

Libel, reform and the public interest

LIBEL LAW and its reform were under discussion at London Freelance Branch's October meeting with libel lawyer Robert Dougans – he defended science writer Simon Singh against the British Chiropractic Association – and Padraig Reidy, news editor of *Index on Censorship*.

Robert revealed one episode of *South Park* hasn't been shown in England – it ends with a cartoon version of a famous Hollywood actor promising "I'll sue you... in England!" Not only is our English libel law a joke, "but we don't get to see the joke".

Several bloggers were sued last year, warns Robert, who doesn't find that moderating comments to your site is much of a defence. Libel cases can only be brought in the year after publication – but there's the 1849 case *Brunswick vs Harmer*, in which the Duke of Brunswick sent his "man" from Paris to buy an 1830 back issue of *The Weekly Dispatch* from the magazine's London office. The precedent has been applied to say that each viewing of a Web page

is a new publication. Generally anything that lowers the opinion of the claimant "in the eyes of right-thinking members of society" is defamatory. "Fair comment" is when "you honestly hold an opinion on basis of facts known to you at the time of publication." So make clear what is opinion, and why you honestly hold it. Now even lawyers "are saying litigation is just too expensive" according to Robert.

Padraig Reidy set out how *IoC*, together with English PEN and the Sense about Science campaign, "have been working on solutions".

Padraig was pleased to see that about half the audience had already signed the Libel Reform Campaign petition. The upshot of this is Minister of Justice Lord McNally's Draft Defamation Bill. The Leveson Inquiry is "worrying": there's much "something-must-be-donny" in the wake of the phone-hacking scandal, says Padraig: "phone tapping, expenses, and libel (are) in danger of all being thrown into one big media overhaul,



Robert Dougans, Chair Dave Rotchelle and Padraig Reidy

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which will see more restriction on the press." Arguments about the costs of mounting a defence against libel are "very particularly not mentioned in the government's bill."

IoC are looking for "a stronger public interest defence". Padraig would also like to see a system like the Australian, one where large corporations cannot sue.

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and Matt Salusbury

• Much more detail at londonfreelance.org/fl/1111libe.html and see www.libelreform.org

Stand up for freelance journalism

THE NUJ asks all members to send a letter to your Member of Parliament raising the issue of unfair freelance contracts. Members should have received a model letter by email from the union. If you are a member and have not had one, please visit www.londonfreelance.org/linkup to update your email address and request one.

Waiting for Stalin: © news

THE *FREELANCE* is still waiting for the (UK) government to produce its consultation on proposed changes to copyright law – mostly aimed at increasing the number of ways that people can re-copy your work. We understand that it's written, but is waiting for a slot in the "matrix" of news releases.

When said consultation does materialise, we shall respond. We will mention that it's a bit silly to legislate to permit use of works whose authors cannot be located, without at the same time making sure that all authors, including we journalists, have the right to be identified ("no orphan works law without full

moral rights", in the jargon). The current "exceptions" to copyright, such as that allowing quotation for review and criticism, are essential. But proposed new "exceptions", for example the one finally making it legal to make "private copies" in the UK, must come, if they come, with arrangements for compensation through collecting societies.

Meanwhile in Washington DC the US Supreme Court has heard, and is likely still pondering its judgement on, an attempt to put works by non-US authors – mostly dead ones – out of copyright in the US. The case *Golan v Holder* challenges a 1994 law that re-recognised non-US

authors' copyrights that had expired under US law. This law was necessary for the US to remain a member of the World Trade Organization and of the Berne Convention that sets out international law on authors' rights. Never mind that: some are inveighing against evil foreign authors (you or, more likely, your mum or granddad) reviving copyrights in the US, comparing them to Joseph Stalin (onetime dear leader of the Soviet Union, m'lud). But surely his thing was expropriating property, and that's what the anti-copyright forces wish for us foreigners?

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• More online, unsurprisingly

Photographers: identify yourselves

The union's last Delegate Meeting voted to have a place on its National Executive elected by union members who are photographers. So the NUJ needs to know, for sure, which of its members make the majority of their income through lens-based pursuits. Whichever Branch you belong to – that's basically your choice – if you do, please contact membership@nuj.org.uk to be sure the union knows.

Tax credit puzzle: help!

OUR HEAD hurts. We've been reading around the government's proposals for a "Universal Credit" to replace Jobseeker's Allowance, Income Support, Working Tax Credit, Child Tax Credit, Housing Benefit and more. There are many details, and we've only tried to understand two that would affect the many freelance journalists who have to make up their income with the Tax Credits.

The Department for Work and Pensions (DWP) proposes, if we understand them, that tax credit claimants would have to demonstrate that they were working at least 35 hours per week at at least minimum wage. If they failed they could have their tax credit cut, or be sent for training.

Also, there are plans for "real-time

income reporting". So they're planning a big, new, Revenue computer scheme? That'll go well. If it ever worked, would a freelance have to log in every time we got a cheque?

And how is the 35 hours thing supposed to work for someone who decides to do some proper investigative journalism – living on savings (and tax credit) for a month or two to research a story, then getting the cheque? Can the DWP hoick you off the 60 hours a week you're putting into the story, to get trained in how to, er, work more hours?

Any readers expert in these things... help! Once we've understood the question, we'll likely start answering it with campaigning.

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Small Claims win

SOME TIME in 2012, according to an announcement by the government's Intellectual Property Office on 16 November, a "Small Claims" court will be available to anyone wanting to pursue breaches of copyright worth £5000 or less.

The NUJ first proposed such a small claims court in its evidence to the Gowers Review of copyright law back in 2006.

The new procedure will be a "track" of the Patents County Court, which is training District Judges not to be puzzled by copyright. The NUJ continues to campaign for enforcement, including raising the bar for damages beyond what you would have charged the infringer, had they asked nicely in the first place.

Coming soon...

Check soon at www.londonfreelance.org/fl for news we're chasing:

- Freelances at Penguin and DK meet
- Police powers – with law firm Bindmans
- Is there a future for the press in Wales? Conference report
- Negotiating out rights-grab clauses
- Training for members: book "Getting Started as a Freelance" 4 February
- Grants for cross-border European investigatory journalism: deadline 10 January