

Senator LEAHY. The testimony will be received on tape and it will be made a part of the record as though he has presented it here.

[Text of the tape, referred to above, follows:]

TAPED STATEMENT OF JOHN HUSTON

Ladies and gentlemen of the Congress, I come before you on behalf of many others to make a simple appeal—save my work.

We are, all of us, the custodians of our culture. Our culture defines not just who we are, but who and what we were. Those of us have labored a lifetime to create a body of work look to you for the preservation of that work in the form we choose to make it. I believe we have that moral right, even in the face of what sometimes appears to be a conspiracy to degrade the national character. To bring it down to the lowest denominator, to condition it to accept falsehood at face value.

In 1941 I directed a film entitled "Maltese Falcon", it was made in black and white, just like sculptors choose to make something in clay, or cast it in bronze, or carve in marble. It is not to be conceived in any other way than black and white.

On the night that I looked at—or tried to look at—a computer-colored version of "Maltese Falcon", I asked myself if such an example of mindless insipidity could be worth anyone's attention in this threatened world. A world beset by terrorists. The answer, of course, is most certainly, for its very mindlessness in the first place allows for assaults of the crazed zealots. "The Maltese Falcon" has been colored by Ted Turner, who announced, somewhat smugly, when he heard the thunderclap of protest to the computer coloring of my film, that the last time he looked, he owned it. Having said that, he probably slept well that night after he obliterated the work of some of the artists and embarrassed others who were living, including me.

A director is a guide to the other film artists involved in the making of a movie. His presence offers a protection for them. He tries not to ask of them anything that will make them appear as less than their best. In fact they know that one of his tasks and his skill is to get every one of them to do more and better than they thought they could. They are a kind of family and the director is a kind of father or mother as the case may be. And when he or she does his or her job they trust the director. In the case of "Maltese Falcon", that trust along with our work itself has been obliterated.

The work of Arthur Edeson, the director of photography, was obliterated by some engineer's idea of what was good color, painting by the computer numbers on the back of Edeson's light and shadow.

Robert Haas, art director—obliterated. His sets designed for black and white—splashed over with pale and faded colors.

The work of Perc Westmore—the makeup artist—obliterated! New electronic flesh tones added, like embalmer's pancake makeup; shadows and character lines on faces eliminated in an electronic wash.

Humphrey Bogart and Mary Astor so properly careful of how they looked before they stepped before the camera—bushwhacked by the coloroids when they are unable to defend themselves. All of these who had trust in me and I who had trust in them and in the film and its future—bushwhacked! And this is only one film and I am only one director and these are only a few of the artists who will be subjected to an eternal unjustified public humiliation joyfully presented as entertainment by the vandals whom we of the Directors Guild oppose today.

Save the past for the future! Every future needs a past upon which to build itself and to define itself. Provide some protection for the film artists of the United States and for the work they have produced which has become such a popular art for the Nation. Preserve the way we saw ourselves! Preserve the memory of both the limitation of available techniques and the way we worked within them.

The truth is what is at issue here. Historical truth. That truth is being cynically distorted for future generations by those to whom truth means nothing . . .

Mr. SILVERSTEIN. May we also put in the record a number of statements by all the artistic guilds in Hollywood, plus the National Association of Critics?

Senator LEAHY. It will also be made part of the record.

[Statements submitted for the record follow:]

National Society of Film Critics
 c/o Elisabeth Weis, 19N
 101 West 12th Street
 New York, N.Y. 10011

THE NATIONAL SOCIETY OF FILM CRITICS

The National Society of Film Critics is comprised of critics of the country's major, general-interest publications. Founded in 1966, the Society differs from other critical associations in a number of significant ways. In the first place, it is truly national. Its forty-two members include not only the critics from The New York Times and Daily News, but also critics from the two Los Angeles dailies, along with the major critics of Boston and Chicago. The critics of Time, Newsweek, New York and the New Yorker are members, but so are the critics of Vanity Fair, The Village Voice, Yogus, and such far-flung outposts as Pacific Northwest and Bennington Review.

Secondly, membership is by election: critics become members because their peers deem them worthy, not just because they've managed to land a job in movie criticism.

Over the years, the Society has published six volumes of its annual compilation, as well as The National Society of Film Critics on Movie Comedy (1977) and The National Society of Film Critics on the Movie Star (1981), both still in print. The group can genuinely be said to represent the best of contemporary American film criticism.

Besides responding to specific issues, the Society regularly meets early in January to vote on the Society's awards for the finest film achievements of the year. Awards go for Best Picture, Best Actor, Best Actress, Best Supporting Actress, Best Supporting Actor, Best Director, Best Screenplay, and Best Cinematography, and, should the Society choose to award one, Best Documentary.

This year's meeting will be held on Sunday afternoon, January 4, 1987, at the Algonquin Hotel in New York City. The current Chairman is Stephen Schiff of Vanity Fair.

For further information, call Executive Secretary Elisabeth Weis at 212 989-1767.

THE NATIONAL SOCIETY OF FILM CRITICS
c/o Elisabeth Weis, Apt. 19K
101 West 12th Street
N.Y., N.Y. 10011 (212 989-1767)

FOR IMMEDIATE RELEASE

December 27, 1986

FILM CRITICS PROTEST USE OF COLORIZATION

The National Society of Film Critics released to the press a copy of a petition urging 'an immediate halt to colorization and to the sale, exhibition, and broadcast of colorized films.'

The petition was sent to Ted Turner, head of Turner Broadcasting, whose stations have been televising colorized versions of Hollywood classic films to which Turner has acquired the rights, and to Joseph A. Adelman, Senior Vice President of Color Systems Technology, Inc., also a company involved in colorization.

The complete text of the petition reads:

'We, the undersigned members of the National Society of Film Critics, representing America's major newspapers and magazines, strongly protest the use of 'colorization' to alter black-and-white films without the consent of the filmmakers. We consider colorization a barbarism and a betrayal not only of the filmmakers' intentions but of the very notion of film as an art form. We therefore urge an immediate halt to colorization and to the sale, exhibition, and broadcast of colorized films.'

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DEC 30 1986

NATIONAL EXECUTIVE DIRECTOR

AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS



BRANCH OF THE ASSOCIATED ACTORS AND ARTISTS OF AMERICA
 AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR — CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL-CIO)

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Mark Alan Farber
 Executive Secretary

Los Angeles Local
 1717 N. Highland Avenue
 P.O. Box 4870
 Hollywood, California 90028-4870
 (213) 491-9111

January 12, 1987

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Mr. Michael Franklin
 National Executive Director
 Directors Guild of America, Inc.
 7950 Sunset Boulevard
 Los Angeles, California 90046

Dear Michael:

The Los Angeles Local Board of Directors, at its meeting of January 7, 1987, unanimously reconfirmed our total support of the Directors Guild of America's efforts to stop the needless coloring of the original works of art known as black and white motion pictures.

In order to make our support better known, the Board of Directors has instructed me to distribute this letter to the Screen Actors Guild, our sister Locals, and to Walt Disney Studios, 20th Century Fox and Turner Broadcasting, who have already, we feel, defaced several black and white treasures and have announced plans to continue this deplorable practice.

Sincerely,

Mark Alan Farber
 Executive Secretary

MAF: jr
 cc: K.T. Stevens

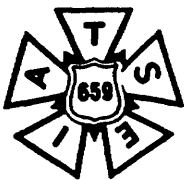
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SONYA LAMBONCA
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JAN 13 1987

NATIONAL EXECUTIVE DIRECTOR



REPRESENTING
DIRECTORS OF
PHOTOGRAPHY
CINEMA PHOTOGRAPHERS
CAMERA OPERATORS
CAMERA ASSISTANTS
STILL PHOTOGRAPHERS
FILM LOADERS
NEWS PHOTOJOURNALISTS
VIDEO CONTROLLERS

"The Guild of the Finest
Film and Video Crews
in the World"

CHARTERED 1928

INTERNATIONAL PHOTOGRAPHERS GUILD

OF THE MOTION PICTURE AND TELEVISION INDUSTRIES LOCAL 659 I.A.T.S.E.
7715 SUNSET BLVD. SUITE 150, HOLLYWOOD, CALIFORNIA 90046
(213) 876-0480

September 30, 1986

Directors Guild of America, Inc.
7950 Sunset Blvd.
Los Angeles, CA 90046

ATTN: Elliot Silverstein

RE: Coloring of Black and White Pictures

Dear Mr. Silverstein:

At a recent executive board meeting, the International Photographers Guild, Local 659 of the I.A.T.S.E., went on record as totally opposed to the coloring of Black and White pictures. We feel that this obscene proposal lacks justification on all levels of artistry and creativity. It is a unilateral decision disregarding an important period of the industry's history as well as the history of America. Quite obviously, this decision is based solely on greed and no other consideration.

As a Guild that represents the world's greatest cinematographers, we share your many objections to this and any process that mutilates the integrity of Black and White films.

Please let us know if we can be of any assistance concerning this matter.

Best wishes.

Sincerely,

George Spiro Dible
President, Local 659
International Photographers Guild

Affiliated with
AFL-CIO
California State Federation of Labor
California State Industrial Federation
Hawaii State AFL-CIO
Hollywood Film Council
Los Angeles County
Federation of Labor
Northwest Oregon Labor Council
Sacramento Central Labor Council
San Francisco Labor Council
Santa Clara Central Labor Council
Southern Nevada
Central Labor Council



MAKE-UP ARTISTS and HAIR STYLISTS LOCAL 706

11519 CHANDLER BOULEVARD • NORTH HOLLYWOOD, CALIFORNIA 91601 • PHONES: (213) 877-2776 - (818) 984-1700

December 15, 1986

Mr. Gil Cates, President
Directors Guild of America, Inc.
7950 Sunset Blvd.,
Los Angeles, Ca. 90046

Dear Gil:

In representing the Make-Up Artists & Hairstylists of our wonderful industries, I too would like to go on record opposing the colorizing of the classic black and white films that have been made down through the years.

I also was there when we made many of these beautiful films and did participate in the early testing and designing of the proper colors that we used to make these classics.

In viewing the colorized black and white's I find that the faces and hair of the actors and actresses are simply atrocious. I can assure you that if any one of our Make-Up Artists would have made a player look like they do after being colorized we would have been fired on the spot.

In my humble opinion, I feel that the colorizing (altering) the artistic endeavors of so many talented people, would be like my trying to do a make-up on the "Mona Lisa".

I can further assure you that if Perc Westmore were alive today he would have filed an immediate law suit after viewing "The Maltese Falcon" and seeing how "Bogie" and Mary Astor looked.

In short, this is a bastardization of the arts of our industry and although I realize that many many millions of dollars are about to be made on this project, I want to see it stopped for the 600 plus people that I represent.

Gil, anything that Local 706, the Make-Up Artists and Hairstylists can do to help in this effort, we stand ready, willing and able to do. I would like you to know that this expression has been approved by the Executive Board of this Local.

Sincerely and fraternally,
Howard J. Smith
Howard J. Smith
Business Representative



SCREEN ACTORS GUILD

FOR RELEASE:
December 1, 1986

CONTACT: ~~MARK LOGHER~~
(213) 856-6650

SAG NATIONAL BOARD OPPOSES 'COLORIZING' OF BLACK & WHITE FILMS

The Screen Actors Guild National Board of Directors has voted unanimously to oppose the "colorizing" of black-and-white films, and to cooperate with the Directors Guild of America and other industry organizations to discourage the practice.

By a vote of 65 to 0 (with four abstentions), Guild Board members expressed strong disapproval of "colorization," joining a growing number of industry artists and craftspeople who object to the computerized tinting of films for strictly commercial purposes. Board members acknowledged the financial incentives behind the practice, and opposed colorizing on artistic grounds.

In discussion prior to the vote, Guild officers expressed grave concerns about the deleterious effect of colorizing and its artificial and inaccurate rendering of actors' physical features and characteristics. Many voiced a strong distaste for the unrealistic pink and orange skin tones which obscure the carefully photographed contours and nuances of actors' faces. Several incidents of incorrect hair and eye color were noted, as well as the color tint's inability to keep pace with actors' movements and expressions.

Guild officials will meet with directors and other interested parties to explore methods of discouraging continued colorizing of black-and-white films.

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77-848 84

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NATIONAL EXECUTIVE DIRECTOR

7065 HOLLYWOOD BOULEVARD • HOLLYWOOD, CA 90028-7594 • TELEPHONE (213) 465-4600

Branch of American Screen and Actors Guild / A.S.G. / A.F. of Motion Picture and Television Artists

D GUILD LBA

DRAMA 643355P
MR MICHAEL FRANKLIN

DEAR MICHAEL,

THE FRENCH MOVIE AUTHORS AND DIRECTORS FULLY SUPPORT THE FIGHT LED BY THE DIRECTORS GUILD OF AMERICA AGAINST THE COLORIZATION OF THE BLACK AND WHITE FILMS.

SACD HAS ASKED ALL THE PRESIDENTS OF THE TV CHANNELS TO TAKE SOLEMNLY THE ENGAGEMENT NEVER TO BUY THE RIGHTS OR BROADCAST A FILM THAT WOULD HAVE BEEN SO COLORIZED.

FOR THE MOMENT WE RECEIVED SUCH ENGAGEMENT FROM TF1, CANAL PLUS, LA CING, TV6. WE ARE WAITING FOR THE ANSWERS OF ANTENNE 2 AND FR3. IT SEEMS FAIRLY POSSIBLE THAT WE RECEIVE A FULL AGREEMENT OF ALL THE FRENCH TV CHANNELS.

YOURS SINCERELY.

CLAUDE BAILLARD

D GUILD LBA

DRAMA 643355P

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JAN 19 1987

CLAUDE BAILLARD



September 25, 1986

Mr. Ted Turner
 MGM/UA
 10202 W. Washington Blvd.
 Culver City, Ca. 90230

Dear Mr. Turner:

The Executive Board of the Costume Designers Guild protests your planned coloring of black and white films from the 30's and 40's, many of which are classics.

Costumes used in those films were designed specifically for the black and white film genre. The materials, colors and styles of the costumes were selected for lighting and mood and may not translate at all well into color.

A Costume Designer's skills and experience, with respect to any picture, aid in the delineation of character, setting and period involved in the story being depicted. The costumes used in a film are often as important as the stage setting itself and are an integral part of the design and look of a film.

For someone to arbitrarily change the color and look of a designed costume is to substitute his or her judgement for that of the initial Costume Designer and Director. Some such changes are not harmful. In other instances, such changes will destroy everything the Costume Designer worked to achieve.

It is in these latter situations where harm is done, not only to the film, but to the Costume Designer who is, by such changes, made to look incompetent and insensitive. Needless to say, such an imputation would be detrimental to the Costume Designer's reputation.

The colorization of "Yankee Doodle Dandy" may be used as an example to illustrate our concerns. The dresses designed by Milo Anderson in the scene at the railroad tracks were originally designed in shades of gray. The colors fit the scene and the mood of the story.

When the film was colored the dresses were redone in pastels and the mood of that scene changed completely. Numerous other examples can be cited but additional examples are unnecessary for the purpose of this letter.

Under the circumstances we urge that you not go forward with your planned colorization program.

Sincerely,

Carole Strasser

Carole Strasser
 Executive Director

Senator LEAHY. I understand you have one other exhibit.

Mr. SILVERSTEIN. Yes, Senator, if I may.

Senator LEAHY. Will you, please?

Mr. SILVERSTEIN. We have available for your examination an original print of Ansel Adams. As you know, he is one of the greatest American black-and-white photographers, a man who is truly part of the history of black-and-white photography in this country. This piece which—

Senator LEAHY. I know this one well.

Mr. SILVERSTEIN. Then my case will be somewhat easier.

We asked a former employee of Color Systems Technology to make what, in his opinion, would be what he was asked to do to a black-and-white film and no worse nor no better. He has worked not on a Color Systems Technology machine because he couldn't do that, but he came as close as he could, and I have the results for your inspection now.

Senator LEAHY. Bring that one up here too.

Mr. SILVERSTEIN. I know as a photographer, Senator, you will be quick to note the substantial differences between the two, the attention that Mr. Adams gave to the depth of field and the kind of fuzzy outline that you see in the other, plus other differences.

Senator LEAHY. As I say, this looks like more the kind of work I end up doing than the work that a real artist does. I had the misfortune of being born blind in one eye so I took up photography for a hobby because I see everything two-dimensionally. Some of my political opponents say that explains everything, but I have seen things two-dimensionally for the 47 years of my lifetime. I have taken up a great deal of photography as the one sport I can do, and I have always enjoyed it very much. And I might say, for whatever it is worth, that there are certain things you can photograph only in black and white. There are certain things you can photograph only in color. But it is very, very rare that a great color photograph looks as good when reproduced in black and white and vice versa.

I think of one particular black-and-white photography by Karsh—the one of Winston Churchill taken just after a cigar was snatched out of his hand, staring belligerently at the camera. The photograph highlighted perfectly the pugnacious look in his face. If that picture were to be reproduced in color, it would become just another picture of various British statesmen. It would become completely different.

And, at the same time, the tragic, awful pictures we saw of the *Challenger* explosion, would those have been the same in black and white?

Ms. Rogers and gentlemen, I thank you very, very much for taking this time.

We will take a 5-minute break and then go to the next panel.

[A short recess was taken.]

Senator LEAHY. I should note for the record that the last panel took with them the Ansel Adams print. I do not want anybody to think it has been somehow confiscated by the Judiciary Committee or any member of the Judiciary Committee.

Our next panel will be composed of Roger Mayer, the president of Turner Entertainment Co.; Rob Word, senior vice president for

Creative Affairs, Hal Roach Studios; and Buddy Young president of Color Systems Technology, Inc.

In the order I have the testimony, it is Mr. Mayer, Mr. Word, and Mr. Young. Obviously, if the panel would wish to do it in any different order, you are most welcome to.

STATEMENTS OF A PANEL CONSISTING OF ROGER L. MAYER, PRESIDENT, TURNER ENTERTAINMENT CO.; ROB WORD, SENIOR VICE PRESIDENT FOR CREATIVE AFFAIRS, HAL ROACH STUDIOS; AND BUDDY YOUNG, PRESIDENT, COLOR SYSTEMS TECHNOLOGY, INC.

Mr. YOUNG. I would like to go first.

Senator LEAHY. Mr. Young would like to go first. If we could have order.

I appreciate very, very much the three of you being here. I know you have spent some time with my staff, Mr. Berman has with me, and also with the staff, and I know that you have, each one of you, rearranged a number of things to be here, and I want you to know I appreciate it very, very much.

Mr. Young, if you will start, sir.

STATEMENT OF BUDDY YOUNG

Mr. YOUNG. Mr. Chairman, my name is Buddy Young, and I am President of Color Systems Technology. I appreciate the opportunity to be here this morning along with my colleagues, Roger Mayer, president of Turner Entertainment Co., and Rob Word, senior vice president for Creative Affairs for Hal Roach Studios.

We ask that the written testimony submitted to the committee be printed in the record, and for the purpose of brevity, we are summarizing our statements this morning.

Senator LEAHY. Yes.

Mr. YOUNG. The company I represent is less than 5 years old. In 1985, we had 40 employees. Today, nearly 200 persons work at Color Systems Technology. Like all new businesses in the United States, we represent entrepreneurial spirit. We have put our personal assets at risk in this new venture. Some of us risked virtually everything we own to form our companies, with the hope of providing ourselves and our shareholders a good return on our investment while, at the same time, providing entertainment that the American public wants, accepts and enjoys.

Mr. Chairman, in the ongoing debate over the coloring of films, our critics have attacked our work, questioned our motives, and demeaned not only our artistic taste but also that of the people who enjoy watching our product. A great many false claims have been made and misconceptions fostered.

We have additional videotape which presents a fair example of our work and addresses a number of questions regarding our business.

And can we please roll that?

Senator LEAHY. Lower the lights.

[A videotape was shown.]

Senator LEAHY. Thank you.

This is a matter for the record.

Were the interviews in your tape filmed in color and then shown in black-and-white? Or were they originally filmed in black and white?

Mr. YOUNG. The interviews were filmed in color. It was shown on a black-and-white monitor.

Mr. Chairman, I think you could see from the foregoing how good our work is capable of being, certainly far better than such innovations as sound or even the early Technicolor were at this early stage of their development.

Many parents would prefer that their children watch the older less violent cartoons than those that we see today. We will color Abbott and Costello shows, the Laurel and Hardy films, and a number of family-oriented black-and-white television programs that were serialized during the days when color programming was not available to the general public.

You saw from the earlier videotape that sneers about "computer coloring by number" are entirely unmerited. Human beings, professionally trained artists, expert in the psychology and application of color, make all the creative decisions. No computer ever has nor will it ever color a movie on its own. It colors what it is told to do by an art director or a colorist, just as a word processor does the will of an author.

Further, the members of this committee know, as do our critics, that colorization of black-and-white films does absolutely nothing to destroy, damage, or alter the original films. They are untouched, intact and preserved in their original form. The original versions of some of these films are being shown throughout the United States in art theaters, film institutes, and on television. As a matter of fact, since the telecast of the colored versions of "Miracle on 34th Street" and "It's A Wonderful Life," the original black-and-white versions have had increased exposure via telecasts and home video sales and rentals.

These are peripheral issues, designed to obscure the purely emotional argument over an author's creative rights—rights which were unheard of at studios when the films we are coloring were made.

I do not wish to diminish or demean the work of the directors. Many are truly gifted and have been handsomely rewarded. I merely want to underline the historic fact that, from the beginning, filmmaking has been a collaborative effort relying on the creative contribution of many talented people. As Ronald Haver, curator of film for the Los Angeles County Museum of Art, recently said, "Most of the films that we are talking about, the period under consideration, they were not directors' films, they were studio films. If anything, they were writer films."

But whether their attacks are motivated financially, since these earlier works are not subject to residual payments, or by wounded pride, we urge the committee to look beyond the rhetoric designed to capture headlines or a minute on the nightly news and concentrate instead on the substantive issues involved, from both an artistic and an economic vantage point.

We believe that the real issue revolves around the rights of a person to his own property and the public's right to choose a new marketplace. The hidden agenda is of an elitism, the intellectual

intent of a few to impose their own views and tastes on millions and millions of Americans who have already expressed their own indisputable preference for color as measured by polls, television ratings, and video sales.

Senator LEAHY. Can I interrupt at this point?

Is this really the issue? Just going simply by the polls? I tend to think that one of the big problems of this country is too many people in elective office make decisions simply according to the polls, according to what is momentarily popular. If we simply go by the polls, might we get terrible government?

By the same token, what kind of decisions should be made according to polls? If one conducts a poll and finds that some of these films, even classic films, are not popular because the dialog or music seem dated, should the film be altered? Could this lead to a situation where Rick asks Sam to sing something more contemporary than "As Time Goes By," and a more contemporary song is dubbed in?

Mr. YOUNG. Mr. Chairman, I mention not only polls, but I mention television ratings and video cassette sales. Those are three things that indicate that the marketplace and the general public want the new version, the completely new versions that we colorize. We are not basing it on a poll of a hundred people or a thousand people and taking action on that basis, nor are we doing it without the permission of the owners of these films.

Senator LEAHY. But would it be logical to assume that in some of these cases we might also end up changing the dialog or music to make films more contemporary and make them more popular? What about the suggestion made earlier that we change the music of "Gone With The Wind" for something more contemporary, more popular? Should that be considered?

Mr. YOUNG. I think it should be considered by the owner of that film. I think they have the right to do that. I personally do not think the marketplace would buy it if it was done.

Senator LEAHY. Your answer then is that when the rights to a film, for example, "Casablanca," are bought, the owner has the right to change the dialog if he wants?

Mr. YOUNG. I believe they have the right to create a new version.

When they bought the rights to "Casablanca," they did not buy the black-and-white rights. They bought the film rights to make it either in black and white, to make it either in color, to use any music they so choose to use. They have that right.

At the time that those rights were sold to the purchaser, that is the time to have negotiated whatever they wanted to preclude, as Woody Allen does today.

Senator LEAHY. So "As Time Goes By" could be changed to something more contemporary?

Mr. YOUNG. I agree they have that privilege to do so. I don't think—

Senator LEAHY. What you are saying is that while they would have the right, that decision is one that would ultimately be dictated by the marketplace?

Mr. YOUNG. That is correct, Mr. Chairman.

Senator LEAHY. Thank you, Mr. Young. Please continue.

Mr. YOUNG. The question of ownership rights is also indisputable. Because the studios hired the directors and the actors and everyone else associated with the production of films, they also owned the product. The decision on how to market the films belongs to the studios that made them or whoever bought the rights.

Once more, the company that owns those rights has an obligation to its investors to maximize the potential of the library and, in so doing, it helps television networks and individual stations by maximizing their audience and hence revenue. It also is helping raise the level of programming by making available neglected quality films.

Mr. Chairman, we believe that for the production of future new releases, the issue of colorization is one which should be negotiated between the directors and producers or owners of the films on which they are working. Over time, the directors, through the basic contract negotiated by the Directors Guild and in their individual contracts with producers, have obtained certain rights. The colorizing of motion pictures belongs in the same arena.

If Mr. Allen, or any other director, chooses to negotiate a contract with the producers or backers of his films that precludes the colorizing of those films, he should have that right. We would absolutely refuse to color any motion picture when such colorization would be a violation of an existing contract.

Senator LEAHY. That really gives nothing. You say you would have to refuse, but you could do it any way if you were not going to run into a contractual problem.

Mr. YOUNG. What I am trying to point out is that we are not breaking the law right now.

Senator LEAHY. Nobody is suggesting you are, Mr. Young. I hasten to add I think your technology is an absolutely remarkable thing. I find it totally fascinating. I cannot understand how it works, but then I had a hard time getting my word processor turned on in the morning. So that probably does not say a great deal for me. I think you can take a great deal of pride, all of you who are involved with it.

I just want to still stick, of course, to the issues we are dealing with here, which are the legal issues or potential legal issues which arise when color is added to black-and-white film. I think everybody has to acknowledge that the technology is fascinating.

Mr. YOUNG. Thank you.

In conclusion, Mr. Chairman, our critics do not like our product and think we should not have the right to convert black-and-white to color. Colorization itself infringes on no one's rights, but successful efforts to take away the right of owners to color copies of old black-and-white films would, in our opinion, be a clear violation of a person's right to his own property.

Furthermore, we assert that the American people have the right to choose between a colorized version of a film or the film in its original black and white state. I do not believe any pressure group should or governmental body would tell them what they can and cannot watch.

Mr. Chairman, members of the committee, I want to express my appreciation for hearing our side of the story.

[The statement of Mr. Young follows:]

STATEMENT TO THE SUBCOMMITTEE ON TECHNOLOGY AND THE LAW OF THE
U.S. SENATE JUDICIARY COMMITTEE
MAY 12, 1987

Buddy Young
President and Chief Executive Officer
Color Systems Technology, Inc.

Mr. Chairman and distinguished members of the Committee, my name is Buddy Young and I am President of Color Systems Technology. I appreciate the opportunity to be here this morning, along with my colleagues Roger Mayer, President of Turner Entertainment Company and Rob Word, Senior Vice President of Creative Affairs for Hal Roach Studios.

We ask that the written testimony submitted to the Committee be printed in the record and for the purpose of brevity, we are summarizing our statements this morning.

The company I represent is less than five years old. In 1985, we had 40 employees. Today nearly 200 persons work at Color Systems Technology. Like all new businesses in the United States, we represent entrepreneurial spirit. We have put our personal assets at risk in this new venture. Some of us risked virtually everything we own to form our companies, with the hope of providing ourselves and our shareholders a good return on our investment, while at the same time providing entertainment that the American public wants, accepts and enjoys.

Mr. Chairman, in the ongoing debate over the coloring of films, our critics have attacked our work, questioned our motives and demeaned not only our artistic taste but also that of the people who enjoy watching our product. A great many false claims have been made and misconceptions fostered.

We have additional videotape which presents a fair example of our work and addresses a number of questions regarding our business.

VIDEOTAPE INSERT

Mr. Chairman, I think you could see from the foregoing how good our work is capable of being, certainly far better than such innovations as sound or even the early Technicolor were at this early stage of their development.

As a matter of fact, we now have the ability to restore some of the great Technicolor movies that have faded with time, classics like "Oklahoma" and "South Pacific" which have become almost unwatchable due to the degraded condition of their prints. This is another form of enhancement in the service of the motion picture art.

Because of the technical and artistic training of our people and of our growing experience in this new field, we in the business of coloring films have the ability and the responsibility to improve our product. This is important not just in terms of marketing movies, but because of what it accomplishes in allowing us to provide the American public with solid, wholesome entertainment. We aim to make these films available to an entire new generation of Americans.

We are coloring some of Shirley Temple's most endearing movies. We intend to color those wonderful classic cartoons that you watched as children. Many parents would prefer that their children watch the older, less violent cartoons than those that we see today. We will color Abbott and Costello shows, the Laurel and Hardy films, and a number of family oriented, black and white television programs that were serialized during the days when color programming was not offered the general public.

You saw from the earlier videotape that sneers about "computer coloring by number" are entirely unmerited. Human beings -- trained artists, expert in the psychology and application of color -- make all the creative decisions. No computer ever has, or will, color a movie on its own; it colors what it is told to do, just as a word processor does the will of the writer.

Further, the members of this Committee know, as do our critics, that colorization of black and white films does absolutely nothing to destroy, damage or alter the original films. They are untouched, intact and preserved in their original form. The original versions of some of these films are being shown throughout the United States in art theatres, film institutes, and on television. As a matter of fact, since the telecast of the colored versions of "Miracle on 34th Street" and "It's a Wonderful Life", the original black and white versions have had increased exposure via telecasts and home video sales and rentals.

These are peripheral issues, designed to obscure the purely emotional argument over an author's creative rights -- rights which were unheard of at studios when the films we are coloring were made.

Very little reading of the history of Hollywood is needed to discover that the great black and white films were the product of the studios. Ronald Haver, Curator of Film for the Los Angeles County Museum of Art, recently said that "Most of the films that we're talking about, the period under consideration, they were not directors' films, they were studio films. If anything, they were writer films because the writer wrote down every single aspect of what the director directed. The director changed nothing . . . the director was another craftsman in the creation of the overall motion picture. So to say that the director may not have wanted this film to be in color, I think is overstating the case on behalf of the director."

Mr. Chairman, I refer to Mr. Haver, not to diminish or demean the work of the directors. Many are truly gifted and have been handsomely rewarded, both financially and by acclaim and accolades from the public and their professional colleagues. I merely wish to underline the historic fact from the beginning, filmmaking has been a collaborative effort, relying on the creative contributions of many talented people. Movies are not solely the work of their directors.

But whether their attacks are motivated financially, since these early works were not subject to residual payments, or by wounded pride, we urge the Committee to look beyond the rhetoric designed to capture headlines or a minute on the nightly news and concentrate instead on the substantive issues involved, from both an artistic and an economic vantage point.

We believe that this issue revolves around the constitutional guarantees of individual rights and property ownership and the public's right to choose in the marketplace. There is a great deal of elitism involved here, the intellectual intent of a few to impose their own views and tastes on millions and millions of Americans who have already expressed their own opinions in unequivocal terms as measured by polls, television ratings and videocassettes sales.

The evidence is indisputable that the films we have colored for television release have attracted enormous audiences -- audiences that dwarf those who have watched the same film in black and white.

The question of ownership rights is also indisputable. Because the studios hired the director and the actors and everyone else associated with the production of the films, they also owned the product. Turner Broadcasting purchased the MGM film library at an enormous cost. The decision on how to market these films, as well as the rights, belong to that company, not the actors, writer or director. What's more, Mr. Turner

has an obligation to his own investors to maximize the potential of the library. In so doing, he helps television networks and individual stations by maximizing their audience, and hence revenue. He also is helping raise the level of programming by making available neglected, quality films.

Mr. Chairman, we believe that for the production of future new releases the issue of colorization is one which should be negotiated between the directors and the producers or owners of the films on which they are working. Over time the directors, through the basic contract negotiated by the Directors Guild and in their individual contracts with producers, have obtained certain rights. The colorizing of motion pictures belongs in that same arena. If Mr. Allen, or any other director, chooses to negotiate a contract with the producers or backers of his films that preclude the colorizing of those films, he should have that right. We would absolutely refuse to color any motion picture when such colorization would be a violation of an existing contract.

In conclusion, Mr. Chairman, it is fair to say that the issue of colorization is really one of personal taste. Our critics do not like our product and think we should not have the right to convert black and white to color. Colorization itself infringes on no one's rights. But successful effort to take away the right of the owners to color copies of old black and white films would, in our opinion, be a clear violation of a person's right to his own property. Furthermore, we assert that the American people have a right to choose between a colorized version of a film or the film in its original black and white state. I don't believe any pressure group should or governmental body would tell them what they can and cannot watch.

Mr. Chairman, members of the Committee, I want to express my appreciation for hearing our side of the issue.

Senator LEAHY. Thank you very much.
Who wishes to go next? Mr. Mayer.

STATEMENT OF ROGER L. MAYER

Mr. MAYER. Mr. Chairman, my name is Roger Mayer. I am president and chief operating officer of Turner Entertainment Co., a wholly owned subsidiary of Turner Broadcasting.

I have been an executive in the motion picture and television industry for approximately 35 years with only two other companies, Columbia Pictures and MGM. I was at MGM for 25 years, most notably as senior vice president of administration and as president of the MGM laboratory. My main administrative duties included the administrative control of production and post-production facilities at MGM and the preservation of the MGM library.

Our great film libraries contain many thousands of old black-and-white movies which, despite their intrinsic entertainment value, do not command an audience today because today's audiences are conditioned to looking at movies in color. They simply cannot be persuaded, cajoled, or bullied into watching them in black and white.

In the controversy over the coloring of these old movies, the issues seem to be: who has the right to decide whether they should be colored? What is achieved by coloring? What is lost?

The owners or licensees of the copyrights bought the rights "fair and square." They obviously have the legal and contractual right to decide this matter. Everyone that appeared before you today has signed a personal service contract which grants us all the rights and proceeds of their services and the negotiations with their guild and union did the same thing. We feel we also have the moral right to do so.

Despite propaganda to the contrary, these old movies are not the "violated children" of the director.

Senator LEAHY. These are not what?

Mr. MAYER. The "violated children" of the director. I am using the phrase used by Mr. Huston. They were made in the heyday of the old studio moguls and are, for the most part, the "children" of the studio moguls and their staff producers who oversaw every aspect of each production. They worked on the script with the writer and assigned all others on the film, including the director—who was replaced midway through a production if his work didn't please, if he was behind schedule or over budget.

The "spiritual heirs" of these moguls and producers are today's copyright holders and, having invested multimillions in these pictures, want them admired and enjoyed by as many as possible.

As for "violated"—a child can hardly be considered despoiled when that child remains untouched. The old movies remain preserved in their black-and-white state. The color-enhanced movies are not substitutes for the black and whites. They are merely alternatives.

As to the argument that one should never even tamper with a work of art, it seems to me to go hand in hand with that chilling argument that the public lacks the wisdom and the sophistication

to be allowed a choice in this matter, and I think that was the testimony from the directors today.

One of the things they talked about was, would we put a rock score on "Gone With The Wind"? We happen to own "Gone With The Wind" so maybe I can speak to that subject.

No, I don't think we would. Would we have the right to? Yes, I do think so, and I would like to point to one factual situation which I think is comparable.

Bizet probably would not have wanted "Carmen" to be tampered with. Oscar Hammerstein made a black-jazz version called "Carmen Jones," which was made or done on the stage and as a movie. Both works were marvelous. They both still exist, and I think there is room for both. I doubt whether there would be room for a jazzed-up "Gone With The Wind," but I certainly think we should have the right to experiment and do so as long as you don't destroy the original.

You won't read Chaucer in Middle English. Too bad. But you won't have the chance to read him in a more palatable form because we have burned all of the modern English versions. You won't watch a black-and-white movie, but would really enjoy it in color? Sorry, but color enhancement is verboten. Carried to its ultimate conclusion, the elitist argument that you can't tamper would lead to such absurdities as no line of Shakespeare could ever be cut in a Shakespearean production.

Clearly, most directors have made films based on literary material and tampered with that material to develop a particular vision—sometimes to the distress of the original author. Clearly, too, from time immemorial and long before the advent of movies, creators and entrepreneurs alike have had the right, both moral and legal, to change the work of others and come up with new concepts. The public, in turn, either has accepted the new vision or rejected it.

The important factor is that the original version has remained intact and available to those who prefer it. When the modified version of "Pygmalion" is "My Fair Lady" or the new version of a theme is Brahms' "Variations on a Theme by Hadyn," then the public embraces both versions and both versions flourish.

Despite what has been said, we do not think this is a contest between art and commerce. All the people that worked on these movies were paid and usually paid handsomely. Moreover, they did not return their salaries with an apology if the movies flopped. It is hardly fair for anyone who ever earned big and risk-free money working on a movie to cry "greed," because the copyright holder also wants to earn money or recoup an investment. The owners also want to share with as many as possible these enjoyable, occasionally edifying, sometimes even triumphally artistic entertainments. For the most part, these newly colored movies are the sort of entertainment we all devoutly wish were made today, and particularly wish were available to our children. Well, here they are.

Previously, for the most part, they gathered dust. I think that is extremely important. Despite every effort by the people that owned these pictures to get them properly distributed and be seen by millions of people, they cannot do so. Now they are seen and are being appreciated by a huge audience.

Senator LEAHY. But if I could just interrupt for a moment, that is just a tad off the mark, isn't it? Didn't you first colorize films that were standing very strong on their own as black-and-white classics, films like "Casablanca," before you went to the others? These were not films that had to be rescued from some obscurity because of their black-and-white format.

Mr. MAYER. "Casablanca" has not yet been colored, but with the exception of "The Maltese Falcon," to which your comments are accurate—

Senator LEAHY. Let's take that. Did not "The Maltese Falcon"—

Mr. MAYER. Yes. But let me give you the difference, if I may.

"The Maltese Falcon" was a reasonably successful picture in black and white on television and in other types of syndication. Since it has been colored, it seems to have been seen by at least five times as many people in the last 6 months in color as had seen it in black and white in the prior 10 years. So it is that kind of thing that I am talking about.

Senator LEAHY. You are saying that by coloring it, even though it was already popular, it became far more popular?

Mr. MAYER. That is correct. And the other pictures—like "42nd Street" and "Captain Blood" and "The Sea Hawk"—had relatively no distribution. People did not know they were entertaining. They were unwilling to give them the chance, for whatever psychological reasons or whatever reasons you might figure. But when we put them in color and got the stations to play them in prime time, 8 o'clock at night, all of a sudden, people recognized their entertainment value.

Should they have recognized it in black and white? Yes, but they are simply not attuned to it.

Senator LEAHY. Is your analogy of "Carmen Jones" really a good one? This was not portrayed as the movie "Carmen" any more than "West Side Story" was portrayed as being Romeo and Juliet.

Rachmaninoff wrote "Variations on a Theme by Paganini." Rachmaninoff's variation of Paganini is not Paganini. Both are very lovely. They happen to be two of my favorites. But, again, it is understood that Rachmaninoff's work is not the original Paganini theme.

Is not though the argument of the directors one that deserves consideration that colorized films are fobbed on in many ways as being originals and that the original works were intended to be black and white? Films are not only shot in black and white because of studio necessity. Films may be shot in black and white because, indeed, someone wanted black and white? What do you say about those instances where, indeed, the films were chosen to be shown in black and white?

Mr. MAYER. I think that is true of a lot of these films. What we say to that is that we are making every effort to tell the public and not mislead them by saying this is the newly colorized version. This is in the advertising. This is on before the picture in most cases, and in all cases the end of the picture, so we are saying this is the newly color converted version, the newly colorized version, and so they are not misled by this.

Senator LEAHY. All right.

Mr. MAYER. When the anticolorists deny the right to color black-and-white pictures, they are calling for censorship. The legal, moral, and civil rights exist to color old movies. However, this is not really so much a matter of rights as it is a matter of taste, and we do not believe that anyone has the right to impose his or her taste on the public.

There are many movies directed today, made today, which most of us would consider trash. But we would not, I hope, ban them.

We conclude that not only has nothing been lost in converting old movies to color, since the movies survive in black and white, but we have created a large new audience where, in most cases, none existed. As far as we can tell, 5 to 10 times as many people saw each of the color-converted pictures in the last 6 months as had seen them in the prior 20 years on TV in black and white.

We feel this is a service to the movies themselves and to the public. Obviously, general interest in old movies is revived by the newly colored versions, and the new versions may even whet public appetite for the original versions. So far, that seems to be true.

It hardly seems a crime to provide entertainment and enjoyment to the millions who watch movies in color who would not have watched them in black and white. I think we have made a distinct contribution not only to the pleasure of the public but toward preserving and honoring these movies in all media.

Thank you, Mr. Chairman.

[The statement of Mr. Mayer follows:]

WRITTEN STATEMENT FOR SUBMISSION TO THE SUBCOMMITTEE
ON TECHNOLOGY AND THE LAW OF THE U.S. SENATE JUDICIARY
COMMITTEE, MAY 12, 1987

Roger L. Mayer
President, Turner Entertainment Co.

My name is Roger Mayer and I am President and Chief Operating Officer of the Turner Entertainment Company, a wholly owned subsidiary of Turner Broadcasting. I have been an executive in the motion picture and television industries for approximately 35 years at only 2 other companies: Columbia Pictures and MGM. I was at MGM for 25 years, most notably as Senior Vice President of Administration and as President of the MGM Laboratory. My main administrative duties included the administrative control of the MGM Studio and the MGM Library.

Our great film libraries contain many thousands of old black and white movies which, despite their intrinsic entertainment value, do not command an audience today because today's audiences are conditioned to looking at movies in color. They simply cannot be persuaded, cajoled, or bullied into watching them in black and white.

In the controversy over the coloring of old black and white movies, the issues appear to be: Who has the right to decide whether these old movies should be colored? What is achieved by coloring? What is lost?

It seems to be acknowledged that the owners or licensees of the copyrights have the legal right to decide this matter. The Directors Guild, the leader of the anti-coloring forces, has postulated that a "moral" right exists too, and that this right belongs to the director. However, the broadest possible ownership rights were obtained from directors and other personnel, by collective and individual bargaining under employment agreements, for large salaries and sometimes profit percentages. The owners thereby could control the methods and manner of distribution, advertising and use of the various media (such as TV, airlines, videocassettes, and now color converted versions). The incentive to invest in motion pictures would be chilled if directors or others could decide how, where or whether such pictures could be marketed. We are probably all familiar with the directors' position; so in the interest of brevity, I will state it in simplistic terms. The argument goes: To color an old black and white movie is artistic rape, motivated by greed, the equivalent of painting a moustache on the MONA LISA. The old black and white movie was the director's vision and should not be tampered with.

I fault these arguments on at least four counts.

First, though by no means first in importance, I query the contention that the old movies were exclusively the directors' vision. There are a few exceptions, but movie making-- even today-- is a hugely collaborative effort among many creators. Most of the black and white movies in question were made in the heyday of the studio system. Despite propaganda to the contrary, these old movies are not the "violated children" of the director. They are, for the most part, the "children" of the old movie moguls and of the staff

producers who oversaw every aspect of each production-- producers who worked on the script with the writer and then assigned all other jobs on the film, including the job of the director. Very often, as anyone familiar with the studio system knows, more than one director worked on a picture. The producers of THE WIZARD OF OZ, for example, assigned four directors to the film. The spiritual heirs of the moguls and producers, the true "parents" of these old films, are not the directors but the copyright holders-- who want to show off their children proudly to as large an audience as possible.

As for "violated"-- a child can hardly be considered despoiled when that child remains untouched. The old movies remain preserved in their original black and white state. The colorers of these movies are presenting a modified version, not a substitute version.

Which brings me to my second and far more serious quarrel with the Directors Guild argument: the concept that only one vision of a work may be allowed. Movie makers frequently base their work on literary material and make whatever changes they deem necessary in order to develop their own vision. Isaac Bashevis Singer made some unflattering comments about Barbara Streisand's YENTL, which was an adaptation of his story. Streisand indeed changed his vision. She also brought to it her devotion, her memories of her father, her feminism, music and her own vision. In the opinion of many, Streisand made a luminous and touching movie. Creators in the movie industry daily "tamper" with the vision of authors. They change plots, eliminate characters and alter endings. We have all said of this tampering either, "They've ruined it!" or "Better than the original!" Even when a screenplay adaptation of a novel is written by the novelist himself, the spirit of the book can be altered by the tone and pace of the direction or by casting.

I do not hear the directors berating themselves for imposing their vision on the author's vision. They would claim that they are enhancing the original novel and that they obtained the legal right to do so. These are exactly the claims of those who color the black and white movies. In the movie THE COLOR PURPLE, Steven Spielberg changed, lightened, and softened the novel in a deliberate and, to my way of thinking, quite proper attempt to get his movie seen and liked by as many people as possible. It takes courage to disagree with as charismatic, media-beloved, and eloquent a folk hero as John Huston. And I commend the public's courage and independent-mindedness in not allowing itself to be brainwashed by Huston's silver-tongued scorn, and by daring to cast its vote for the color-enhanced version the THE MALTESE FALCON, which Huston excoriates. Mr. Huston, many of whose works I admire, has himself directed movies which, in the opinion of many, have damaged the works on which they are based. Before PRIZZI'S HONOR, which most consider a fine film, he directed ANNIE, beloved by the public but panned by most critics as an overblown and heavy-handed desecration of the nice little stage musical on which it was based. Before that he directed UNDER THE VOLCANO (adapted from the Malcolm Lowry novel) which got some critical acclaim but which the public would not touch. The point I am making is self-evident. Mr. Huston is entitled to his opinions -- and mistakes, and triumphs-- as are the rest of us. - We are all entitled to turn out modifications of the works of others without having to

please everyone involved. None of us, however, is entitled to proscribe a modification which displeases us. From time immemorial, in fact, and long before the advent of movies, creators and entrepreneurs alike have exercised the right, both moral and legal, to change the work of others and come up with new concepts. The public in turn has had the right to accept the modified version or reject it. The all important factor is that the original version remain intact and available to those who prefer it. Haydn's original composition was not destroyed by Brahms' VARIATIONS ON A THEME BY HAYDN. Shaw's PYGMALION did not destroy the Greek myth and was not, in turn, destroyed by MY FAIR LADY. Bizet's CARMEN survived the jazzed-up rhythms and changed lyrics of CARMEN JONES. Old black and white movies are not destroyed by the existence of a colored video print.

This leads to a point made by the anti-colorists which I find particularly unnerving. It is basically, that the public lacks the wisdom and sophistication to be allowed a choice in this matter. You don't like Bizet in its original? Tough, but I've banned CARMEN JONES. You don't read Chaucer in Middle English? Unfortunate, but I'm burning all the modern English versions of CANTERBURY TALES. You don't want to look at a movie in the form that I consider proper and pure? Too bad, but no way will I let you see that movie in another form that you might enjoy.

There exist many thousands of old black and white movies which, despite their intrinsic entertainment value, do not command an audience today because today's audiences are conditioned to looking at movies in color and cannot be persuaded, cajoled, or bullied into watching them in black and white. Almost all these movies were made before color was actually or economically available. There's little doubt that, had color been available and affordable, it would have been used. A few of these movies are true classics; some are based on classic novels or plays. Almost all are wholesome, moral, satisfying family fare-- the kind of movies most of us devoutly wish were still made, the kind we particularly wish were available to our children. Typical examples are two Errol Flynn adventures based on Sabatini novels, CAPTAIN BLOOD and THE SEA HAWK. In the three months since they have been colored, these two movies have been enjoyed by multi-millions of television viewers-- perhaps ten times the number who saw them in all the decades of their prior syndication on television in black and white. CAPTAIN BLOOD and THE SEA HAWK in my opinion don't qualify as classics, but they are typical of most of the movies to be colored -- delightful family entertainment and, therefore, cultural treasures. The owners of these treasures certainly don't want to destroy them. They want to share a beloved art form with as many people as possible. Surely a major objective for all of us who work in the motion picture industry and who love movies should be to engender as much enthusiasm, as great an audience, for our product as possible. If there are people who will watch movies in color who would not watch them in black and white (and this is clearly the case), then "hurray for Hollywood!" If they reject the coloring of a few movies because these movies are clearly "right" in black and white, which will doubtless happen in some cases, that's fine too. The public deserves the choice.

(If the stores which rent or sell movie videos discern customer interest in the black and white prints of any color enhanced films, they have only to contact the distributors who

will, of course, be delighted to fill any such demand. There's still a whole world out there of movie houses, film clubs, schools and museums where black and white films -- or tapes -- are perpetually available to film buffs. In passing, it may be worth noting that true purists scorn tape and will view their movies only on film. Since the coloring process doesn't apply to film, these purists have no choice -- they must see the old original black and white films! And, of course, as has frequently been noted, the vast majority of television sets have color knobs which can be turned down if a home viewer prefers black and white.)

My next quarrel with the directors' argument concerns their implication that to color a black and white movie is to destroy a work of art -- to paint a moustache on the MONA LISA. Well, hardly. And not just because a movie is rarely created by a lone genius, nor because Da Vinci's work is a true masterpiece, as all too few of our films are -- to the regret of us all. The analogy fails utterly because to paint a moustache on the MONA LISA would mean that the MONA LISA would no longer exist in its original form. The old black and white movies do exist, beautifully preserved on tape and on film. It's worth mentioning in passing, perhaps, that various artists have, indeed, painted a moustache on copies of the MONA LISA, among them Dali and Marcel Duchamps. A mixed-media work by Duchamps, which includes a photographic copy of the MONA LISA to which an impressive moustache has been added, reposes in the Los Angeles County Museum of Art. Needless to say, its existence in no way impinges on the integrity of the original in the Louvre. The integrity and the existence of the old black and white movies are also not in jeopardy.

One of the sillier arguments of the anti-colorists is that this is a contest between art and commerc . The old movies in contention here were put together in order to make money for all concerned, and I mean all. While we can hope that the writers, directors, et al. enjoyed their work, they did not donate their talents. They worked because they were getting paid -- handsomely paid as a rule. Moreover, they assumed no risk. They didn't return their salaries with an apology when their movies flopped. It's hardly a moral position for anyone who ever earned big and risk-free money working on a movie to cry, "Greed!" because the copyright owner also wants to earn money. Of course, the owners want their wonderful film libraries to prosper, but they also want to share, with as many people as possible, these harmless, usually edifying, sometimes even triumphantly artistic entertainments. Selling crack to teenagers is greed. Selling delightful colored old movies is not. There's nobody with more of a stake in preventing the destruction of these pictures than the copyright owners-- who, after all, spent multi-millions of dollars to produce or acquire them.

Many fine movies are made today. However, when one looks at the appalling amount of trash -- some of it dangerous, some merely vulgar or ugly--spewed out by today's movie makers, one has to wonder. The protesting directors don't raise an eyebrow at the sordid junk their colleagues are directing today, yet want to ban a group of wholesome movies which once gathered dust but which are now being lapped up by a large and appreciative audience.

Because I tend to agree with Ted Turner's assessment of

this controversy as "a tempest in a li'l old teapot," I hesitate to invoke Voltaire's oft-recited dictum: "I disapprove of what you say, but I will defend to the death your right to say it." I definitely don't want the anti-colorists to defend to the death our right to color old movies. I just want them, please, please, to stop trying to deprive us of that right. I am quite taken-aback by an attempt to impose censorship on an absolutely harmless process which damages no person, no property, and no concept.

At issue here are simply matters of taste and choice. Some of us may not like sushi or FINNEGAN'S WAKE or movies with titles like NIGHT-STALKER PUNK-ROCKER ZOMBIE or purple satin pillows with "Mother" embroidered on them or the colored version of THE MALTESE FALCON or Shakespeare's HAMLET. None of us, I trust, would consider legislation to proscribe what we dislike and others may enjoy. One cannot, must not, dictate taste. If I and a majority of movie lovers prefer to watch YANKEE DOODLE DANDY in color, we have every right to do so. In the matter of taste, it's perhaps relevant to note that most critics hated pictures like BEN HUR, THE SOUND OF MUSIC, DR. ZHIVAGO, 2001: A SPACE ODYSSEY and innumerable other all-time successes. Let us allow no one to mandate what the public may see and judge for itself.

Nothing has been lost in converting old movies to color since the movies are forever preserved in black and white and are available in their original form. I would think there would be general rejoicing that we are providing entertainment and fun for a large audience which would otherwise not have existed. Since many people watch movies in color which they would have shunned in black and white, I feel we have made a distinct contribution not only to the pleasure of the public but to the well-being of the movies themselves. We, who care about preserving and cherishing them, want others to care about them. With coloring, this is now being achieved. Some of the glory, some of the success is bound to rub off on black and white films. Whichever side we are on in this controversy, we will all be winners because these old movies which we honor will be winners.

Senator LEAHY. If you could just convince the television producers to leave some of the original language and some of the original scenes in movies shown on television, we all would be a darn sight further along. I don't know if the TV networks and the movie producers will ever reach some kind of an agreement on that. As I said before, I don't know why anybody would watch movies on television when the movies are chopped up so badly. Maybe the public could get an absolute guarantee that the films would be shown in their original length and that commercials would be put only at points where it makes some reasonable sense.

Mr. MAYER. That is an ongoing fight.

Senator LEAHY. Let me tell you right now, the networks have won it and the American public has lost terribly. As I said before, I just do not know why anybody would watch a movie on television knowing what the networks do to films. That is a personal opinion, and that does not mean that I am suggesting any kind of legislation.

Go ahead, Mr. Word.

STATEMENT OF ROB WORD

Mr. WORD. My name is Rob Word. I am senior vice president for creative affairs and corporate officer for Hal Roach Studios, Inc.

I happen to love movies. As a child, I collected silent films and put music to them in the hope of someday going to Hollywood and making a name for myself and joining the film industry.

I began as a cinematographer/editor for ABC, and eventually joined Filmways which became Orion. I was director of marketing and I worked on over 100 movies, everything from "Cotton Club" to "Boxcar Bertha," adapting them to television and airline standards. Most often, I worked with the directors and producers so that their artistry and their meaning on the film came across on television.

Senator LEAHY. You are the guy I should bring my complaints to.

Mr. WORD. It is not me because I work with the producers and the directors, and I think we are trying to help them adapt their theatrical films to television. It is a different medium, as you said.

Many of the films I worked on would never have had a chance to air on television because of the profanity and the violence. By deleting those, we have made them acceptable to television standards.

Being in syndication, I have learned a lot about the problem films that we are talking about today, and I say black-and-white films are problem films simply because television station broadcasters today will not purchase black-and-white films except for a very small few, a handful of classics.

I am not just talking about the theatrical features, but about the great television series of the past. Television stations refuse to buy them unless they are converted to color. Stations will buy the films and place them, in periods in prime time where audiences and people who haven't discovered these great films will have the chance to experience the stories, the cast and the films that were so popular many, many decades ago.

As a film buff, I am happy that people are going to know who the comedians, Olson and Johnson, and others are; that they will discover Gary Cooper, who won two Oscars for two black-and-white films. The films themselves are powerful stories. They are good movies. But if nobody sees them, if they sit on a shelf, they don't do anybody any good at all. By putting them in color, we are exposing them to an entirely new audience, a new generation, plus fans of the old films who originally saw them in theaters who are finding them less and less available on television.

"Broadway Danny Rose" is a good example of a current film that was in black and white. While I was at Orion, we packaged a group of 20 movies for syndication. That is generally how it is done. The salesmen go to the television stations to sell the films as a group. The salesmen at Orion said we cannot put "Broadway Danny Rose" in this package because it is in black and white. It will bring the entire price down. It will be a negative. The stations will refuse to buy this because that movie is in that package as black and white.

We replaced it with an inferior film that happened to be in color that starred Cheech and Chong, so "Broadway Danny Rose" sat on the shelf for a couple of years until it was put in a package when

Orion had stronger features. So the audiences were the ones who suffered because they didn't have an opportunity to enjoy that film.

Senator LEAHY. I bet they had fun cutting up Cheech and Chong.

Mr. WORD. Probably they did, but very few people watched Cheech and Chong, but at least it sold. These films—

Senator LEAHY. You obviously do not have teenagers who drag you to movies.

Mr. WORD. Wouldn't you rather have them see a classic film? That is why we are here, because we want those films to be seen.

Television is a different medium. It is entirely different. Black-and-white feature films were designed with a different audience in mind. They were shown on a 50- or 70-foot screen with the clarity where all the nuances of the black-and-white photography, all of the artistry that went into perfecting black and white, was available to see. All of that artistry, all of those efforts, all of the time spent to make those black-and-white films acceptable on the large screen, all those is lost on a small screen.

Senator LEAHY. Let me ask you about that. Do you really think that a black-and-white picture, shown on television, has lost clarity?

Mr. WORD. That a color film has lost clarity?

Senator LEAHY. No. Did I understand you to say that some of the black-and-white films, once they are shown on television, have lost clarity?

Mr. WORD. Yes.

Senator LEAHY. Do you think they gained clarity by being colored?

Mr. WORD. I think color is easier to read on a color monitor than black and white.

Senator LEAHY. Do you think that Ansel Adams' photographs showed more clarity, more detail, more crispness when it was made in color than in the black-and-white version, or do you think that was an accurate reproduction?

Mr. WORD. I thought the black and white was stunning in black and white, but the color actually was someone else's interpretation of those same rocks, and who is to say other people wouldn't enjoy that in color? I happen to prefer both.

Senator LEAHY. Do you think the picture had more clarity in black and white than in color?

Mr. WORD. It wasn't on television. I am talking about television with the scan lines that are inherent in broadcast TV. It is different from looking at a blowup.

Senator LEAHY. Do you think the opening scene of "Citizen Kane" with the glass rolling down the steps would show more clarity in color?

Mr. WORD. On a large screen?

Senator LEAHY. On a small screen.

Mr. WORD. Small screen in color, it might.

Senator LEAHY. Go ahead.

Mr. WORD. If you cannot see the movie because it is on a shelf, you are going to miss it totally.

Through the colorization conversion, these films are becoming available in black and white and in color. I think that is one of the

points that people are missing. The magical stories, the wonderful acting that was part of these old films are coming to life again in this new medium, this different art form, which is coloring the films for videotape distribution.

There has been a lot of talk about destroying the film. Really, nothing could be further from the truth than that, because to create a color film we must transfer the film to videotape, and if a videotape print has flaws in it, scratches, cue dots, scenes are missing which is happening in many of these films because the films we are showing are on nitrate stock which is very combustible, and it is deteriorating, so these films have to be restored first, or all of those flaws, all of the scratches will also be in the color version. And it is such an expensive process to do that, to make these films adaptable for color television, that those things must be repaired first. So the audience really is the beneficiary because now they have a restored black-and-white film, plus the chance to discover something on color television which is diminishing, which is the availability of classic movies in black and white.

Senator LEAHY. I notice in your ads that you have videotapes both in the color and the black-and-white versions. Is the black-and-white version the restored version?

Mr. WORD. Yes, it is. In fact, that becomes available first because the restoration process begins and ends before the actual colorization can begin. So the black-and-white film buffs have a chance to grab up that black and white at reduced costs, lower than the color version.

Senator LEAHY. Are you tracking the sales and rentals of the two?

Mr. WORD. Yes, we are. We are very pleased with the success "It's A Wonderful Life" has had, not just on television but in home video as well.

Senator LEAHY. On the home video, is the movie more popular in color or in black and white?

Mr. WORD. We have sold over Christmas about, I think, 11,000 in black and white and over 60,000 of "It's A Wonderful Life" in color. So the audience really has a choice.

Senator LEAHY. So 5½ to 1 choose the color version?

Mr. WORD. Every film is different. That just happens to be one that at Christmas time sells very well.

As Rex Reed on "At The Movies" said, "This is a movie that should have always been in color. Any movie with a Christmas tree should be in color."

And it works much better in color on TV than it ever did in black and white. I see we have a lot of Rex Reed fans here.

Senator LEAHY. Have you tracked other titles in color and black and white?

Mr. WORD. We have on some. I believe the figures are in the kit we have handed out. It is the ratings on television that have been such a surprise to us.

As you know, in syndication, stations run films at different times all over the place; and when "Night of the Living Dead," which was newly colorized, ran opposite a superior film, "Casablanca," the ratings on "Night of the Living Dead" in color were twice as high as "Casablanca," and that is just typical of what is happening.

I don't want to see that happen. I want these films to be in front of the public to give them a chance to see them. Not only are we making them available on videotape and on television, but with the restoration process we have done on the Laurel and Hardy films, where we have actually found lost and missing scenes, we have restored those and they are being released theatrically, which is where they should be seen. I agree with Mr. Pollack. These films should be seen as they were originally intended, which is on the theater screen with an audience. They were never intended to be seen on television, and as a result of the color television monster, I guess, which has kind of, since 1966, become the standard for home viewing, many of these films that I grew up loving, watching on TV in black and white, are not available to me any more. And this is going to give me a chance and all of the film buffs and people who love good movies a chance to see and enjoy these films.

Senator LEAHY. What about issues brought up in Mr. Stewart's letter to the subcommittee? He said in the colored version of "It's A Wonderful Life," the character named Violet is dressed in the color violet throughout the film. Mr. Stewart's opinion is that director Frank Capra would never have considered that type of visual pun.

Is that appropriate, to use Mr. Capra's name in the title if you added touches to the work he would not have considered?

Mr. WORD. I just saw that with Gloria Grahame, and it looked like she had a blue dress on, not a violet one. I think the reason Mr. Stewart turned his set off is it needed adjusting.

We did not get complaints from people who saw it. In fact, the ratings were stupendous.

Senator LEAHY. Let me ask you this.

Putting aside whether Mr. Stewart adjusted his set or not—and I have not watched the color version so I can't say one way or another on the color—but just as a general principle, let us assume it was decided in coloring the film to make the clothing violet, but the director would not have done so.

Would you feel that because you owned the film you could do that? Could you make that change?

Mr. WORD. Well, we are preserving it in black and white so it as Mr. Capra had intended. But an art director, several different art directors might approach in different ways so that one might give her a pink dress, another might give her a purple dress, and it is that new artist's interpretation.

Senator LEAHY. They would have the right to do that?

Mr. WORD. Yes.

Senator LEAHY. And in the Laurel and Hardy films, I understand either Mr. Laurel or Mr. Hardy had red hair. Is that correct?

Mr. WORD. Yes, sir. Mr. Stan Laurel had red hair, and his daughter, when she saw that for the first time, she said, "That is my daddy." And it is thrilling not just for the heirs of these people—

Senator LEAHY. Suppose you decided you didn't want Mr. Laurel's hair red, and you wanted to make his hair blond. I assume technically you could do that if you wanted to. If you owned the film, would you have the right to do that in your estimation?

Mr. WORD. Certainly. In fact, there is a film, "Babes in Toyland," where Stan had much lighter hair and probably blond would have

been a nice touch for that film, which was originally designed to be in color but, because of budgetary reasons and probably a stranglehold that Technicolor had on the industry, that film was unable to be shot in color, and it is certainly a prime example to be adapted for color television today.

While I am talking about Laurel and Hardy, I guess I did say they are running theatrically and they are really appreciated there. Mr. Capra brought us his 35 millimeter print of "It's A Wonderful Life." That is a film in public domain. I guess a lot of film buffs know when that was made, in 1946, it got terrible reviews. The critics trashed it. The film was a financial disaster because the company was dissolved that Mr. Stewart and Mr. Capra had put together. It eventually lapsed into public domain in the early eighties. There were probably 20 to 25 different distributors syndicating bad prints of that movie with scratches and the murkiness we talked about before. I am sure Mr. Capra didn't like to see his film like that, and he brought his print to Hal Roach Studios, prior to my coming there, and as I understand, was actually going to be a color consultant on that film and other films as well, but peer pressure made him step out.

We are very proud of what we did with that film and the ratings show that the public responded extremely well too. We were able to clear a hundred stations with 10 days by just sending a telex because the demand for these films in color was so great.

One of the first films we ever did was "Topper" with Cary Grant. And I know we mentioned Mr. Stewart and how he was dissatisfied with it. Cary Grant wrote a letter, which is also in the press kit, saying how much he enjoyed it and how he was glad this was going to enable this film, that was his first breakthrough as a star, to be able to be appreciated by future generations. He knew that the film had not been doing well on television in black and white. We have given it a new life. The magic of "Topper" will live on through colorization.

Our source for films always has to be 35 millimeters prints, and sometimes that causes us to go through a lot of detective work to piece through elements. The Jimmy Cagney movie, "Something to Sing About," was in public domain, and it is a lead-in, sort of warm-up he made for "Yankee Doodle Dandy." We located a 35 millimeter print. We noticed some footage was missing, so that was no good. We kept looking. Eventually we had to locate five different prints to restore that print to its original version in which it was released in 1936.

We are extremely proud. That film is available in black and white in the restored version, looking better than it has in 50 years, and we also have a color version that will be coming out soon. We are proud of that, and we wouldn't be doing it if we felt we were going to be losing money.

There never has been a reason for the studios to spend money to preserve films. But now because of colorization, people now have a reason to restore their films. I know Roger at MGM has spent 30 million to restore that great library, and we are glad he did, but he wasn't able to do anything with it until color happened. Now, he is going to be able to expose it to a new generation and older generations who have enjoyed it.

We are not talking about films that people have a chance to see any more. We are talking about thousands of forgotten black-and-white feature films and television series. Woody Allen made a color movie recently called "Radio Days," and he made that film, because when he was growing up in the forties, he felt that all of those stars on the radio shows that he grew up loving and admiring and a generation with him enjoyed those too, they were forgotten entertainers, those shows were forgotten. Nobody remembered who they were.

I know I don't want the forgotten stars of Hal Roach Studios to remain forgotten, like Charlie Chase, Thelma Todd, Zasu Pitts. Nobody knows who they are. Maybe in colorization they will get a new audience.

I don't want Spencer Tracy or Gary Cooper to be forgotten as well. We are trying to preserve an American heritage, the culture that people enjoyed years and years ago in two forms: in its original theatrical version and for a new version, and for future generations to come, in color.

Thank you.

[The statement of Mr. Word follows:]

WRITTEN STATEMENT FOR SUBMISSION TO THE SUBCOMMITTEE
TECHNOLOGY AND THE LAW OF THE U.S. SENATE JUDICIARY COMMITTEE
May 12, 1987

Rob Word
Senior Vice President, Creative Affairs
Corporate Officer, Hal Roach Studios, Inc.

I happen to love movies. As a child I collected films and put the music to silent films I collected and came to Hollywood with the idea of somehow working in the film industry.

I began as a cinematographer/editor for ABC, and eventually joined Filmways which became Orion. I was director of marketing and I worked on over 100 movies -- adapting them to television standards -- everything from "COTTON CLUB" to "BOXCAR BERTHA". Many of the films I adapted would never have had a chance to air on television because they contained profanity and violence, which would not have been suitable for broadcast television. Being in syndication I have learned a lot about the problem films that we are talking about today. I say problem films because they are black-and-white movies and there really isn't a market for black-and-white movies today on television or home video.

When I was growing up in the 50's, everything on television was in black-and-white. So, when I was watching the classics, and Laurel & Hardy films, they were already old movies. They were scratchy, murky prints, and I just assumed that, because they were old movies, that's the way they looked. Moreover, many of the films that were broadcast in black-and-white in those days were actually filmed in color! In 1966, the networks went all color. Since that time there has been an erosion of availability for, and interest in, the black-and-white films that I grew up loving.

It's a shame so many of the great times of the past are becoming forgotten. Through ColorizationTM and coloring films with these various processes, many of the feature films that I loved on television are suddenly becoming available again. These new colored versions are broadcast not only on the late, late shows, but, are instead being broadcast in prime time where the majority of the public can see them. Television stations and home video stores realize the value of color. Many video stores carry black-and-white movies because they do not rent well, and, unless they are priced very low they will not sell at all.

When I was approached to work for Hal Roach Studios, I was thrilled because my love for Laurel & Hardy. The first thing we did was to discover in the vaults all the films that were deteriorating, paralleling the general lack of public interest in black-and-white film. These movies were filmed on combustible nitrate stock. Most of the films I am talking about are 40, 50, 60 years old and were filmed on combustible nitrate stock. It was not until the '50s that safety stock came into being. There has been no economic reason, up until recently, to really preserve those films. Colorization has made that a possibility. The conversion of black-and-white to color suddenly has provided companies with an economic incentive to restore these films.

Television stations refuse to buy old black-and-white films. When the same films are converted into color, stations will buy the films and place them in the periods where people can watch

them. As a film buff, I am happy that people are going to know who comedians Olson and Johnson and others are; that Gary Cooper, who won two Oscars for two black-and-white films, will not be a forgotten performer. The films themselves are powerful stories and they are good movies. If nobody sees them, if they sit on a shelf, they don't do anybody any good at all. By putting them in color, we are exposing them to a new audience and a new generation of viewers.

These films were not made with television in mind. Television is a different medium than is the theater. Black-and-white feature films were a medium designed for a 50ft or 75ft theater screen. When people went to the movies every week in a darkened theater, they were swept up into the magic of movies. The subtleties, the gray value, the shades, everything was crystal clear from a 35mm projector. On television when you are watching a 16mm print on a 19" or 25" color television set, many of those nuances are lost. The impact, the power of the movie, is often lost as well.

Yet, if you can't see a movie because it is on a shelf, you are going to miss it totally. Through the Colorization™ conversion, these films are becoming available for viewing in black-and-white or color. The magical stories, the wonderful acting that was a part of these movies that made them so timeless, are available again because of this new medium, this different art form, which is coloring the films for videotape distribution.

There has been a lot of talk about destroying the film. Nothing could be further from the truth! We never color the film. We first restore the original black-and-white film. We then transfer the film to videotape and, with the assistance of an art director, color the videotape. The movie is then released in videotape in black-and-white and color. (See Attachment A).

It's exciting to be preserving the Laurel & Hardy films. Not only have we taken the 35mm nitrate stock and restored them to safety stock, but we found lost reels and restored them as well. One of the films we have colored, "THE MUSIC BOX", is a film originally done in 1932 for which Stan and Ollie won an Oscar. It is a great movie. It was in black-and-white and it had not been in syndication for several years. Because it was an early transitional film from the silent to sound era, there was no music to it. We recorded the Laurel & Hardy music with a full orchestra in stereo and rescored this movie. So, not only is it now in color, but it is now in stereo. And it is thrilling! Stan's daughter looked at this movie and said, "Hey, that's my dad, he's got red hair." Nobody knew this before, and it is wonderful to see this film today and to see the kids and the adults laugh at this movie. Hal Roach wants to make sure that movies are preserved and enjoyed. These films were made as entertainment and we want to make sure that people get a chance to see them now and forever.

These films were all originally made for the theaters. We are not making films for the theaters. We are making them for television and home video. But, after we preserved the Laurel & Hardy films in 35mm, some of them were released theatrically to revival houses. Currently, we have the films on tour nationally with beautiful 35mm prints called "THE STAN & OLLIE FOLLIES." (See Attachment B). Ideally, that is how the films should be seen, as they were originally intended. They were designed for a theater and that is where they are best. But television viewers, people who have color television sets, want to see color on their color television sets. I can't argue with that. If nobody wanted color, we would not be doing it. But, I think we all agree, viewers should have the right to choose for themselves.

Frank Capra brought to Hal Roach Studios, prior to my joining the company, his beautiful 35mm print of "IT'S A WONDERFUL LIFE." The film had lapsed into public domain and people were not seeing the movie as he wanted them to see it. They were seeing it with scratches. They were seeing edited versions. Scenes were missing and, because it was in public domain, maybe 20-25 distributors were making it available, not just to television, but to home video as well. Mr. Capra came to us and wanted to consult on the film as a color advisor. It is his print that he brought to our company, and we were delighted that he did.

If you are a film buff you already know that "IT'S A WONDERFUL LIFE" was a financial disaster, a flop, when it was first released in 1946. It's a shame. The critics trashed it. Maybe it was a little ahead of its time, but it is a timeless classic, and rather than have it be forgotten we have enhanced it and brought it to millions of people who would not watch it otherwise.

We are not doing this to "desecrate" Mr. Capra's movie. In fact, we worked very hard to make it acceptable to today's audience. Halfway through colorizing the film, a technological breakthrough happened in the Colorization process. Like any new technology, it gets better every day. New things happen. Our color palette broadened, and so we stopped with what we had done (we were halfway through) and started over. We ended up with spending over half a million dollars to colorize the movie. With the public response we got it was really worth it.

The response that we had in sales was phenomenal. Within ten days we cleared 100 stations. By the end of six weeks we had lined up over 150 markets, 96% of the country. We did not need to do much advertising; the stations on their own wanted to show these pictures in color. When the high ratings came in we were even more excited because that meant that people were seeing these films.

The ratings have shown what a success this has been. In Washington, D.C., the newly colorized versions of "NIGHT OF THE LIVING DEAD" ran opposite a black-and-white print of "CASABLANCA," an obviously superior movie. The ratings in this market for "NIGHT OF THE LIVING DEAD" were double that of "CASABLANCA" were because of the new color! Other markets also reflected a continuing viewer preference color over black-and-white.

Chicago 7PM Broadcast

WGN: Rating: 5.7; Share: 9
("NIGHT OF THE LIVING DEAD" Colorized)

WGBO: Rating: 2.8; Share: 4
(HITCHCOCK'S "PSYCHO" black-and-white)

Boston Midnight Broadcast

WNEV (CBS affiliate): Rating: 2.4; Share: 16
("NIGHT OF THE LIVING DEAD" Colorized)

WQTV Rating: -0.0; Share: -0
(HITCHCOCK'S "THE LADY VANISHES" black-and-white)

Washington, D.C. 8PM Broadcast

WTTG (Indie) Rating: 7.2; Share: 11
("NIGHT OF THE LIVING DEAD" Colorized)

WDCA (Indie) Rating: 3.6; Share: 5
 ("CASABLANCA" black-and-white)

Hal Roach has a tremendous film library with wonderful movies, many of them with forgotten stars. Edgar Kennedy, Charlie Chase, Thelma Todd, Zasu Pitts, great performers -- and yet nobody knows who they are. By putting these movies in color we hope the people will discover that Charlie Chase was the Steve Martin of his day. His films are delightful! You can't give them away in black-and-white. What a loss for audiences and the craftsmen who worked so hard to deliver family entertainment.

Most producers are aware of the demand for color on color television and have jumped at the chance to create new versions of old movies. Otto Preminger films have brought us such classics to color as "ADVISE AND CONSENT" and "THE MAN WITH THE GOLDEN ARM." Twentieth Century Fox brought to the public a color version of "MIRACLE ON 34TH STREET" and several Shirley Temple classics. Disney presented Fred MacMurray in color as "THE ABSENT MINDED PROFESSOR." MGM is presenting Liz Taylor and Spencer Tracy in "FATHER OF THE BRIDE," and Warner Bros. classics starring James Cagney and Errol Flynn. Universal is colorizing Alfred Hitchcock films. This is exciting news to film buffs and people who just plain want to see good movies on television.

Because many classic films like "IT'S A WONDERFUL LIFE" are in public domain, we have decided to locate, preserve and to colorize them. Because they are in the public domain, the existing prints are not very good. So, whether you are watching public domain prints of "MEET JOHN DOE" with Gary Cooper or "SOMETHING TO SING ABOUT" with James Cagney, the existing print quality of the black-and-white films is generally poor.

Our source for all of these films has to be 35mm prints. If a print that we find is scratchy or duped or filled with cue dots, we cannot really do much for it because it is still going to have those same flaws. Even in color those flaws will show up. For "SOMETHING TO SING ABOUT," we tracked down a hard to find 35mm print. It was missing about ten minutes of film time. So we looked again and kept searching. Eventually we had to locate five different flawed prints of "SOMETHING TO SING ABOUT" and we re-assembled a film that is as good as it was in 1936. That cost a lot of money. We would not be doing this if we did not feel that we could at least get our money back through colorizing the film. But, besides that, we are taking a film that nobody really cared about, preserving it, giving it lasting value and making it available to the public in both black-and-white and color. We are doing the same thing with the other public domain films.

Another enjoyable film is John Wayne's "THE ANGEL & THE BADMAN." It is public domain film in black-and-white often shown at two or three in the morning. The movie is better than that and deserves to be seen by more people. We located a beautiful 35mm print, sent a photographer to Sedona, Arizona, which is where the film was originally shot, and tried to capture the flavor of the mountains, the sky, the trees, the lovely Gail Russell and John Wayne. Our art director made this film contemporary, and gave it lasting value. Now perhaps a younger audience, kids with remote control for their television sets, won't take their changer and whiz past something because it is in black-and-white. Maybe they will just stop for a few minutes and say, "Gee, that's a good film," and not think of it as just being something old that their parents enjoyed. It is a different experience! Now watching "THE ANGEL & THE BADMAN" -- it's so vibrant, it's alive.

In black-and-white the younger generation says "it's gray." It may be gray to them, but to me it's great entertainment. But if they don't watch it, they are missing all of that entertainment. Because they won't watch it in black-and-white, stations will not consider booking these "gray" films. Film buffs, like myself and like many of you, will find fewer and fewer opportunities to enjoy the movies from Hollywood's glorious past.

Woody Allen made a movie recently called "RADIO DAYS" because when he was growing up in the '40s the radio stars were important to him. He would listen to them every day. They were so much a part of not only his life, but about a generation who grew up in the '40s. He made that film to capture the excitement and the feeling that he had about those forgotten people. I don't want Spencer Tracy or Gary Cooper to be forgotten. Charlie Chase already is. And if Stan and Ollie are forgotten too, then we are all losing something very, very special.

Attachment A

Hal Roach Studios Says...

Have it your way

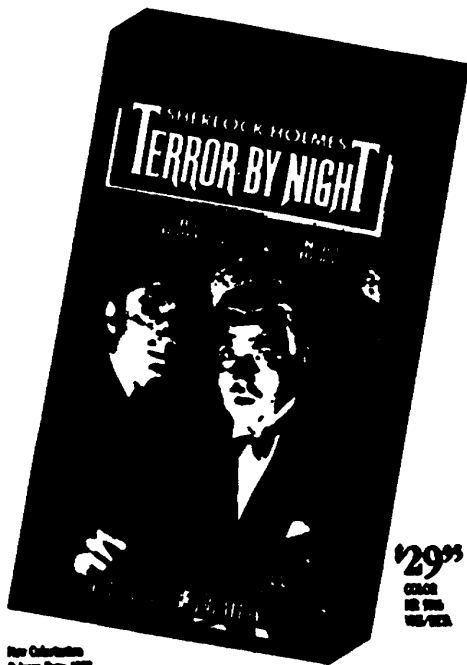
"TERROR BY NIGHT" is a classic mystery in its original black and white.

And now, "TERROR BY NIGHT" offers even bigger clues in glorious color by Colorization."



Black and White Original
Release Date: 1966

\$14.95
BLACK AND WHITE
MS. PMS
VHS/DVD



New Colorization
Release Date: 1997

\$29.95
COLOR
MS. PMS
VHS/DVD

Any way you look at it—in its original fine-grain black & white or enriched through the magic of Colorization, "Terror By Night" offers mystery lovers the best of both worlds. Hal Roach Studios Film Classics is proud to present and make available both versions of this enthralling thriller!

BLACK & WHITE CLASSIC



COLOR BY COLORIZATION

Pre-Order Date: February 19, 1997
Shipping Date: March 9, 1997

© 1997 THE HAL ROACH STUDIOS FILM CLASSICS INC.

Have it your way

"It's A Wonderful Life" Is A Classic In Top Quality Black & White.

"This film seems to improve with age."
—Leonard Maltin, *TV Guide*

"It's A Wonderful Life" Is A New Experience In Color.

"(It) now looks more wonderful in your living room than it ever did at the movies."
—Rex Reed, *All The Movies*

"The colors are appropriate... The most realistic to date."
—Timothy Osofsky, *Video*

"The picture has a new vitality in visual appearance and that, of course, has enriched and makes the story more meaningful to modern-day audiences."
—Tom Pryor, *Daily Variety*



\$19.95
Color
Hi8000
VHS/BETA

Any way you look at it, this classic film is now available through the magic of Colorization. *IT'S A WONDERFUL LIFE* is now available in both color and black and white. The new Colorized Edition is available in VHS and Beta. The original Black and White Edition is also available. Both editions feature the original music score.

BLACK & WHITE CLASSIC



COLOR BY COLORIZATION

WARNER BROS. PICTURES PRESENTS
A MCA HOME ENTERTAINMENT RELEASE
IT'S A WONDERFUL LIFE
A CLASSIC IN BLACK & WHITE
A CLASSIC IN COLOR
JAMES STEWART • DONNA REED
MCA HOME ENTERTAINMENT
DOLBY DIGITAL

Attachment B

Friday, Oct. 19 - Thursday, Oct. 20 3 WEEKS

All NEW 35mm Prints from the Original Camera Negatives!

The STAN & OLLIE FOLLIES

The Films of Laurel & Hardy



Stan Laurel and Oliver Hardy may be the greatest screen comedy team of all time, but it has been difficult to judge their work properly due to pressures with poor timing prints and underlying rights. By special arrangement with the Paterson Studios, Inc., Forum Incorporated is proud to present the FIRST MAJOR RETROSPECTIVE OF THE TEAM'S SOUND FILMS.

Over the three weeks of the festival, there are six different programs featuring seven of Laurel & Hardy's greatest sound features plus ten "two-reel" shorts—all in breathtaking new prints. These new pictures stand in stark contrast to the murky, mutilated versions available for the last few decades. At the last-end of the series, we want to prove that the "fun" is never enough by presenting all ten features in a five-day marathon of LAUREL & HARDY!



Mon-Sun, October 19-22
THEY SHOT ME DOWN (1937) 77 min
plus THE BURNING BUSH (1933)
THEY SHOT ME DOWN (1937)

One of the most popular Laurel & Hardy features, the Old Man is a two-reel picture where Oliver and Stan are stuck in a burning bush. Oliver is a fire hose to the wrong end of the burning bush. The film is set at war with the army trying to get it back.
 Sat. 1:10 3:20 5:30 7:40 9:50

Mon-Wed, October 19-21
SAPS AT SEA (1941) 81 min
plus BOBBAE (1938)

THEIR FIRST OFFENSE (1938)
 When Hardy goes to work wearing a rain hat, he is mistaken for a criminal and taken to a police station. The film is a classic example of all their characters are as well as Laurel & Hardy's best film for the screen.
 Sat 1:10 3:20 5:30 7:40 9:50



Thu-Sat, October 19-21
CODE OF THE GENTLE (1931) 70 min
plus GOOSE GOOSE (1934)
HELPER (1938)

Story of a cowboy and his dog, one of the funniest of the Laurel & Hardy films. The dog is a real character, but they let their own fun be all to see for Hardy's laugh. When the dog they were looking for is not a cowboy, but a dog.
 Sat 1:10 3:20 5:30 7:40 9:50

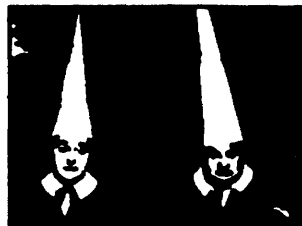


Sun-Thurs, October 19-23
OUR RELATIONS (1931) 70 min
plus BOBBAE (1938)

THEY SHOT ME DOWN (1937)
 Laurel & Hardy play both sides and end up in the middle. Laurel and Hardy are the stars of both pictures and truly great.
 Sat 1:10 3:20 5:30 7:40 9:50
 Sun 1:10 3:20 5:30 7:40 9:50

Wed-Fri, October 20-21
GLORIOUS BUNCH (1931) 81 min
plus THREE THUMB NAILS (1938)
THEY SHOT ME DOWN (1937)

Laurel, a cat burglar who has had to pass 20 years in jail, is introduced to society by his brother, Stan. Stan is a cat burglar who has had to pass 20 years in jail. Laurel & Hardy made a collaboration with the studio and Laurel.
 Sat 1:10 3:20 5:30 7:40 9:50



Sat-Sun, October 20-21
A GENTLEMAN BY NIGHT (1935) 84 min
plus HELPER (1938)

Laurel & Hardy take their long of time to Laurel. One of Laurel's best scenes, when he makes the mistake to go to the house when he should have gone to the house.
 Sat 1:10 3:20 5:30 7:40 9:50
 Sun 1:10 3:20 5:30 7:40 9:50

Sun-Thurs, October 20-24
"LAUREL & HARDY"
 featuring all 10 features
 Complete from 1:10 3:20



FILM FORUM 2

Senator LEAHY. Thank you very much.

Mr. Young, you mentioned in the printed version of your testimony that you have been asked also to redo or restore some of the old Technicolor films.

Is that correct?

Mr. YOUNG. We haven't as yet. We have the capability to do that.

Senator LEAHY. What you do in that case would be to deal contractually with whomever owned that Technicolor film?

Mr. YOUNG. That's correct. If the owner so decided and asked us to color it in our version, we could very conceivably colorize a movie that was shot in color.

Senator LEAHY. If the owner wanted to change the color of any particular thing, clothes, car, set, you could do that?

Mr. YOUNG. With good taste always being the——

Senator LEAHY. Technically you could do that?

Mr. YOUNG. Technically we can do it, yes.

Senator LEAHY. A number of directors and actors have expressed a great deal of concern about seeing their names associated with the colored films. They see ads for a former black-and-white film which now has the director's name or an actor's name, if it is an actor well known and that was associated with it.

Would you consent to a disclaimer being placed at the beginning of a film, explaining the film is a colored version of the original, does not represent the original director's or actor's artistic work?

Mr. YOUNG. I can only speak for myself and as owner of films. I would certainly agree to such a worded statement.

Senator LEAHY. You would certainly agree to what?

Mr. YOUNG. Such a worded statement prior to the film being shown. We do not want to be adversaries with the directors. We would like to constructively get together with them and come up with a plan whereby we would be able to further preserve and make available the original black-and-white films.

Senator LEAHY. What are some of the other things you might do? I am told—I haven't seen it—but I am told Frank Sinatra's eyes are brown. Would you turn them back, give "Old Blue Eyes" another shot?

Mr. YOUNG. It gives us another chance to have a new song, "Old Brown Eyes Is Back." We never claimed to be perfect nor do we claim that we must have historically what color eyes somebody has, what color hair.

The only thing we try and do is be as historically accurate as possible within the bounds of good taste: flags, uniforms, et cetera.

Obviously, if we are doing Sinatra, he should have blue eyes, we realize that. But certainly even with brown eyes, it was a truer reflection of Mr. Sinatra than it was in black and white.

Senator LEAHY. What do you do? Do you consult with a director or, let's say, the heirs of a director or actor when you are making a colored version?

Mr. YOUNG. Well, we usually do not consult with directors or heirs when we are making a color version. We have our own art directors working on the films. It is their version.

Senator LEAHY. Maybe I should direct a question to both you and Mr. Mayer.

Would you be willing to sell back to a director the colorized rights, if you feel you have such rights, to his film if he asked, or would that be purely a commercial decision.

Mr. MAYER. I think that would be a commercial decision. However, since we feel that this library that we own is not only the largest in the world but the best, we would be very unlikely to want to sell the rights to anybody. If it were important enough to a director to control his own work, I think there are many companies that would be willing to sell those rights back to the director, particularly since about 80 percent of most motion pictures are not in profit after they leave the theater, so it is necessary to go into these other forms of exhibition in order to recoup the investment.

Senator LEAHY. Would your answer be basically the same, Mr. Young?

Mr. YOUNG. Yes, it would.

Senator LEAHY. We have a Calder's "Mountain and Clouds" over in the Hart Building. This is a huge mobile designed by Alexander Calder. I checked with the Architect of the Capitol's office. He said we now own it. So, of course, we have got the authority to change it.

Suppose we voted in the Senate to change the color of it, change the mountains to green I would assume, being from Vermont, and make the clouds white. Any problem with that?

Mr. YOUNG. Are you asking Mr. Mayer or myself?

Senator LEAHY. I ask you both. First Mr. Mayer and then you, Mr. Young.

Mr. MAYER. Yes, because you are taking the original and destroying it, which we are not doing. If you would like——

Senator LEAHY. We can always paint it back black.

Mr. MAYER. If you can paint it back exactly the same, then my answer would be you have that right. But I think you do not have the right to destroy something. I would be surprised, by the way, with the reaction of the man that gave you the legal information concerning Mr. Calder, because most artists today in their contractual rights, even when they sell a picture, do retain certain rights to make certain that picture is not destroyed.

But assuming what you are saying is correct, Senator——

Senator LEAHY. Let's assume he didn't retain them. Let's assume he assumed the Senate would alter his work.

Mr. MAYER. You should not do it. I hope you cannot do it if what it does is destroy the original.

Senator LEAHY. I want to hasten to add that I am not going to introduce legislation to do that.

Mr. Young.

Mr. YOUNG. My answer is exactly the same as Mr. Mayer's.

Senator LEAHY. Mr. Word.

Mr. WORD. I concur.

Senator LEAHY. Anybody want to add anything else?

Mr. MAYER. No, only that we really do appreciate the opportunity to get our point of view on the record, Senator. It is extremely disturbing to us that we, from time to time, do not get that opportunity.

We note all members of the Directors Guild walked out on our testimony, which we think they might have found of some interest and, therefore, we really appreciate this opportunity.

Senator LEAHY. I should point out in that regard they asked me if I wanted them to stay. I said there would not be a chance to do a followup but they would have a full transcript of not only their own testimony but yours as well, just as you would have a full transcript available, and it was with that assurance they left.

I want to hasten to add they were also told that they would not be able to testify again after you did, as you were able to testify after them. So blame me, don't blame them.

Mr. MAYER. In any event, we do appreciate this opportunity because we think our story is not given in total.

Mr. YOUNG. I would like to echo Mr. Mayer's feelings and thank you very much for this opportunity.

Senator LEAHY. Thank you.

Mr. Word.

Mr. WORD. I would like to thank you also.

Senator LEAHY. We will take a 3-minute recess before the next witness.

[A short recess was taken.]

Senator LEAHY. The committee and the audience will come to order.

Our next witness is Paul Goldstein, who is professor of law at Stanford University.

Professor Goldstein, the floor is all yours.

**STATEMENT OF PAUL GOLDSTEIN, STELLA W. AND IRA S.
LILLICK PROFESSOR OF LAW, STANFORD UNIVERSITY**

Mr. GOLDSTEIN. Thank you, Senator Leahy.

My name is Paul Goldstein. I am professor of law at Stanford University. I am pleased to be here to testify on the intellectual property aspects of motion picture colorization.

With your permission, I would like to submit my prepared statement for the record and to summarize its contents in my oral testimony.

Senator LEAHY. Without objection. And I should note also for the record that the record will remain open for questions to be submitted by not only the chairman but by other members of the committee subsequently.

Go ahead, Mr. Goldstein.

Mr. GOLDSTEIN. I should add that, in testifying before you today, I am speaking strictly for myself and not on behalf, or to my knowledge in the interest of, any present client.

The past several years have demonstrated, and the recent formation of your subcommittee attests, that new information technologies often raise hard questions about the proper role of intellectual property law. If anything, the experience of these past years demonstrates that Congress responds most effectively to these questions when it attends most closely to the principles that have traditionally shaped this country's intellectual property systems.

The present controversy over colorization of black-and-white pictures implicates three traditional copyright principles: authorship, consumer choice, and producer control. In my judgment, the principle of authorship supports the grant of copyright protection to colorized versions of black-and-white motion pictures; the principle of consumer choice further supports the grant of protection; and the principle of producer control adequately secures producers against the unauthorized colorization of black-and-white motion pictures. My testimony will touch briefly on each of these three principles.

First, authorship. The concept of authorship lies at the heart of copyright law. Copyright encourages authors to invest their time and money in making original contributions by promising them property rights in the resulting works. And copyright recognizes that authorship is inevitably a continuous phenomenon. No author, however creative, can escape the need to draw on the work of earlier authors.

Just to take two examples, the motion pictures, "The Maltese Falcon" and "It's A Wonderful Life"—original works in their own right—draw part of their genius from earlier copyrighted works.

Copyright recognizes that even a midget standing on the shoulders of a giant can see farther than the giant. Copyright rewards not only the creator of the first work, but also the creators of the successive works that build on it. In a strictly legal sense, colorized versions of black-and-white motion pictures are no different from motion picture versions of stories and novels. And under traditional principles, they are no less entitled to copyright protection.

Second, consumer choice. Copyright law has consistently refused to play the role of cultural arbiter. So long as some degree of authorship is evident, copyright will protect the lowest, most common, works alongside the most exalted. This prudent rule rests in part on first amendment traditions that caution against discriminating on the basis of transient or elitist notions of artistic worth. More fundamentally, though, this rule rests upon the principle that the purpose of copyright is not to reward authors as an end in itself, but rather to encourage authors to produce those works that consumers want.

The colorization of black-and-white motion pictures serves this purpose well, making classic motion pictures accessible for the first time to audiences—their tastes shaped by a world of living color—that would otherwise be disinclined to view them and, because of market forces, might never be able to see these films in any form on television.

Third, the principle of producer control. At the very core of the current debate over the colorization of black-and-white motion pictures lies a concern for authenticity. Conceptually, the concern over colorization differs little from the concern, recently expressed in some quarters, that the restoration of the Sistine Ceiling in the Vatican will mutilate that work rather than restore it to its authentic form. To be sure, the concern over colorization is less pressing. While there is only one Sistine Ceiling—which will be ruined or restored, depending on one's point of view—colorized and black-and-white versions can exist side by side. But this difference raises the more subtle problem of the original author's possible interest in seeing that only the original authentic version of his work is

available, unclouded by other works that may distort his artistic vision.

Authenticity is an important and highly prized cultural value, one that public policy in this country has implemented through such measures as landmark preservation. Copyright law, too, secures the author's interest in authenticity. By giving copyright owners control over their works, including the exclusive right to reproduce and prepare derivative works based on them, copyright effectively gives motion picture producers the right to stop others from colorizing their works or, if the producer chooses, to authorize colorization under tightly controlled conditions, or to impose no conditions at all.

Motion picture directors should be just as free to negotiate with their producers and with production companies to give away or to retain the right to colorize their works. Obviously, in some cases, the decision to retain the right to colorize might result in the director receiving less compensation than he or she otherwise would.

But what of copyrighted works already created, and contracts already entered into, before anyone contemplated the colorization process? Does a contract granting the general right to make derivative works based on a black-and-white motion picture include the right to colorize the motion picture? The question, though important, is not one for Congress to answer. Rather it is to be answered by courts interpreting contracts under the canons of State law. These decisions will inevitably turn on the facts of a particular case. But it would not be surprising to see a court hold that the implied obligation of good faith between contracting parties includes an obligation respecting authenticity and requires, at the least, that the colorizer label his product as a colorized version of a black-and-white original.

This remedy—labeling—which, Senator Leahy, you raised with the preceding panel, might also be applicable to another category of works.

Senator LEAHY. Let me interject on that.

You are saying that current law may well require that colorizers note when changes are made to derivative works without the original directors' approval?

Mr. GOLDSTEIN. There are two possible sources of such a rule. One, as I indicated, is the contract route. If the contract does not preclude colorization, that is the end of it. The other source is tort law. A prominent example would be section 43(a) of the Lanham Act, which proscribes false representations respecting goods and services. Again, a labeling remedy is not an unusual remedy. That might be the source of a rule requiring a colorizer to label a work as not being the original product.

Senator LEAHY. Do you think there is anything in current law that would require compensation to the directors or the actors?

Mr. GOLDSTEIN. None at all.

Senator LEAHY. Do you think Congress should require that?

Mr. GOLDSTEIN. Let me separate the political judgment from a legal and policy judgment.

Senator LEAHY. We do that all the time.

Mr. GOLDSTEIN. Let me give it a try.

Senator LEAHY. With Olympian detachment.

Mr. GOLDSTEIN. That is exactly what I am going to try for.

Speaking strictly as one who views the copyright system in the round, I think it would be a serious mistake to attempt any system of forced compensation that contradicted two of the essential premises of copyright.

One premise underlies the specific exclusive rights found in section 106. Implicit in section 106's grant of rights is that the copyright owner has the right to convey away these rights.

We have, then, a system of property and freedom of contract, and this system has, with very few exceptions, worked well for the copyright system. It seems to me that the kind of suggestion you are making would run up against that.

Senator LEAHY. Let's go to point 2. Rescinding from the possibility that this remedy may be available in tort law, what about the Congress requiring in effect something like a Surgeon General's warning—a warning or a notice or a disclaimer saying that a work was colored without the original director's approval, or maybe even with the original director's disapproval?

Mr. GOLDSTEIN. That might be entirely appropriate. Congress has already enacted a provision, section 43(a) of the Lanham Act, that does much the same thing.

Senator LEAHY. Please continue.

Mr. GOLDSTEIN. That is really the sum of my remarks. I will just summarize the rest of my testimony.

Briefly, the copyright principles of authorship and consumer choice support copyright protection for colorized films. The copyright principle of producer control supports contractual arrangements protecting against colorization of black-and-white films. For contracts already made for black-and-white films in public domain, producers must look to State rules of contract interpretation, and Federal and State tort rules, to secure their interests in authenticity.

[The statement of Mr. Goldstein follows:]

Statement of Paul Goldstein
Stella W. and Ira S. Lillick Professor of Law
Stanford University

on

Colorization of Motion Pictures

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further supports the grant of protection; and the principle of producer control adequately secures producers against the unauthorized colorization of black-and-white motion pictures. My testimony will touch briefly on each of these three principles.

1. Authorship. The concept of authorship lies at the heart of copyright law. Copyright encourages authors to invest their time and money in making original contributions by promising them property rights in the resulting works. And copyright recognizes that authorship is inevitably a continuous phenomenon. No author, however creative, can escape the need to draw on the work of earlier authors. Just to take two examples, the motion pictures, The Maltese Falcon and It's A Wonderful Life -- original works in their own right -- draw part of their genius from earlier copyrighted works.

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Authorship in copyright has traditionally presupposed the impress of human intelligence and sensibility on the final product. As I understand the colorization process, considerable artistic judgment and skill go into the colorization of a black-and-white motion picture. Nonetheless, computer programs may