitions against that. They are not very strong prohibitions and

they do not answer the objections you just outlined. There are some, however. There was one airline, Continental Airlines, which used to cut the films in order to fit the flight schedules, and Continental Airlines is specifically mentioned in our labor contract as an example of what we do not want to have happen.

We have tried every way we can, sir—

Senator LEAHY. I do not know why anybody who has any interest at all in the work, the artistic work of a film, would ever bother to watch it on television or on an airplane knowing the film has been chopped up. It is like being given a book and being told a whole part has been taken out of it.

Mr. SILVERSTEIN. I think you will hear in a moment from my colleague, Mr. Forman, about some of his personal experiences in this regard, but I know I did a film once, "Cat Ballou," which was a series of three jokes, and almost inevitably the people who cut up these films—you would set up joke one, two, and just before the punchline, there will be a deodorant commercial. Right afterwards, the punchline comes and nobody knows what happened.

Senator LEAHY. If you would allow just a personal comment, about 4 or 5 weeks ago, on a snowy night at my farm in Vermont, all the kids were around, so we decided to get a videotape of the movie "Cat Ballou."

"Come on, dad, give us a break. It's a 20-year old movie, a western."

I said, "Watch. Show some consideration for the old man. Watch the movie."

They sat and watched the movie and loved it. The next day, our 16-year old was going down the halls of the high school humming the theme from "Cat Ballou," and his teacher, who had sort of looked at him wondering if this kid was ever going to amount to anything, spins on his heels and sings the words. The son has been doing a lot better in school. He thinks the old man is a genius.

Mr. Pollack, could we go to you, please, sir?

#### STATEMENT OF SYDNEY POLLACK

Mr. POLLACK. Senator Leahy, I would like to take a few moments, if I can, to show you a short piece of film that has been prepared to commemorate the 50th anniversary of the Directors Guild. Some of it is in black and white and some is in color, but for the moment that is irrelevant. It only lasts 6½ minutes.

Senator LEAHY. For the record, what we see today in color and in black and white is the way it was originally made.

Mr. POLLACK. That is exactly right. These are all in their original versions, some in black and white and some in color. For the moment that will be irrelevant. This is just a small part of the Library of American Film Art, and it's entitled "Precious Images."

Lower the lights to run that film, please.

[A videotape entitled "Precious Images" was shown.]



## DIRECTORS GUILD OF AMERICA

# NEWS

### PRECIOUS IMAGES

A Celebration of the American Motion Picture

We have grown up with movies, lived our lives with them, and their images are indelible in our memory. PRECIOUS IMAGES celebrates those images: the image of a stoic Ma Joad riding off to California in "The Grapes of Wrath", of Dorothy and her friends dancing down the yellow brick road, of Eddie Murphy giving us the high sign in "Beverly Hills Cop", of Lillian Gish rocking the cradle in "Intolerance", Orson Welles whispering "rosebud", Mickey Mouse fighting off a magic broom carrying buckets of water to the music of the Sorcerer's Apprentice in "Fantasia", Dustin Hoffman walking down a crowded city street dressed as a woman, Ingrid Bergman asking Sam to play that song, Obiwan Kenobe unveiling his laser sword, the mother ship landing in "Close Encounters", Scarlett O'Hara standing in a field at Tara, backlit against the red sky.

These are just eleven of 458 memorable images from American motion pictures captured in six minutes called PRECIOUS IMAGES, dynamically edited to selections from classic scores: "Psycho" and "The Pink Panther", Gene Kelly singing in the rain, "As Time Goes By". The final impact is one of excitement, warmth, and wonder. Almost every shot, many of them less than a second, evokes a memory, a movie. They engage us, entertain us, and delight us.

The Directors Guild of America, in honor of the Fiftieth Anniversary of its founding, has given this film to the audiences of America, but every major motion picture studio has lent support and cooperation in the production of this short film, as well as exhibitor organizations, guilds, unions, laboratories ... virtually the entire industry has joined in this labor of love for an art form and an industry that has created these memorable moments in time.

PRECIOUS IMAGES was directed and produced by Chuck Workman, a member of the Golden Jubilee Committee of the Directors Guild. Committee Chairman Robert Wise and DGA Special Projects Officer David Shepard supervised the production for the Guild. The film will be available to audiences everywhere later this year.

DIRECTORS GUILD OF AMERICA, 7950 SUNSET BLVD., LOS ANGELES, CA 90046  
NATIONAL OFFICE TELEX NUMBER 181498

Mr. POLLACK. For your information, there are 458 film slips in those 6½ minutes.

Senator LEAHY. Like everybody else in the audience, I was sitting here trying to recognize as many of those as I can.

Mr. Silverstein, I saw a great scene from "Cat Ballou." The tape had scenes from most of the films made by each of you.

Mr. POLLACK. I was going to say, just as you are talking about it, it is impossible for me to watch that collection of images without a flood of associations of both my own and this country's past. I think the operative word in the title is "Precious," because these films are a part of our cultural history and, like all accurate representations of who and what we were, I think they deserve preservation in their authentic form. It is like a building or a photograph or a document, because they help us locate in time where we were and they give us a sense of the geography of our lives.

Film history is like any other history, and I do not think any history is of any greater value than authentic history, history as it was.

We need an accurate understanding of the past in order to point us accurately towards the future.

We have been accused here often in taking the stand against colorization that we are for some kind of censorship. That is, of course, not true at all. None of us are for censorship of any kind.

We have been accused of denying the public the right to see variations of our work by the people who do this colorization. It would be perfectly all right for any of us to have someone make a new version of any of our films, a musical made of "Tootsie," or a comedy based on "Out of Africa," but I don't want them changing my version of that film.

I do not argue the relative merits of black and white versus color because that is very difficult; I think our premises are clearer than that. The first really is just to plead for the respect that any cultural heritage deserves, and the second is terribly simple, and that is that it is morally unacceptable to alter the product of a person's creative life without that person's permission.

You have seen a demonstration of the new technology that is quite good and, like all technologies, is going to get better and better. But the fundamental issue is not how good it is. That has nothing to do with the argument. It is not whether color is ipso facto better than black and white, but that it is not in any sense the same as black and white; that it represents a creative choice and that the whole art of directing a motion picture is based entirely on a series of choices and, therefore, the relative work of a director is taken from the sum of his or her choices, and to take away that from the director is essentially to rob him or her of who and what they are.

From the very moment of first choosing which picture you are going to make, the process begins, through the choice of writer or writers, and with the writer the choice of content in each scene, the choice of who will play the roles, who is going to photograph the film, who is going to design the sets, in what city it is going to be shot, will it be wide screen or will it be flat, what will the actors wear and who is going to design the clothes, who is going to edit the exposed film when shooting is finished.

What shall the style be? Shall it be hard and gritty or very lyrical? Will it be full of movement or in short, staccato bursts? Where will the actors move? How long should they pause between the moments? Should we see them from the front or should we see them from the back? Should it be in closeup or in long shot? Should it be brightly lit or very sketchy, hard to see? Should he wear a watch or suspenders, maybe fiddle with a rubber band, maybe she chews gum. It all makes a difference.

Should we play the scene inside the room or out walking by the river, or maybe in a car? Let's make it a bright sunny day, or let's make rain. How many extras? Should it be lonely, just a few extras standing around, or should it be hard to see and hear them, maybe see them only in snatches, almost impressionistic? Should we see her fall down or only hear the sound and photograph something else? Should we put the titles over black or over the first scene? Should this scene begin in a close shot or in a long master shot? Perhaps we should cut the next scene completely. Maybe the fourth scene should be the third scene. What happens if we take out the dialog and just play music? Who is going to write the music? Should it start at the beginning of the scene or should it start as I pick up the pencil here? What will be its texture? A single instrument with no rhythm, or a full orchestra playing something grand? Or is it more effective to have no music, maybe no sound at all, just breathing, even though we are outside and see traffic and children playing?

The print is too dark or too light or too yellow or too blue. Blue is colder, makes a different mood. Yellow makes them look happy, makes them look better.

You see, each choice changes in some way the signals that we send to the audience. Each area requires a fluency in one of the vocabularies we use to communicate. It is a tool out of which one sculpts the finished film. It is made of nothing else, absolutely nothing, only the sum of these choices.

There is a difference between a film in black and white and a film in color. Black-and-white photography, as Mr. Silverstein said, is not color photography with the color removed. It is not better or worse in general, but it is different. It is a choice.

A filmmaker has nothing other than the quality and integrity of his or her work, and that quality or integrity are made of absolutely nothing but this series of choices, and we are here to insist on the protection really of those choices, even to say that a director who does not make those choices is not directing.

What you see and hear when you watch a film is what the film is. If you change what you see, you are altering what the film is.

It is ironic that in the United States, where the motion picture was created, we who make the films have much less protection in our country than we have in France or Italy or Japan.

So the fact that I happen to prefer black and white for "The Maltese Falcon," that I am convinced that it is art and its value is greater in its authentic form, is not finally the deciding factor. The fact that I agree with Vincent Canby, who wrote in the New York Times, Sunday, April 19:

Through the auspices of Color Systems Technology, "The Maltese Falcon," is now mostly grayish-blue. Mary Astor's bathrobe comes out a baby grayish-blue, Hum-

phrey Bogart's pin-stripe suit is a dark grayish blue, and his fedora a changeable light grayish-blue (though it frequently turns khaki color, even while on his head). The old black magic of the original barely shines through this singularly inept "color conversion." All the actors appear to be wearing the same orangey Max Factor pancake make-up, creating heavenly halos around their faces in long shots. Everyone has the same, similarly tinted beige lips and the same brown-button eyes. One of the curious side effects of this technological advance: every man in the cast seems to have dyed his hair in the same vat of raisin-colored rinse. Opponents of so-called "colorization" couldn't ask for a better argument than this.

Perhaps these concerns, I am told, must be brushed aside in the interest of what we are told is progress. And even the fact that I am heartbroken at the prospect of seeing Ingrid Bergman say that last goodbye to Bogie as she walks away through all that fog in "Casablanca" in some kind of makeup, tacked on color, is perhaps beside the point. But the prospect of someone taking away from me who or what I am and what I do, which is to make the series of choices that finally become a motion picture, is not beside the point. It is the point, and we have to do everything we can to see that does not happen.

[The statement of Mr. Pollack follows:]

# DIRECTORS GUILD OF AMERICA



STATEMENT OF SYDNEY POLLACK  
BEFORE THE  
SUBCOMMITTEE ON TECHNOLOGY  
AND THE LAW

MR. CHAIRMAN, SENATORS:

I'D LIKE TO TAKE A FEW MOMENTS TO SHOW YOU A SHORT PIECE OF FILM PREPARED TO COMMEMORATE THE 50TH ANNIVERSARY OF THE DIRECTORS' GUILD OF AMERICA. SOME OF IT IS IN BLACK AND WHITE AND SOME OF IT IS IN COLOR, BUT FOR THE MOMENT THAT IS IRRELEVANT. IT LASTS ONLY SIX AND ONE-HALF MINUTES AND I PROMISE IT WON'T BORE YOU. IT'S A SMALL PART OF THE LIBRARY OF AMERICAN FILM ART AND IT IS ENTITLED, "PRECIOUS IMAGES".

(FILM RUNS HERE)

IT'S IMPOSSIBLE FOR ME TO WATCH THAT COLLECTION OF PRECIOUS IMAGES WITHOUT A FLOOD OF ASSOCIATIONS OF MY OWN, AND THIS COUNTRY'S, PAST. THE OPERATIVE WORD IN THE TITLE IS "PRECIOUS". THESE FILMS ARE A PART OF OUR CULTURAL HISTORY. LIKE ALL ACCURATE REPRESENTATIONS OF WHO AND WHAT WE WERE, THEY DESERVE PRESERVATION IN THEIR AUTHENTIC FORM. LIKE A BUILDING, A PHOTOGRAPH, OR A DOCUMENT IT HELPS LOCATE US IN TIME AND GIVES US A SENSE OF THE GEOGRAPHY OF OUR LIVES. WE NEED AN ACCURATE UNDERSTANDING OF THE PAST IN ORDER TO POINT US ACCURATELY TOWARD THE FUTURE.

I DON'T WANT TO ARGUE HERE THE RELATIVE MERITS OF



BLACK AND WHITE VS. COLOR, I BELIEVE OUR PREMISES HERE ARE CLEARER THAN THAT. THE FIRST IS TO PLEAD FOR THE RESPECT THAT ANY CULTURAL HERITAGE DESERVES. THE SECOND IS REALLY QUITE SIMPLE: THAT IT IS MORALLY UNACCEPTABLE TO ALTER THE PRODUCT OF A PERSON'S CREATIVE LIFE WITHOUT THAT PERSON'S PERMISSION. YOU HAVE SEEN A DEMONSTRATION OF A NEW TECHNOLOGY THAT, LIKE ALL TECHNOLOGIES, WILL GET BETTER AND BETTER WITH USE. THE FUNDAMENTAL ISSUE AT HAND IS NOT HOW GOOD IT IS. . .NOT WHETHER OR NOT COLOR IS IPSO-FACTO BETTER THAN BLACK AND WHITE, BUT THAT IT IS NOT IN ANY SENSE THE SAME AS BLACK AND WHITE. . . THAT IT REPRESENTS A CREATIVE CHOICE. THAT THE WHOLE ART OF DIRECTING IS BASED ENTIRELY ON A SERIES OF CHOICES THEREFORE THE RELATIVE WORTH OF A DIRECTOR IS TAKEN FROM THE SUM OF HIS OR HER CHOICES, AND TO TAKE THAT AWAY FROM THE DIRECTOR IS ESSENTIALLY TO ROB HIM OR HER OF WHO AND WHAT THEY ARE.

FROM THE MOMENT OF CHOOSING TO DO A SPECIFIC FILM THE PROCESS BEGINS. THROUGH THE CHOICE OF WRITER OR WRITERS, AND WITH THE WRITER THE CHOICE OF CONTENT IN EACH SCENE, THE CHOICE OF WHO WILL PLAY THE ROLES, WHO WILL PHOTOGRAPH THE FILM, DESIGN THE SETS, IN WHAT CITY WILL IT BE SHOT, SHALL IT BE WIDE SCREEN OR FLAT, WHAT WILL THE ACTORS WEAR, WHO WILL DESIGN THE CLOTHES, WHO WILL EDIT THE EXPOSED FILM WHEN SHOOTING IS FINISHED, WHAT SHALL THE STYLE BE?. . .HARD AND GRITTY OR LYRICAL?. . .FULL OF MOVEMENT OR IN SHORT, STACCATO BURSTS?. . .WHERE WILL THE ACTORS MOVE, HOW LONG SHOULD THEY PAUSE BETWEEN MOMENTS, SHOULD WE SEE THEM FROM THE FRONT OR THE BACK, IN CLOSE UP OR LONG SHOT, BRIGHTLY LIT OR SKETCHY? SHOULD HE WEAR A WATCH?. . .SUSPENDERS?. . .PERHAPS HE FIDDLES WITH RUBBER BANDS, MAYBE SHE CHEWS GUM. IT ALL MAKES A DIFFERENCE, YOU SEE. SHOULD WE PLAY THE SCENE INSIDE THE ROOM OR OUT WALKING BY THE RIVER. . .MAYBE IN A CAR?. . .IS

IT A BRIGHT SUNNY DAY OR SHOULD WE MAKE RAIN?. . .HOW MANY EXTRAS?. . .SHOULD THE SCENE LOOK LONELY, OR BUSY AND CONFUSED. . .HARD TO SEE AND HEAR THEM. . .MAYBE SEE THEM ONLY IN SNATCHES. . .MORE OF AN IMPRESSION? SHOULD WE SEE HER FALL DOWN OR ONLY HEAR THE SOUND AND PHOTOGRAPH SOMETHING ELSE? SHOULD WE PUT THE TITLES OVER BLACK OR OVER THE FIRST SCENE? SHOULD THIS SCENE BEGIN IN A CLOSE SHOT OR IN A LONG MASTER SHOT?. . .PERHAPS WE SHOULD CUT THE NEXT SCENE COMPLETELY. . .MAYBE THE FOURTH SCENE SHOULD BE THE THIRD SCENE, WHAT HAPPENS IF WE TAKE OUT THE DIALOGUE AND JUST PLAY MUSIC? WHO WILL WRITE THE MUSIC? WHERE WILL IT GO. . .AT THE BEGINNING OF THIS SCENE. . .OR IN THE MIDDLE? WHAT WILL BE ITS TEXTURE? A SINGLE INSTRUMENT WITH NO RHYTHM, OR A FULL ORCHESTRA PLAYING SOMETHING GRAND? OR IS IT MORE EFFECTIVE TO HAVE NO MUSIC. . .PERHAPS NO SOUND AT ALL OTHER THAN BREATHING, EVEN THOUGH WE ARE OUTSIDE AND SEE TRAFFIC AND CHILDREN PLAYING? THE PRINT IS TOO DARK, OR TOO LIGHT OR TOO YELLOW OR TOO BLUE. BLUE IS COLDER, MAKES A DIFFERENT MOOD, THE PEOPLE SEEM HAPPIER WHEN THEIR FACES ARE MORE YELLOW. . .WARMER. EACH CHOICE CHANGES, IN SOME WAY, THE SIGNALS WE ARE SENDING TO THE AUDIENCE. EACH AREA REQUIRES FLUENCY IN ONE OF THE VOCABULARIES WE USE TO COMMUNICATE, A TOOL OUT OF WHICH ONE SCULPTS THE FINISHED FILM. IT IS MADE OF NOTHING ELSE. NOTHING. ONLY THE SUM OF THESE CHOICES.

THERE IS A DIFFERENCE BETWEEN A FILM IN BLACK AND WHITE AND A FILM IN COLOR. BLACK AND WHITE PHOTOGRAPHY IS NOT COLOR PHOTOGRAPHY WITH THE COLOR REMOVED. IT IS NOT BETTER OR WORSE IN GENERAL, BUT IT IS DIFFERENT. IT IS. . .A CHOICE. A FILMMAKER HAS NOTHING OTHER THAN THE QUALITY AND INTEGRITY OF HIS OR HER WORK, AND THAT QUALITY AND INTEGRITY ARE MADE OF ABSOLUTELY NOTHING BUT THIS SERIES OF CHOICES. WE ARE HERE TO PROTECT THOSE CHOICES, EVEN TO SAY THAT A

DIRECTOR WHO DOES NOT MAKE THOSE CHOICES IS NOT DIRECTING.  
 WHAT YOU SEE AND HEAR IS WHAT THE FILM IS. CHANGING WHAT YOU  
 SEE IS ALTERING WHAT THE FILM IS.

IT IS IRONIC THAT IN THE UNITED STATES, WHERE THE  
 MOTION PICTURE WAS CREATED, WE WHO MAKE THE FILMS HAVE LESS  
 PROTECTION WITH OUR OWN COUNTRY THAN WE HAVE IN FRANCE, OR  
 ITALY OR JAPAN.

THE FACT THAT I HAPPEN TO PREFER BLACK AND WHITE  
 FOR "THE MALTESE FALCON" IS NOT FINALLY THE DECIDING FACTOR.  
 THE FACT THAT I AGREE WITH VINCENT CANBY WHO WROTE IN THE NEW  
 YORK TIMES, SUNDAY, APRIL 19TH: "THROUGH THE AUSPICES OF  
 COLOR SYSTEMS TECHNOLOGY, 'THE MALTESE FALCON' IS NOW MOSTLY  
 GRAYISH-BLUE. MARY ASTOR'S BATHROBE COMES OUT A BABY  
 GRAYISH-BLUE, HUMPHREY BOGART'S PIN-STRIPE SUIT IS A DARK  
 GRAYISH-BLUE, AND HIS FEDORA A CHANGEABLE, LIGHT GRAYISH-BLUE  
 (THOUGH IT FREQUENTLY TURNS KHAKI COLOR, EVEN WHILE ON HIS  
 HEAD). THE OLD BLACK MAGIC OF THE ORIGINAL BARELY SHINES  
 THROUGH THIS SINGULARLY INEPT 'COLOR CONVERSION.' ALL THE  
 ACTORS APPEAR TO BE WEARING THE SAME ORANGEY MAX FACTOR  
 PANCAKE MAKEUP, CREATING HEAVENLY HALOS AROUND THEIR FACES IN  
 LONG SHOTS. EVERYONE HAS THE SAME, SIMILARLY TINTED BEIGE  
 LIPS AND THE SAME BROWN-BUTTON EYES. ONE OF THE CURIOUS SIDE  
 EFFECTS OF THIS TECHNOLOGICAL ADVANCE: EVERY MAN IN THE CAST  
 SEEMS TO HAVE DYED HIS HAIR IN THE SAME VAT OF RAISIN-COLORED  
 RINSE. OPPONENTS OF SO-CALLED 'COLORIZATION' COULDN'T ASK  
 FOR A BETTER ARGUMENT THAN THIS." PERHAPS THESE CONCERNS  
 MUST BE BRUSHED ASIDE IN THE INTERESTS OF WHAT WE ARE TOLD IS  
 PROGRESS. EVEN THE FACT THAT I AM HEARTBROKEN AT THE  
 PROSPECT OF SEEING INGRID BERGMAN SAY THAT LAST GOODBYE TO  
 'BOGIE' THROUGH ALL THAT FOG (IN "CASABLANCA") IN SOME KIND  
 OF MADE UP, TACKED ON COLOR, IS PERHAPS BESIDE THE POINT.  
 BUT THE PROSPECT OF SOMEONE TAKING AWAY FROM THE FILM  
 DIRECTOR WHO HE OR SHE IS AND WHAT HE OR SHE DOES, WHICH IS  
 MAKE THE SERIES OF CHOICES THAT FINALLY BECOME A MOTION  
 PICTURE IS NOT BESIDE THE POINT. IT IS THE POINT AND WE  
 CANNOT ALLOW THAT TO HAPPEN.

Senator LEAHY. Thank you, Mr. Pollack. I think you made your position very clear.

Mr. Allen, if we could have testimony from you, sir, and then from Mr. Forman. Then I will have a series of questions for the panel.

#### STATEMENT OF WOODY ALLEN

Mr. ALLEN. Let us just say that a very rich man has purchased all the films ever made in Hollywood. He calls together his staff and says, "Take all the black and white ones and turn them into color using our new computer." The technicians get right to work implementing this because they are used to following orders. One man among them, however, is puzzled and asks his employer, "I don't understand—why paint them over with color?"

And the boss says, "Because more people will watch them."

"Really?" the underling asks.

"Yes," the boss answers. "The American public is very, very stupid, very infantile. In fact they're idiots. They can't enjoy a film unless it's full of bright colors and rock music. The story means nothing—the plot—the acting—just give the fools reds and yellows and they'll smile."

The worker is confused, and tells his boss that for generations people have been watching and adoring films in black and white. He points to "It's A Wonderful Life," viewed by millions every Christmas on television. He points to "Yankee Doodle Dandy" and "Sergeant York" and "Citizen Kane" and "The Maltese Falcon" and "On The Waterfront."

"They're great films," the boss says. "But I'm going to improve them. They'll be greater when I'm finished with them."

"But the director of 'Citizen Kane' is dead. Who'll tell you what colors it should be?"

"We have men to do that. It's true—they've never directed films and know nothing about it, but they sure can work computers and between you and me—does it really make a difference if James Cagney's jacket is green or yellow when he shoots Humphrey Bogart in 'Public Enemy'?"

The poor underling is losing his resolve. "By the way," he asks, "you mentioned adding rock music?"

"Oh, that's in the future," the boss says. "First color, then maybe we replace the score of 'Gone With The Wind' with rock. I have lots of ideas."

Now, you might get the impression from all this that I am against colorization of black-and-white films but, believe it or not, you would be wrong. If a movie director wishes his film to be colorized, then I say by all means, let him color it. If he prefers it to remain in black and white, then it is sinful to force him to change it. If the director is not alive and his work has been historically established in black and white, it should remain true to its origin. The presumption that the colorizers are doing him a favor and bettering his movie is a transparent attempt to justify the mutilation of art for a few extra dollars.

The colorizers will tell you that it's proven no one wants black and white, but this is not true, and if it were—if audiences who

have grown up on mindless television were so desensitized that a move like "It Happened One Night," which has been delighting people in black and white for generations now had to be viewed in color to be appreciated, then the task would be to cultivate the audience back to some level of maturity rather than to doctor the film artificially to keep up with lowered tastes. Not only do the colorizers have contempt for the American public but also for the artist. A large number of American movies are classics both at home and all over the world. Thinking they were making popular entertainment, American filmmakers have produced numerous motion pictures that are considered genuine works of art comparable to fine literature, painting and music. But the colorizers have no regard for the man who made these movies, and when a great American director like John Huston says he doesn't want his superb mystery "The Maltese Falcon" made into a color movie because that makes this hard-boiled Bogart film silly looking, they couldn't care less what Huston wants. The colorizers also tell us that a viewer can simply turn off the color and see the film in black and white. The fact that the man who made the film wants no one at all to see it in color means nothing to them. Finally, they say we live in a democracy and the public wants these films in color, but if members of the public had the right to demand alterations to suit their taste, the world would have no real art. Nothing would be safe. Picasso would have been changed years ago and James Joyce and Stravinsky, and the list goes on.

The example of John Huston, incidentally, is particularly meaningful to me because the aesthetic differences between color and black and white is a subject that hits home in my own work. In an era of almost exclusively color films, I have chosen on a number of occasions, even fought for the privilege, of telling stories with black-and-white photography. Indeed, the different effect between color and black and white is often so wide it alters the meaning of scenes.

If I had portrayed New York City in color rather than black and white in my movie "Manhattan," all the nostalgic connotations would have vanished. All the evocation of the city from old photographs and films would have been impossible to achieve in glorious technicolor. Whereas, if I had filmed "Annie Hall" in black and white, all the scenes that now come off amusingly would take a giant step toward grim seriousness by mere virtue of them suddenly being grittier and less cartoonlike. One has only to think of a film like "Bicycle Thief" and imagine the life and death search through post-war Rome for the precious bicycle being in reds and yellows and blues rather than the hot whites and dirty blacks and greys and one sees how absurd the whole thing is.

And it is not just drama. Musicals, just because they are bouncy, are not helped by the addition of color where it doesn't belong either. Part of the artistic experience of seeing old Ginger Rogers and Fred Astaire films is the period quality—the black-and-white photography gives its entire feel. When Astaire made color musicals in a later period, they have a totally different quality that reflects beautifully their particular era. They are not better or worse, but completely different and true to themselves.

And what of the other insults—the editing, the artificial panning, the cuts made to accommodate the commercial sale of dog food and roach spray? Only in America are films so degraded. In other countries, the artist is often protected by the government. No one can change a French film director's film without his consent. They have too much respect for people who contribute to the society by doing creative work to allow anyone to subvert their creations at random.

My personal belief is, of course, that no one should ever be able to tamper with any artist's work in any medium against the artist's will and this principle can be argued justly by any citizen. It does not need a directly involved artist.

The colorizers may think they have a legal loophole, but the morality of what they are doing is atrocious. For directors with enough clout to make self-protecting contracts, this is no problem. But for those less fortunate and, of course, the deceased ones, protection must be guaranteed.

If a producer insists on color and if a helpless director is forced to film it the studio's way, despite his own feelings that it should be black and white, well, a deal's a deal.

But once a film exists in black and white and has been thrilling audiences for years, then to suddenly color it seems too great an insult, even for a society that is so often more in awe of its business executives than its creative talents.

Ultimately, of course, the colorizers will lose this battle. If it's not immediately, then future generations will for sure discard these cheesy, artificial symbols of one society's greed. They will, of course, go back to the great originals. And if we are foolish enough to permit this monstrous practice to continue, one can easily picture young men and women someday discussing us with disgust and saying, "They did this and nobody stopped them?"

"Well, there was a lot of money involved."

"But surely the people could see the deeper value to America of its film treasury, of its image among civilizations. Surely they understand the immorality of defacing an artist's work against his will. Don't tell me it was the kind of nation that adored profit at any cost and humiliation."

Here I finish, because it is too early to know how it turns out. But I hope dearly that I will not be part of a culture that is one day ridiculed and reviled as a laughing stock.

[The prepared statement of Mr. Allen follows:]



# DIRECTORS GUILD OF AMERICA

STATEMENT OF WOODY ALLEN  
 BEFORE THE  
 SUBCOMMITTEE ON TECHNOLOGY  
 AND THE LAW  
 OF  
 THE COMMITTEE ON THE JUDICIARY  
 UNITED STATES SENATE  
 MAY 12, 1987

LET US JUST SAY THAT A VERY RICH MAN HAS PURCHASED ALL THE FILMS EVER MADE IN HOLLYWOOD. HE CALLS TOGETHER HIS STAFF AND SAYS, "TAKE ALL THE BLACK AND WHITE ONES AND TURN THEM INTO COLOR USING OUR NEW COMPUTER." THE TECHNICIANS GET RIGHT TO WORK IMPLEMENTING THIS BECAUSE THEY ARE USED TO FOLLOWING ORDERS. ONE MAN AMONG THEM HOWEVER, IS PUZZLED AND ASKS HIS EMPLOYER, "I DON'T UNDERSTAND -- WHY PAINT THEM OVER WITH COLOR?"

AND THE BOSS SAYS, "BECAUSE MORE PEOPLE WILL WATCH THEM."

"REALLY?" THE UNDERLING ASKS.

"YES" THE BOSS ANSWERS. "THE AMERICAN PUBLIC IS VERY STUPID, VERY INFANTILE. IN FACT THEY'RE IDIOTS. THEY CAN'T ENJOY A FILM UNLESS IT'S FULL OF BRIGHT COLORS AND ROCK MUSIC. THE STORY MEANS NOTHING -- THE PLOT, THE ACTING -- JUST GIVE THE FOOLS REDS AND YELLOWS AND THEY'LL SMILE."

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THE WORKER IS CONFUSED AND TELLS HIS BOSS THAT FOR GENERATIONS PEOPLE HAVE BEEN WATCHING AND ADORING FILMS IN BLACK AND WHITE. HE POINTS TO "IT'S A WONDERFUL LIFE" VIEWED BY MILLIONS EVERY CHRISTMAS ON TELEVISION. HE POINTS TO "YANKEE DOODLE DANDY" AND "SERGEANT YORK" AND "CITIZEN KANE" AND "THE MALTESE FALCON" AND "ON THE WATERFRONT".

"THEY'RE GREAT FILMS", THE BOSS SAYS. "BUT I'M GOING TO IMPROVE THEM. THEY'LL BE GREATER WHEN I'M FINISHED WITH THEM."

"BUT THE DIRECTOR OF 'CITIZEN KANE' IS DEAD. WHO'LL TELL YOU WHAT COLORS IT SHOULD BE?"

"WE HAVE MEN TO DO THAT. IT'S TRUE -- THEY'VE NEVER DIRECTED FILMS AND KNOW NOTHING ABOUT IT, BUT THEY SURE CAN WORK COMPUTERS AND BETWEEN YOU AND ME -- DOES IT REALLY MAKE A DIFFERENCE IF JAMES CAGNEY'S JACKET IS GREEN OR YELLOW WHEN HE SHOOTS HUMPHREY BOGART IN "PUBLIC ENEMY?"

THE POOR UNDERLING IS LOSING HIS RESOLVE. "BY THE WAY", HE ASKS, "YOU MENTIONED ADDING ROCK MUSIC?"

"OH, THAT'S IN THE FUTURE", THE BOSS SAYS. "FIRST COLOR, THEN MAYBE WE REPLACE THE SCORE OF 'GONE WITH THE WIND' WITH ROCK. I HAVE LOTS OF IDEAS."



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NOW, YOU MIGHT GET THE IMPRESSION FROM ALL THIS THAT I AM AGAINST COLORIZATION OF BLACK AND WHITE FILMS, BUT BELIEVE IT OR NOT YOU'D BE WRONG. IF A MOVIE DIRECTOR WISHES HIS FILM TO BE COLORIZED, THEN I SAY BY ALL MEANS, LET HIM COLOR IT. IF HE PREFERS IT TO REMAIN IN BLACK AND WHITE THEN IT IS SINFUL TO FORCE HIM TO CHANGE IT. IF THE DIRECTOR IS NOT ALIVE AND HIS WORK HAS BEEN HISTORICALLY ESTABLISHED IN BLACK AND WHITE IT SHOULD REMAIN TRUE TO ITS ORIGIN. THE PRESUMPTION THAT THE COLORIZERS ARE DOING HIM A FAVOR AND BETTERING HIS MOVIE IS A TRANSPARENT ATTEMPT TO JUSTIFY THE MUTILATION OF ART FOR A FEW EXTRA DOLLARS.

THE COLORIZERS WILL TELL YOU THAT IT'S PROVEN NO ONE WANTS BLACK AND WHITE BUT THIS IS NOT TRUE AND IF IT WERE -- IF AUDIENCES WHO HAVE GROWN UP ON MINDLESS TELEVISION WERE SO DESENSITIZED THAT A MOVIE LIKE "IT HAPPENED ONE NIGHT" WHICH HAS BEEN DELIGHTING PEOPLE IN BLACK AND WHITE FOR GENERATIONS NOW HAD TO BE VIEWED IN COLOR TO BE APPRECIATED THEN THE TASK WOULD BE TO CULTIVATE THE AUDIENCE BACK TO SOME LEVEL OF MATURITY RATHER THAN TO DOCTOR THE FILM ARTIFICIALLY TO KEEP UP WITH LOWERED TASTES. NOT ONLY DO THE COLORIZERS HAVE CONTEMPT FOR THE AMERICAN PUBLIC BUT ALSO FOR THE ARTIST. A LARGE NUMBER OF AMERICAN MOVIES ARE CLASSICS BOTH AT HOME AND ALL OVER THE WORLD. THINKING THEY WERE MAKING POPULAR ENTERTAINMENT, AMERICAN FILMMAKERS HAVE PRODUCED NUMEROUS

MOTION PICTURES THAT ARE CONSIDERED GENUINE WORKS OF ART COMPARABLE TO FINE LITERATURE, PAINTING AND MUSIC. BUT THE COLORIZERS HAVE NO REGARD FOR THE MEN WHO MADE THESE MOVIES AND WHEN A GREAT AMERICAN DIRECTOR LIKE JOHN HUSTON SAYS HE DOESN'T WANT HIS SUPERB MYSTERY "THE MALTESE FALCON" MADE INTO A COLOR MOVIE BECAUSE THAT MAKES THIS HARD BOILED BOGART FILM SILLY LOOKING: THEY COULDN'T CARE LESS WHAT HUSTON WANTS. THE COLORIZERS ALSO TELL US THAT A VIEWER CAN SIMPLY TURN OFF THE COLOR AND SEE THE FILM IN BLACK AND WHITE. THE FACT THAT THE MAN WHO MADE THE FILM WANTS NO ONE AT ALL TO SEE IT IN COLOR MEANS NOTHING TO THEM. FINALLY, THEY SAY WE LIVE IN A DEMOCRACY AND THE PUBLIC WANTS THESE FILMS IN COLOR BUT IF MEMBERS OF THE PUBLIC HAD THE RIGHT TO DEMAND ALTERATIONS TO SUIT THEIR TASTE THE WORLD WOULD HAVE NO REAL ART. NOTHING WOULD BE SAFE. PICASSO WOULD HAVE BEEN CHANGED YEARS AGO AND JAMES JOYCE AND STRAVINSKY AND THE LIST GOES ON.

THE EXAMPLE OF JOHN HUSTON, INCIDENTALLY, IS PARTICULARLY MEANINGFUL TO ME BECAUSE THE AESTHETIC DIFFERENCES BETWEEN COLOR AND BLACK AND WHITE IS A SUBJECT THAT HITS HOME IN MY OWN WORK. IN AN ERA OF ALMOST EXCLUSIVELY COLOR FILMS, I HAVE CHOSEN ON A NUMBER OF OCCASIONS, EVEN FOUGHT FOR THE PRIVILEGE, OF TELLING STORIES WITH BLACK AND WHITE PHOTOGRAPHY. INDEED THE DIFFERENT EFFECT BETWEEN COLOR AND

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BLACK AND WHITE IS OFTEN SO WIDE IT ALTERS THE MEANING OF SCENES. IF I HAD PORTRAYED NEW YORK CITY IN COLOR RATHER THAN BLACK AND WHITE IN MY MOVIE "MANHATTAN", ALL THE NOSTALGIC CONNOTATIONS WOULD HAVE VANISHED. ALL THE EVOCATION OF THE CITY FROM OLD PHOTOGRAPHS AND FILMS WOULD HAVE BEEN IMPOSSIBLE TO ACHIEVE IN GLORIOUS TECHNICOLOR. WHEREAS IF I HAD FILMED "ANNIE HALL" IN BLACK AND WHITE, ALL THE SCENES THAT NOW COME OFF AMUSINGLY WOULD TAKE A GIANT STEP TOWARD GRIM SERIOUSNESS BY MERE VIRTUE OF THEM SUDDENLY BEING GRITTIER AND LESS CARTOONLIKE. ONE HAS ONLY TO THINK OF A FILM LIKE "THE BICYCLE THIEF" AND IMAGINE THE LIFE AND DEATH SEARCH THROUGH POST-WAR ROME FOR THE PRECIOUS BICYCLE BEING IN REDS AND YELLOWS AND BLUES RATHER THAN THE HOT WHITES AND DIRTY BLACKS AND GREYS AND ONE SEES HOW ABSURD THE WHOLE THING IS. AND IT'S NOT JUST DRAMA -- MUSICALS JUST BECAUSE THEY ARE BOUNCY ARE NOT HELPED BY THE ADDITION OF COLOR WHERE IT DOESN'T BELONG EITHER. PART OF THE ARTISTIC EXPERIENCE OF SEEING OLD GINGER ROGERS AND FRED ASTAIRE FILMS IS THE PERIOD QUALITY -- THE BLACK AND WHITE PHOTOGRAPHY GIVES IT ITS ENTIRE FEEL. WHEN ASTAIRE MADE COLOR MUSICALS IN A LATER PERIOD THEY HAVE A TOTALLY DIFFERENT QUALITY THAT REFLECTS BEAUTIFULLY THEIR PARTICULAR ERA. THEY ARE NOT BETTER OR WORSE -- BUT COMPLETELY DIFFERENT AND TRUE TO THEMSELVES.

AND WHAT OF THE OTHER INSULTS -- THE EDITING, THE ARTIFICIAL PANNING, THE CUTS MADE TO ACCOMMODATE THE COMMERCIAL SALE OF DOG FOOD AND ROACH SPRAY. ONLY IN AMERICA ARE FILMS SO DEGRADED. IN OTHER COUNTRIES THE ARTIST IS OFTEN PROTECTED BY THE GOVERNMENT. NO ONE CAN CHANGE A FRENCH FILM DIRECTOR'S FILM WITHOUT HIS CONSENT. THEY HAVE TOO MUCH RESPECT FOR PEOPLE WHO CONTRIBUTE TO THE SOCIETY BY DOING CREATIVE WORK TO ALLOW ANYONE TO SUBVERT THEIR CREATIONS AT RANDOM. MY PERSONAL BELIEF IS OF COURSE THAT NO ONE SHOULD EVER BE ABLE TO TAMPER WITH ANY ARTIST'S WORK IN ANY MEDIUM AGAINST THE ARTIST'S WILL AND THIS PRINCIPLE CAN BE ARGUED JUSTLY BY ANY CITIZEN. IT DOES NOT NEED A DIRECTLY INVOLVED ARTIST.

THE COLORIZERS MAY THINK THEY HAVE A LEGAL LOOPHOLE BUT THE MORALITY OF WHAT THEY ARE DOING IS ATROCIOUS. FOR DIRECTORS WITH ENOUGH CLOUT TO MAKE SELF-PROTECTING CONTRACTS THIS IS NO PROBLEM. BUT FOR THOSE LESS FORTUNATE AND, OF COURSE, THE DECEASED ONES, PROTECTION MUST BE GUARANTEED.

IF A PRODUCER INSISTS ON COLOR AND IF A HELPLESS DIRECTOR IS FORCED TO FILM IT THE STUDIO'S WAY, DESPITE HIS OWN FEELINGS THAT IT SHOULD BE BLACK AND WHITE -- WELL A DEAL'S A DEAL.

BUT ONCE A FILM EXISTS IN BLACK AND WHITE AND HAS BEEN THRILLING AUDIENCES FOR YEARS, THEN TO SUDDENLY COLOR IT SEEMS TOO GREAT AN INSULT -- EVEN FOR A SOCIETY THAT IS SO OFTEN MORE IN AWE OF ITS BUSINESS EXECUTIVES THAN ITS CREATIVE TALENTS.

ULTIMATELY, OF COURSE, THE COLORIZERS WILL LOSE THIS BATTLE. IF IT'S NOT IMMEDIATELY THEN FUTURE GENERATIONS WILL FOR SURE DISCARD THESE CHEESY, ARTIFICIAL SYMBOLS OF ONE SOCIETY'S GREED. THEY WILL, OF COURSE, GO BACK TO THE GREAT ORIGINALS. AND IF WE ARE FOOLISH ENOUGH TO PERMIT THIS MONSTROUS PRACTICE TO CONTINUE ONE CAN EASILY PICTURE YOUNG MEN AND WOMEN SOMEDAY DISCUSSING US WITH DISGUST AND SAYING, "THEY DID THIS AND NOBODY STOPPED THEM?"

"WELL THERE WAS A LOT OF MONEY INVOLVED."

"BUT SURELY THE PEOPLE COULD SEE THE DEEPER VALUE TO AMERICA OF ITS FILM TREASURY, OF ITS IMAGE AMONG CIVILIZATIONS. SURELY THEY UNDERSTAND THE IMMORALITY OF DEFACING AN ARTIST'S WORK AGAINST HIS WILL. DON'T TELL ME IT WAS THE KIND OF NATION THAT ADORED PROFIT AT ANY COST AND HUMILIATION."

HERE I FINISH BECAUSE IT'S TOO EARLY TO KNOW HOW IT TURNS OUT BUT I HOPE DEARLY THAT I WILL NOT BE PART OF A CULTURE THAT IS ONE DAY RIDICULED AND REVILED AS A LAUGHING STOCK.

Senator LEAHY. Thank you, Mr. Allen.  
Mr. Forman.

#### STATEMENT OF MILOS FORMAN

Mr. FORMAN. Mr. Chairman, I was born and I lived the first 37 years of my life in Europe, and that, I feel, qualifies me to testify that the only U.S. Ambassador who is welcomed with open arms and love and admiration by everybody everywhere in the world is American film. The emotional impact that American movies have on hundreds of millions of people everywhere every day is astonishing, and we can be very proud of it.

You can give the audiences Hollywood glamor. You can show them films showing our dark side, criticizing ourselves, and they admire our freedom with which we can talk about ourselves.

So, whichever end of the stick you grab, the American film always wins, except at home.

You can imagine how saddened I was when, after coming to the United States, I learned that these wonderful and proud Ambassadors of our culture, when they return home, to the homes of Americans on television, they are treated by the money people not even as second-class citizens, they are treated as sausages on the butcher block.

They are cut. They are colorized. They are panned and scanned, sped up and altered, and I learned it myself the hard way. I made a musical for United Artists, which was sold to 115 syndicated stations all over the country in the United States with nine entire musical numbers cut out, and numerous little cuts here and there throughout the whole film.

But the interesting thing is my name was still on it. The film was still sold to the audiences for profit as an original, as a Milos Forman film. I asked the lawyers if there was any way to protect my work against this mutilation. I was told if you are not protected by your individual contract, there is nothing in American law which protects the rights of creative authors of motion pictures. Whoever buys them can do with them anything they wish. They can even sell them after the alterations as the original work.

It was shocking for me to discover that the creative authors of this genuinely American art form are much better protected in every other country in the civilized world than they are in the United States. For example, if I commission a painting, it does not matter if it is a Picasso or from an unknown, it is mine. I paid for it, and I can do anything—anything. It is mine. I can do anything. I own it. Nobody can protect the painting against me doing anything with it I wish. I can change colors, I can alter the lines. I can even cut a few inches here and there to accommodate the space on my wall. But should I still be able to sell this as a Picasso or an unknown for profit as the original work? I believe not.

I realize that I am hired and paid by the money people to make a film. But so was Michelangelo whom Medici hired and paid to paint the Sistine Chapel. And still none of the Medicis went inside during the night and changed the colors or repainted or otherwise altered Michelangelo's work. But, of course, those were the Middle Ages, or were they?

Please understand one thing: I am not saying that our films are untouchable and that nothing can be altered. Of course, everything can be altered. But the only person who should have the right to alter or supervise such alterations are the creative authors of the work. Nobody else. Otherwise, we are leaving the civilized world and entering the jungle. For example, if we decide that colorization without the approval of the creative authors is permissible because colorization changes neither the story, nor the characters, nor the original negatives of the film, leads immediately to interesting ideas, one of which Woody came up with. Why not jazz up a little bit the music in "Gone With The Wind"? The kids today are into heavy metal so let's replace the soundtrack with electric guitars and drums, and we will change neither the story nor the characters nor the original negatives.

And where will you go from there? Because the technological progress will not stop. Who knows what will be possible with the visual and audio elements of the film tomorrow? My deep conviction is that if the creative authors of the films are not given the right to approve or disapprove any—and I emphasize the word any—alteration of his or her work, American film, this powerful part of American cultural heritage, will in the future be constantly humiliated and finally mutilated beyond recognition.

Thank you.

Senator LEAHY. Mr. Forman, you told me earlier that three films you made in Czechoslovakia were black and white. Is that correct?

Mr. FORMAN. That is correct.

[The prepared statement of Mr. Forman follows.]



## DIRECTORS GUILD OF AMERICA

STATEMENT OF MILOS FORMAN  
BEFORE THE  
SUBCOMMITTEE ON TECHNOLOGY  
AND THE LAW  
OF  
THE COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
MAY 12, 1987

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE.

FOR THE FIRST 37 YEARS OF MY LIFE I LIVED IN EUROPE AND THUS FEEL QUALIFIED TO TESTIFY THAT THE ONLY UNITED STATES AMBASSADOR WHO IS WELCOMED WITH OPEN ARMS AND ADMIRATION BY EVERYBODY, EVERYWHERE IN THE WORLD, IS AMERICAN FILM. THE IMPACT AMERICAN FILM HAS ON HUNDREDS AND MILLIONS OF PEOPLE ON THE PLANET EARTH IS ASTONISHING AND WE ALL CAN BE VERY PROUD OF IT. YOU SHOW PEOPLE THE HOLLYWOOD GLAMOUR AND THEY ADMIRE THE GLAMOUR. YOU GIVE THEM FILMS CRITICAL OF OUR SOCIETY, FILMS SHOWING OUR DARK SIDE AND THEY ADMIRE THE FREEDOM WE HAVE IN THIS COUNTRY TO TALK ABOUT OURSELVES. WHICHEVER END OF THE STICK YOU GRAB, AMERICAN FILM IS ALWAYS THE WINNER.



SO YOU CAN IMAGINE HOW SADDENED I WAS WHEN, AFTER COMING TO THE UNITED STATES, I LEARNED THAT THIS WONDERFUL AND PROUD AMBASSADOR OF OUR CULTURE, WHEN THEY RETURN HOME, TO THE HOMES OF AMERICANS ON TELEVISION, THEY ARE TREATED BY THE MONEY PEOPLE NOT EVEN AS SECOND CLASS CITIZENS, BUT AS SAUSAGES ON THE BUTCHER BLOCK.

THEY ARE CUT, COLORIZED, PANNED AND SCANNED, SPED UP AND ALTERED. AND I LEARNED IT THE HARD WAY. IN 1979 I MADE A MUSICAL FILM FOR UNITED ARTISTS WHICH WAS EVENTUALLY SOLD TO 115 SYNDICATED AMERICAN TV STATIONS WITH 9 ENTIRE MUSICAL NUMBERS CUT OUT AND NUMEROUS OTHER CUTS AND ALTERATIONS THROUGHOUT THE WHOLE FILM. BUT MY NAME WAS STILL ON IT. THE FILM WAS STILL SOLD AS THE ORIGINAL (AS A MILOS FORMAN FILM). WHEN I ASKED MY LAWYERS IF I HAD ANY PROTECTION AGAINST SUCH MUTILATION OF MY WORK, I WAS TOLD "IF YOU ARE NOT PROTECTED BY YOUR INDIVIDUAL CONTRACT, THERE IS NOTHING IN AMERICAN LAW WHICH PROTECTS THE RIGHTS OF CREATIVE AUTHORS OF MOTION PICTURES. WHOEVER BUYS THEM CAN DO WITH THEM ANYTHING THEY WISH. AND, THEY CAN SELL THEM AFTER THE ALTERATIONS AS THE ORIGINAL WORK.

IT WAS SHOCKING FOR ME TO DISCOVER THAT THE CREATIVE AUTHORS OF THIS GENUINELY AMERICAN ART FORM ARE MUCH BETTER PROTECTED IN EVERY OTHER COUNTRY OF THE CIVILIZED WORLD, THAN THEY ARE IN THE UNITED STATES.

FOR EXAMPLE, IF I COMMISSION A PAINTING, IT DOESN'T MATTER IF IT IS A PICASSO OR FROM AN UNKNOWN, IT IS MINE. I PAID FOR IT. I OWN IT AND NOBODY CAN PROTECT IT AGAINST ME DOING ANYTHING I WISH. I CAN CHANGE COLORS, I CAN ALTER THE LINES, I CAN EVEN CUT A FEW INCHES HERE AND THERE TO ACCOMMODATE THE SPACE OF MY WALL. SHOULD I STILL BE ABLE TO SELL IT AS A PICASSO OR SOMEBODY ELSE'S ORIGINAL? I BELIEVE NOT.

I REALIZE THAT I AM HIRED AND PAID BY THE MONEY PEOPLE TO MAKE A FILM. BUT SO WAS MICHELANGELO WHOM MEDICI HIRED AND PAID TO PAINT THE SISTINE CHAPEL. STILL NONE OF THE MEDICIS WENT INSIDE DURING THE NIGHT AND CHANGED COLORS OR REPAINTED OR OTHERWISE ALTERED MICHELANGELO'S WORK. BUT OF COURSE, THOSE WERE THE MIDDLE AGES. OR WERE THEY?

PLEASE UNDERSTAND ONE THING: I AM NOT SAYING THAT OUR FILMS ARE UNTOUCHABLE, THAT NOTHING CAN BE ALTERED. OF COURSE, EVERYTHING CAN BE ALTERED. BUT THE ONLY PERSON WHO SHOULD HAVE THE RIGHT TO ALTER, OR SUPERVISE SUCH ALTERATIONS ARE THE CREATIVE AUTHORS OF THE WORK. NOBODY ELSE! OTHERWISE WE ARE LEAVING THE CIVILIZED WORLD AND ENTERING THE JUNGLE. FOR EXAMPLE IF WE DECIDE THAT COLORIZATION WITHOUT THE APPROVAL OF THE CREATIVE AUTHORS IS PERMISSIBLE BECAUSE COLORIZATION CHANGES NEITHER THE STORY, NOR THE CHARACTERS, NOR THE ORIGINAL NEGATIVES OF THE FILM, LEADS IMMEDIATELY TO INTERESTING IDEAS: WHY NOT JAZZ UP A LITTLE THE MUSIC IN "GONE WITH THE WIND"? KIDS ARE TODAY HEAVILY IN HEAVY METAL SO LETS REPLACE THE SOUNDTRACK WITH ELECTRIC GUITARS AND DRUMS. THAT ALSO WILL NOT CHANGE NEITHER THE STORY NOR THE CHARACTERS OR THE ORIGINAL NEGATIVES.

AND WHERE IT WILL GO FROM THERE? TECHNOLOGICAL PROGRESS WILL NOT STOP. WHO KNOWS WHAT WILL BE POSSIBLE WITH THE VISUAL AND AUDIO ELEMENTS OF THE FILM TOMORROW? MY DEEP CONVICTION IS THAT IF THE CREATIVE AUTHORS OF THE FILMS ARE NOT GIVEN THE RIGHT TO APPROVE OR DISAPPROVE ANY, AND I EMPHASIZE THE WORD ANY ALTERATION OF HIS OR HER WORK, AMERICAN FILM, THIS POWERFUL PART OF AMERICAN CULTURAL HERITAGE WILL IN THE FUTURE BE CONSTANTLY HUMILIATED AND FINALLY MUTILATED BEYOND RECOGNITION.

Senator LEAHY. Ms. Rogers, if you will just allow me a personal observation, you have brought an enormous amount of pleasure to Americans over the years. You were in one of the very first movies I saw.

Ms. ROGERS. Thank you very much, Senator.

Senator LEAHY. I am delighted, to welcome you here.

#### STATEMENT OF GINGER ROGERS

Ms. ROGERS. Senator Leahy, it is a great pleasure to be here and to share my feelings on this very troubling issue, and I also speak for the Screen Actors Guild National Board of Directors, which voted unanimously to oppose the computer coloring of black-and-white films.

I would like to tell you how it feels, as an actor, to see yourself painted up like a birthday cake on the television screen. It feels terrible. It hurts. It is embarrassing and insulting. It is a violation of all the care and trust that goes into a work of cinematic art.

In the movies, your face is truly your fortune. It is the focus of the art form. So, as actors, we are very concerned about our appearance on the screen. The studios spent months and even years grooming us and carefully developing an image that looked just right on black and white film. We trusted the experts—the directors, the cameramen, the makeup artists and costumers—to make us look our very best.

Our appearance and expressions are the tools we use to create a character on the screen. It is a subtle and sensitive art that is completely obliterated by computer coloring.

The camera captures a certain magic on an actor's face, a sparkle in the eye, the gleam of a tear, the slightest smile or frown on the lips. These are the nuances that go into a great performance. And these are the delicacies that are sacrificed under a smear of pink and orange frosting.

Some people think that this icing on the cake actually improves our appearance. Well, I've seen the new makeup and costumes that they have painted on me against my will, and I can tell you it is no improvement. I never would have stepped near a camera looking like that. No director, make-up man nor costumer would have allowed it.

I was outraged when I saw the computer-colored version of "42nd Street," in which I had a supporting role. It looked as if we had all been spray painted or doused with dye. Those thrilling musical numbers suddenly looked like cheap Saturday morning cartoons. All of the detail, all of the pizzazz was lost under the new paint job.

How can you accurately color a Busby Berkeley chorus line of 100 beautiful girls with their arms, legs, and costumes twirling? The answer is you can't, and you shouldn't try. All those lovely girls in "42nd Street" suddenly had the same orange face, the same orange legs, the same green costume and the same blank look. Each individual personality was actually wiped out in one long, sloppy brush stroke. I'm glad that Busby Berkeley isn't here to see what they are doing to his art. It would break his heart to see those brilliant dance numbers done-in by flat, lifeless computer color.

Actors have already suffered many indignities through the unbridled exploitation of our popular films. Our names, our voices and faces are considered grist for the mills of commerce. But a motion picture is more than just a strip of celluloid. It is the blood, sweat and tears of hundreds of artists. It's our energy and imagination captured by the camera. When that is chopped or colored or clipped, so am I.

I have spent many years fighting an uphill battle to protect my most valuable asset—my good image. I have learned the hard way that actors have, if any, rights over the use of our work. And that is why I am here today. This computerized cartoon coloring is the final indignity. It is the destruction of all I have worked to achieve. We must fight it with all our might. We must not let computers casually redesign our cultural heritage.

A dear friend and co-star, Jimmy Stewart, could not be here today, but sent a letter and asked that I submit it to the committee. In it, Jimmy says that his best work is being "washed away in a bath of Easter egg dye." That's precisely how thousands of actors feel.

On behalf of all actors and film artists, I urge you to protect our work and let our legacy be remembered as we created it, not as modern mercenaries would rather see it today.

And, if you will, I will read Jimmy's letter to the Committee.

Jimmy says:

DEAR COMMITTEE MEMBERS: I'm sorry that I can't be with you today for this important hearing, but I do want to share my feelings on the very troubling issue of computer coloring of black and white films. I've said it before, and I'm glad to say it again to the United States Senate: colorizing is wrong. It's morally and artistically wrong and these profiteers should leave our film history alone.

For 50 years or so, I've made my living as a screen actor in 80 films—one-half of them in black and white. I pray that they'll stay that way.

Of course, I remember the excitement that Technicolor film created back in the 1930's. It gave the studios a beautiful new option for their screen artistry. But for many creative reasons, we continued to make black and white films well into the 1960's. Some directors, like Woody Allen and Peter Bogdanovich, still choose black and white today and for the same reason: it tells a story in a unique and highly dramatic way. Black and white reduces characters, settings and events to the very essence of darkness, light and shadow.

Every single aspect of black and white production design—the lighting, sets, costumes, makeup and photography—are carefully created for the high contrasts of the medium. These designs are not compatible with the very different requirements of color film. Adding a layer of color to a black and white film is like painting over something that's already been painted perfectly well. It's terrible. Why do it, except to make some quick money on somebody else's work?

The first film I made after the war was Frank Capra's "It's A Wonderful Life." Some people call it a "perennial" or a "classic," and that's all right by me. But those classics are the first targets of the colorizers, and the colorized version was shown on TV last year. I watched half of it and had to turn it off. I couldn't get through it. The artificial color was detrimental to the story, to the whole atmosphere and artistry of the film. I felt sorry for the director, the cinematographer, the costumer designer, the makeup man and all of the actors.

When I think of Frank Capra's fine cameraman, Joe Walker, and the time he spent on the delicate lighting and built-in shadow of "It's A Wonderful Life," and to have that work wiped out by computerized color, which destroys the delicate shadows and depths of each scene, it makes me mad.

The scenes were washed away in a bath of Easter egg dye. The tinting obscured the nuances of expression and character that actors work so hard to create on film. It smudged the clarity of performance and projection that is the goal of all motion picture makers.

In "It's A Wonderful Life," Gloria Grahame played a character named Violet, and whoever colorized the picture thought it would be cute to color all of Gloria's cos-

tumers in that same color—violet. Well, that's art direction after the fact, and an obvious kind of visual pun that Frank Capra never would have considered.

Audiences will always respond to a film's content: the story and the characters. No matter what color—or lack of color—it's made in, the audience will love a good film and despise a bad one. The addition of artificial color cannot improve upon the original merits of a film, but it can certainly destroy them.

A certain actor friend of mine named Ronald Reagan is fond of saying, "if it ain't broke, don't fix it." I agree with that kind of home-spun wisdom, and that's exactly what I'd like to say to anyone who wants to paint up my face like an Easter egg. Our black-and-white films ain't broke, and they don't need fixin'.

If these color-happy folks are so concerned about the audience, let them put their millions of dollars into NEW films, or let them remake old stories if they see fit, but let our great film artists and films live in peace.

I urge the U.S. Senate to join the creative community in our efforts to discourage this terrible process and the windfall profits new copyrights would allow.

Sincerely,

JAMES STEWART.

Senator LEAHY. Thank you very much, Ms. Rogers.

I have a number of questions I would like to address to the panel.

As you know, there are other hearings going on and, therefore, some of the Senators were not able to be here. I have tried to incorporate some of their ideas, too.

Mr. Pollack, you have heard Ms. Rogers quote Jimmy Stewart as referring to the "Easter egg dying" aspect of "colorization." Mr. Forman said at one point that colorizing films is like putting aluminum siding on a medieval castle. Mr. Allen has stated very clearly how he feels.

But movie directors also alter the work of other artists, do they not? Thinking of John Huston's famous film, "The Maltese Falcon," we all agree it is an absolute classic, but he changed the ending of Daschiell Hammett's book.

Daschiell Hammett's 1929 novel has a different ending than John Huston's 1941 movie, "The Maltese Falcon."

What about that?

Mr. POLLACK. Senator Leahy, we are perfectly in agreement with that kind of work. That is considered a new work. We say and credit it as a film based on the novel. I do not think anyone here would have an objection—they might if it did not turn out well—to someone making a novel based on one of our films.

As a matter of fact, movie studios constantly commission novelizations of films and oftentimes they sell quite well.

The movement from novel to film to play to comic book to ballet to symphony, and back through that parade is perfectly acceptable to us. What is not acceptable to us is taking the book, "The Maltese Falcon," rewriting pages of it and saying that we have improved it without the consent of the author. That is a completely different thing than buying the rights from the author and saying we are going to make a motion picture based on this book. This book remains forever as a book in its original form as it was originally intended by the novelist. But now a new piece of entertainment has been made, a new art form has been created which is the motion picture version of that.

Senator LEAHY. Let me follow up a little bit more. Let's take another book written by a good friend of mine, now deceased, who lived in Vermont most of the end of his life, Bernard Malamud's book "The Natural."

The ending of that was radically changed in the film version. It made a very popular movie. I enjoyed the movie just as I enjoyed the book, but they are very different.

Now, as I recall the titles going up, it talked about "The Natural," a novel by Bernard Malamud. It was entirely different. The whole thrust of the book is changed in the movie.

Is that any different just because the film producer bought the book? I mean can he make the argument it could be changed any differently—is that argument any different from, for example, Ted Turner saying I bought the movie and now I can color it, especially as I am leaving available to anyone who wants to buy it the original black-and-white version? It is still there. I have not changed it. That is still there somewhere. It has probably even been improved because they have to go through this process of getting a good clear copy, as the testimony will show later on today.

Why is it any different?

Mr. POLLACK. Because the new work clearly states that it is a new work based upon the novel. The original work by the original author is not altered in any way whatsoever, and Bernard Malamud was no—there are no consequences to him. He does not have to deal in any way with the intentions. He is not injured. His artistic choices are not influenced in any way. His evaluation as an artist is not affected in any way. The representation of his body of work is not altered in any way whatsoever. This is a completely new work, the artistry of which has to be rejudged now by the people who have made those choices.

It would be perfectly logical to criticize those choices or to say, as you did, or as many people in this country did, they liked the movie just fine. It was not "The Natural" they read; it was another piece of work. But that was fine with them.

I have in my own film career attempted to make films often out of novels, and in many cases I have had to, for one reason or another, change either details or overall concepts about it, but there is no subterfuge about it. There is no sense that I am in any way accrediting this to the original author. I am taking the responsibility now for creating a whole new work, and in that new work, as I said before in my testimony, I have to make new choices too.

So I do not feel that is the same, Senator.

Senator LEAHY. What if we took again the black-and-white movie, released it in a color version and said on it, based on the movie such and such?

Mr. POLLACK. You would have to get a new actor, or you would have to write a new screen play or have to redirect it. You can't take—I would not take the pages out of the Malamud book and cut them out and paste them into the script. You just cannot do that. At least I have hired a screen writer and started a whole new work. You have to do the same with a film. I do not have any objection with the colorizers doing that. If you want to make a brand-new version, a Technicolor movie of any of the old black-and-white movies, that becomes a new work, but you cannot take the original version and just dip it in a vat of paint and say, you know—you just cannot do it. It is an alteration and a violation of the original author's work.

Senator LEAHY. Mr. Allen, how do you feel? How would you respond to the same question?

Mr. ALLEN. Even I think there is a tremendous difference between the two processes. If someone was to go to Bernard Malamud and say we would like to buy your book and convert it into a film, he has the free choice as to whether to sell that or to not sell the rights to it. The book remains constantly the book, and he has the choice as to whether to allow it to be transferred to a completely different medium. If he allows it to be transferred, if he sells the rights, then he has to realize possibly requirements of the new art form or different art form may require changes in the book, changes in the story. But he does this of his own free will.

Now, if someone came to me and said we would like to take your film and make it into color and this will require certain artistic choices we are going to make, I want the option to say yes or no, and that is the option that Malamud has.

Senator LEAHY. Let me follow up a little bit on that.

A director, if he has enough clout, can protect himself through a contract. You have been able to do that. You spoke in your testimony about fighting for the right to make a black-and-white film. Somebody else might not be able to win that kind of a fight, but you have been successful. You protected yourself through contract. You prevented the editing of your films, as I understand, for television. Am I correct on that?

Mr. ALLEN. Many of them, yes.

Senator LEAHY. You are part of a group that purchased a Japanese film, "What's Up Tiger Lily," which in its original form was already dubbed in English, and replaced the dialog with your own script.

Could an argument be made that the marketplace itself is going to settle these issues? I realize that a Woody Allen or a Milos Forman or a Sydney Pollack can write into a contract before directing a film a provision stating:

You ain't going to change it unless I agree. You are not going to change it for use in a different medium, you are not going to edit it for showing on television, you are not going to change the sound track, you are not going to change the type of sound, you are not going to change it from black and white to color, or from color to black and white.

Why can't these choices eventually be handled in the marketplace?

Mr. ALLEN. Well, to some degree, it is handled in the marketplace, but the issue is much deeper. There are some directors who can control their work and they are very fortunate. It is a very hard fight and very few really have the clout to have complete control over their films, but it is a very difficult fight.

There are many directors who do not have that power and will never have it. And there are some that are deceased and their films exist.

This is a very strong moral issue that is raised here. It is not just an issue that, OK, leave it to the marketplace because those directors that have enough success financially can dictate the terms in their next contract. The issue is large enough so that there should be an overriding principle that everyone adheres to, that takes into

account what is justifiable and what is not, and that is the protection and the respect given to American artists in any medium.

Senator LEAHY. How do you respond to the argument made by some who have supported the colorization process that directors allow others, especially the TV networks, to tamper with their movies all the time?

Mr. ALLEN. I would respond in part the same way Mr. Silverstein did. It has been a tough fight, and the Directors Guild has been fighting this for years. It is very hard. If the directors could have their way, they would not let any tampering with their films exist whatsoever. They would not let them be broken up for commercials or shortened or panned or scanned or colorized certainly.

The problem is that they have not been able to do it, and the situation has gotten worse and worse and more insulting over the years, and now the colorization is just, I guess, the straw that broke the camel's back because it is so horrible and so dramatic, it is just a preposterous thing, it is so much more acutely noticeable to audiences, and so the issue has just exploded now completely.

But directors, and I for one, in negotiating personal contracts, always try and keep my film off the commercial television if I possibly can and only allow them to be shown on cable networks where there can't be any tampering to the film whatsoever. This is a personal thing, but every director would like to be able to do that and should have the right to do that. And if you take two lines out of a film, or speed up a few minutes, it is a very ugly thing, but it is not as perceptible to the audience as colorization of films.

And, as I say, directors have been objecting to this and fighting furiously against it for years, but now that something so tremendously obvious is occurring as colorization, the issue can no longer be swept under the table. It has got to be settled finally in some legal fashion to give some measure of protection to American film artists.

Senator LEAHY. As a practical matter, some of this is dictated purely by economics, is it not? In some case, the only way film companies can recover their cost of production is to have their films shown on television or in the airplanes, in the foreign markets, and sold to cable television.

Mr. ALLEN. Yes, you will always be able to give practical reasons, and there are a number of practical reasons why the economics dictate certain things. But the overriding reason is a moral reason that is much more profound than any of the practical reasons, and that is you cannot have a culture where people can go in at will and mutilate artists' work no matter what excuse they give you.

When somebody agrees to do a film with a film director, a film studio or producer, they are adults and they realize they are putting up \$5 million or \$25 million, and they may lose it. That is possible. And just to do anything you want with the finished product, to just ride roughshod over the finished product in some frantic effort to try and minimize your loss or recapture your financial investment is perhaps, you know, something that appeals to the investors, but they have got to look to the deeper principle here and that is that one cannot have a society in which the artists are so regarded that their work can simply be changed at will by other people. That has got more resonant overtones to the well-being of



society than the fact that in the film business, some films make money and some films lose money.

Senator LEAHY. Mr. Allen, what if the director of a film wanted to change it? What if the director decided, for whatever reason—economic or otherwise—that he or she would like to take advantage of the new technology and change a film made in black and white to color. Any problem there?

Mr. ALLEN. None whatsoever. I have spoken to one quite famous Italian director who is thrilled over the new technology because he wants to go back on some of his black and white films and color them. And that is fine. I am just in favor of the artist having the choice.

The new technology in the service of the artist is wonderful, but in the service of people who are not the originators of the film, it is a weapon.

Senator LEAHY. What if the producer said no at that point?

Mr. ALLEN. My personal feeling is the producer should not be able to say no. Ultimately what we all like to have in the best of all worlds is that the artist and the director in this case would have the ultimate say over the work. When the producer makes his arrangement with the artist, when he makes the deal to do the film, he is trusting the director and putting his life and his money in the director's hands, and he has an option whether to do that or not based on the director's reputation and skill. And once he commits to that, he is committing to the director saying what the final product will be.

Senator LEAHY. I suspect I probably know the Italian director you speak of. I think of one especially who has made a number of black-and-white films.

Do you see that as being somewhat analogous to what D. W. Griffith did back when he actually reedited some of his own silent films? When sound came into being, he added sound and music and dialog to his films.

Mr. ALLEN. Right. But think of the difference between Griffith doing it voluntarily, feeling he could make a further artistic contribution to the product, and the business people coming in and taking "Birth of A Nation," and then doing it without Griffith's consent. It is simply all the difference in the world.

Senator LEAHY. My last question. I know Mr. Silverstein wants to respond to this.

We have been talking about movies in the theater format. What about old television shows that were made in black and white when that was the only option available? What is your position on the colorization of those films?

Mr. ALLEN. Well, oddly enough, since it is a principle that we are talking about, I think it has to cover, you know, everything that is made in black and white, every artist's work or every creator's work. The term "artist" is, you know, debatable and vague, but every creator's work has got to be protected, whether it is an old "I Love Lucy" or old "Leave It To Beaver."

Senator LEAHY. "The Rifleman."

Mr. ALLEN. You tend not to think of that in the same class as "Citizen Kane" or something by Fellini, but the principle is so deep, it must cover all of them.

Senator LEAHY. Thank you. Thank you very much, Mr. Allen.  
Mr. Silverstein.

Mr. SILVERSTEIN. Senator, I would like to call your attention to the next step the computer is liable to take which will give this whole country pause, including the political community.

The quote is from "Special Effects by Christopher Finch." <sup>1</sup> It relates to the uses of the Cray computer, and it says:

Our notion is to use the computer to create lifelike characters who are modeled after known personalities. It will take 5 or 10 years to solve the problems, but it will be possible to create the likeness of a human being with such a degree of precision that the viewer won't be able to tell what is wrong with it. It is not just the appearance either. It will be possible to generate speech electronically and the result will evoke an emotional response. We may be able to recreate stars of the past, Clark Gable and Rita Hayworth, cast them in new roles, bring them forward into time in new settings, and then you have got John Wayne on file. You can put him in any role you simulate.

I personally asked a gentleman associated with this company how far he could go, and I saw a demonstration of the early phase, and it is quite impressive. He said to me, and it was quite fascinating, that he could make the President of the United States make any statement he wished to at that point, and the only difficulty he was having was in encoding the drapery on his clothes.

Senator LEAHY. Didn't Mr. Allen do this already with his movie "Zelig"?

Mr. ALLEN. With my consent, I did it.

Senator LEAHY. But not Calvin Coolidge's.

Mr. SILVERSTEIN. We have one final presentation if you are ready to receive it, Mr. Huston.

Senator LEAHY. Before you do, I find that, of course, a matter of concern. It is funny in Max Headroom. It doesn't become funny if it goes beyond that.

Mr. Forman, did you want to add something? You heard the series of questions.

Mr. FORMAN. Well, I would just bring to your attention that if the artist's right to approve or disapprove any alteration of his work is not protected, that means that his work can be altered by anybody who has the power over his work. You are opening the door to censorship.

Senator LEAHY. I might say, and I don't intend to make this a pun, but it is very much a black-and-white question. Your position is that film should not be changed for any reason whatsoever unless the director says OK. Is that the bottom line?

Mr. ALLEN. Yes.

Mr. POLLACK. Yes.

Senator LEAHY. Mr. Silverstein, you had another presentation.

Mr. SILVERSTEIN. Yes. We want to present to you a 4½-minute statement on tape by Mr. John Huston who, regrettably, could not be with us today, and we are grateful to you for receiving his testimony on tape.

<sup>1</sup> Library of Congress Cataloguing in publication data. Finch, Christopher, Special Effects, ch. 21, p. 240 1. Cinematography—Special Effects. 1. Title Tr. 858.F56, 1984; 778.51345; 84-9180; ISBN 0-89659-452-1.