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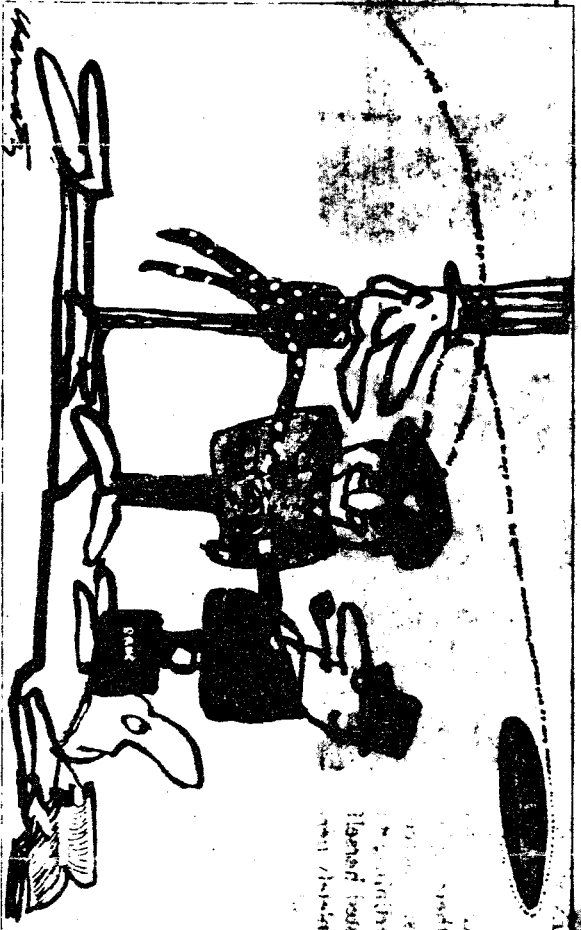
Twisting our copyright law

Although the Copyright Act expressly prohibits copyright restrictions on the contents of government documents, federal agencies and officials are increasingly circumventing the law through the simple device of authorizing an operator to do that which the government has no power to do.

Take, for example, the long-awaited report on unidentified flying objects commissioned by the Air Force at an expense of \$525,905. On page iv of the only publicly available copies of the report (*Scientific Study of Unidentified Flying Objects*) is the following statement:

Copyright 1968 by the Board of Regents of the University of Colorado. All rights reserved. No part of this book may be reproduced in any form, by photostat, microfilm, xerography, or any other means, without the written permission of the copyright owner.

In short, you can read the report aloud to yourself but you had better not quote it in a letter or reproduce any portion of it through any known or yet to be devised means of communication — unless, of course, the Board of Regents of the University of Colorado (B.R.U.C., for short) has given you its permission to do so. It sounds sort of preposterous for a



produce in any form," any portion of the contents of a work being privately merchandised by Bantam Books as "The Complete Report Commissioned by the U.S. Air Force"? That has yet to be fully explained by the Air Force or B.R.U.C., but Eugene Wilson, Colorado's vice president for business affairs, has made the following interesting point:

"One of the conditions established by the Department of the Air Force was: The University will assure that all editing of the report will be completed by a

ments for publication of the report by the Government Printing Office and dissemination by the Superintendent of Documents. That's the normal way those things are done.

But the Pentagon's public relations people didn't cotton to the idea. Dr. Con-

A press aide to Secretary of the Air Force Harold Brown complained that the Superintendent of Documents had been interfering in promoting government

United States Government, or any reprint, in whole or in part thereof." If the government didn't have the right to copyright, it didn't have the right to give Bantam exclusive publishing rights.

An impasse seemed for a week. Back came the same Pentagon letter with a solution. Since the law doesn't explicitly forbid copyrighting of government works by government contractors, the University of Colorado could copyright the report and turn over the publishing rights to Bantam.

Other problems that arose were easy to resolve. Both the Air Force and Dr. Condon wanted to be sure that Bantam's book and advertising matter didn't say anything that might be inconsistent with the dignity of the report. The assurances Bantam gave were satisfactory. The only substantive material it added to the report was a favorable introduction by Walter Sullivan, a *New York Times* writer, seen in advance by both the Air Force and Dr. Condon. No Pentagon public relations aide could have written more tasteful copy about the book than Bantam's man.

(Although Bantam and *The New York Times* clearly had an inside track on the report which merits close scrutiny, *Times* attorney Edward T. Smith insists that "All editorial decisions were completely open

...the written permission or use...
 In short, you... the report aloud...
 to be better... but better not quote...
 through any... yet devised...
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 and... for the public domain...
 It was... to "strengthen...
 the public position of the Air Force on...
 UFO's" (p. 815), officially justified on...
 the ground of being "of great importance...
 in securing public understanding... as a...
 further aid to public understanding... on...
 the scientific appreciation taken by the...
 Air Force in attacking the UFO problem" (p. 816), officially commissioned (Pentagon press release No. 847-66), officially released (January 8, 1969), and officially funded (Air Force Contract No. F44620-67-C-0035).

contents of a work being privately merchandised by Bantam Books as "The Complete Report Commissioned by the U.S. Air Force"? That has yet to be fully explained by the Air Force or B.R.U.C., but Eugene Wilson, Colorado's vice president for business affairs, has made the following interesting point:
 One of the conditions established by the Department of the Air Force was: "The University will assure that all editions of the report are protected by a copyright in its name. This includes both the official copy and the copy for the University." The University was not to accept this condition of the complete report against photocopy and indiscriminate excerpting."
 In short, B.R.U.C. played half with the Air Force in order to assure "scientific integrity" via censorship control over the contents of the report. (General C. G. Dodge put the matter more bluntly when he justified the Army's copyright restrictions on its official military histories on the ground that it was considered necessary "to prevent quoting of material out of context" and "sensationalizing.")
 What actually occurred remains somewhat unclear, but here's a reasonably close approximation of what happened:
 When the University of Colorado team headed by Dr. Edward U. Condon finished the report there was some uncertainty in Boulder and Washington as to how it should be published.
 Initially the Air Force made arrange-

Government Printing Office and dissemination by the Superintendent of Documents. That's the normal way those things are done.
 But the Pentagon's public relations people didn't cotton to the idea. Dr. Condon didn't like it either.
 A press aide to Secretary of the Air Force Harold Brown complained that the Superintendent of Documents isn't very enterprising in promoting Government Printing Office publications. Dr. Condon could see that; it jibed with his experience when he was the head of the Naval Research Laboratory.
 What bothered Dr. Condon somewhat more was his aversion to a government imprimatur that might suggest the report wasn't an independent work. Besides he was eager to get the report released before Richard M. Nixon assumed the Presidency. Back in the 1950s Nixon had been associated with attempts to challenge Condon's security clearance. Condon hadn't forgotten that; neither had the Air Force. The Government Printing Office might not get the report out fast enough to avoid the possibility of embarrassment.
 Bantam was ready, willing and eager to issue the report on a crash basis provided it was given exclusive publishing rights. A Pentagon lawyer had some doubts about that. The Copyright Act forbids the copyrighting of government works. Section 8 says that "No copyright shall subsist in any publication of the

Walter Sullivan, a *New York Times* writer, seen in advance by both the Air Force and Dr. Condon. No Pentagon public relations aide could have written more tastefully about the book than Bantam's man.
 (Although Bantam and *The New York Times* clearly had an inside track on the report which merits close scrutiny, *Times* attorney Edward L. Smith insists that "All negotiations were completely open and above board and there was no 'sort of deal' with the Air Force or the University or anyone else involving either...")
 Some questions arose as to royalties and the book's sale price. Since royalties are normally payable to the authors, it was felt that they should go to Dr. Condon and his team. By way of justification it was pointed out that the \$529,905 paid out by the Air Force didn't really cover all their overtime work, but Dr. Condon preferred to avoid any wrangling as to who should share in royalties on a document prepared for the U.S. government. He proposed that the royalties be turned over to the University of Colorado, although the terms of its contract with the Air Force were supposed to have covered all of the institution's expenses.
 What is serious here is that a highly improper, legally dubious and potentially dangerous precedent has been set. If it goes unchallenged we can expect other government agencies to follow suit.
 —M. B. SCHNAPPER