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The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Protecting Our Medical Information Rights, Responsibilities, and Risks during the session of the Senate on Tuesday, October 28, 1997, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 38, 1997 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL SERVICES AND TECHNOLOGY

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Financial Services and Technology of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, October 28, 1997, to conduct a hearing on Electronic Authentication and Digital Signature 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, October 28, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to receive testimony on the potential impacts on, and additional responsibilities for, Federal land managers imposed by the Environmental protection Agency's Notice of Proposed Rulemaking on regional haze regulations implementing sections 169A and 169B of the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PASSAGE OF H.R. 672

• Mr. HATCH. Mr. President, I rise today to laud the Senate passage of H.R. 672. This legislation, which was introduced by Congressman COBLE in the House of Representatives, is the counterpart to legislation I introduced in the Senate on March 20 of this year—the Copyright Clarification Act of 1997 (S. 506). The Copyright Clarification Act was reported unanimously by the Senate Judiciary Committee on April 17.

The purpose of these bills is to make technical but needed changes to our Nation's copyright laws in order to ensure the effective administration of our copyright system and the U.S. Copyright Office. The need for these changes was first brought to my attention by the Register of Copyrights, Marybeth Peters, and I want to thank her for her outstanding work.

Among the most important amendments made by H.R. 672 is a clarification of the Copyright Office's authority to increase its fees for the first time since 1990 in order to help cover its costs and to reduce the impact of its services on the Federal budget and the American taxpayer. This clarification is needed because of ambiguities in the Copyright Fees and Technical Amendments Act of 1989, which authorized the Copyright Office to increase fees in 1995, and every fifth year thereafter. Because the Copyright Office did not raise its fees in 1995, as anticipated, there has been some uncertainty as to whether the Copyright Office may increase its fees again before 2000 and whether the baseline for calculating the increase in the consumer price index is the date of the last actual fee settlement, 1990, or the date of the last authorized fee settlement, 1995. H.R. 672 clarifies that the Copyright Office may increase its fees in any calendar year, provided it has not done so within the last 5 years, and that the fees may be increased up to the amount required to cover the reasonable costs incurred by the Copyright Office.

Although H.R. 672 does not require the Copyright Office to increase its fees to cover all its costs, I believe it is important in that it provides the Copyright Office the statutory tools to become self-sustaining—a concept that I promoted in the last Congress. Currently the Copyright Office does not recover the full cost of its services through fees, but instead receives some $10 million in annual appropriations.

Several studies have supported full-cost recovery for the Copyright Office. For example, A 1996 Booz-Allen and Hamilton management review of the Library of Congress recommended that the Copyright Office pursue full-cost recovery, noting that the Copyright Office has been subject to full-cost recovery in the past and that the potential revenues to be derived from pursuing a fee-based service was significant. A 1996 internal Copyright Office management report prepared by the Library of Congress also recommended full-cost recovery for copyright services. The Congressional Budget Office has also suggested full-cost recovery for the Copyright Office as a means of achieving deficit reduction. These recommendations were endorsed by the General Accounting Office in its recent report, Intellectual Property, Fees Are Not Always Commensurate with the Costs of Service.

It is my understanding that the Copyright Office has embraced the goal of achieving full-cost recovery for its copyright services. H.R. 672 will provide the authority to achieve that goal, and by passing this legislation this year, the Copyright Office will be able to move expeditiously to adjust their fees for the coming year.

I also want to note the importance of the amendment which the Senate has adopted to H.R. 672 to overturn the Ninth Circuit's decision in *La Cienega Music Co.* v. *ZZ Top*, 53 F.3d 950 (9th Cir. 1995), cert denied, 116 S. Ct. 331 (1995). My colleagues will recall that Senator LEAHY and I introduced this legislation in March of this year as a provision of S. 505, the Copyright Term Extension Act of 1997.

In general, *La Cienega* held that distributing a sound recording to the public—by sale, for example—is a publication of the music recorded on it under the 1909 Copyright Act. Under the 1909 act, publication without copyright notice caused loss of copyright protection. Almost all music that was first published on recordings did not contain copyright notice, because publishers believed that it was not technically a publication. The Copyright Office also considered these musical compositions to be unpublished. The effect of *La Cienega*, however, is that virtually all music before 1978 that was first distributed to the public on recordings has no copyright protection—at least in the Ninth Circuit.

By contrast, the Second Circuit in *Rosette* v. *Rainbo Record Manufacturing Corp.*, 546 F.2d 461 (2d Cir. 1975), aff'd per curiam, 546 F.2d 461 (2d Cir. 1976) has held the opposite—that publish distribution of recordings was not a publication of the music contained on them. As I have noted, *Rosette* comports with the nearly universal understanding of the music and sound recording industries and of the Copyright Office.

Since the Supreme Court has denied cert in *La Cienega*, whether one has copyright in thousands of musical compositions depends on whether the case is brought in the Second or Ninth Circuits. This situation is intolerable. Overturning the *La Cienega* decision will restore national uniformity on this important issue by confirming the wisdom of the custom and usage of the affected industries and of the Copyright Office for nearly 100 years.

In addition to these two important provisions, H.R. 672 will: First, correct drafting errors in the Satellite Home Viewer Act of 1994, which resulted from the failure to take into account the recent changes made by the Copyright Tribunal Reform Act of 1993, and which mistakingly reversed the rates set by a 1992 Copyright Arbitration Royalty Panel for satellite carriers; second, clarify ambiguities in the Copyright Restoration Act dealing with the restoration of copyright protection for certain works under the 1994 Uruguay Round Agreements Act; third, ensure that rates established in 1996 under the Digital Performance Rights in Sound Recordings Act will not lapse in the event that the Copyright Arbitration Royalty Panel does not conclude rate-setting proceedings prior to December

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1, 2000; fourth, restore definitions of jukebox and jukebox operator, which were mistakingly omitted when the old jukebox compulsory license was replaced with the current negotiated jukebox license; fifth, revise the currently unworkable requirement of a 10-day advanced notice of intent to copyright the fixation of live performances, such as sporting events; sixth, clarify administrative issues regarding the operation of the Copyright Arbitration Royalty Panels; seventh, provide needed flexibility for the Librarian of Congress in setting the negotiation period for the distribution of digital audio recording technology [DART] royalties; and, eighth, make miscellaneous spelling, grammatical, capitalization, and other corrections to the Copyright Act.

Mr. President, this is important legislation, and I am pleased the Senate has acted to approve it prior to adjourning this fall. I wish to thank my colleagues and to encourage the House to accept the Senate amendment and to forward H.R. 672 to the President for his signature without delay.●

AWARDING THE CONGRESSIONAL GOLD MEDAL TO THE "LITTLE ROCK NINE"

● Mr. ABRAHAM. Mr. President, I rise today in support of S. 1283, legislation to award the Congressional Gold Medal, the highest honor Congress can bestow upon civilians for acts of public service and patriotism, to those civil rights leaders history will remember as the "Little Rock Nine."

As all of my colleagues are aware, on September 25, 1957, nine young students, in the face of unspeakable hostility and hatred, voluntarily integrated Central High School in Little Rock, AK. In doing so, they confronted not only an angry mob assembled in fierce opposition, but also an entrenched culture of bigotry and racism.

In today's day and age, lofty terms like valor, heroism, and bravery are used so frequently and in such a casual context the proper impact of their meaning has unfortunately been devalued. However, it is sometimes within the most ordinary acts, such as a child's steps through a schoolhouse door, in which the most extraordinary instances of courage can be found.

Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas are all civil rights pioneers. In addition, however, to serving as national symbols as racial progress, each deserve individual recognition for the dignity and grace they displayed on that September morning 40 years ago.

Mr. President, awarding the Congressional Gold Medal to the "Little Rock Nine" would provide this long overdue honor to these exceptional people. As a U.S. Senator, it is my pleasure to cosponsor this legislation. As an American, it is my privilege to have the opportunity to say thank you to nine men and women who, in pursuit of their own education, taught the rest of the nation an invaluable lesson about racial equality.●

ORDER OF BUSINESS

Mr. DEWINE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF WILLIAM E. KENNARD

Mr. DEWINE. Mr. President, on behalf of the leader, as in executive session, I ask unanimous consent that at the hour of 11 a.m., on Wednesday, October 29, the Senate proceed to executive session to consider calendar No. 312, the nomination of William E. Kennard to be a member of the FCC. I further ask unanimous consent that there be 20 minutes of debate, equally divided, between the chairman and the ranking member, with an additional 5 minutes under the control of Senator BURNS and 5 minutes under the control of Senator HELMS. I finally ask unanimous consent that following the expiration or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination, and following that vote the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DEWINE. Mr. President, again on behalf of our leader, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 263, No. 265, No. 266, No. 267, No. 268, No. 311, No. 313, No. 315, No. 316, and No. 331. I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

John C. Angell, of Maryland, to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

Ernest J. Moniz, of Massachusetts, to be Under Secretary of Energy.

Michael Telson, of the District of Columbia, to be Chief Financial Officer, Department of Energy.

Dan Reicher, of Maryland, to be an Assistant Secretary of Energy (Energy, Efficiency, and Renewable Energy).

Robert Wayne Gee, of Texas, to be an Assistant Secretary of Energy (Policy, Planning, and Program Evaluation).

FEDERAL COMMUNICATIONS COMMISSION

Harold W. Furchtgott-Roth, of the District of Columbia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1995.

Michael K. Powell, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1997.

Gloria Tristani, of New Mexico, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 1998.

Gloria Tristani, of New Mexico, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1998. (Reappointment)

DEPARTMENT OF THE INTERIOR

M. John Berry, of Maryland, to be an Assistant Secretary of the Interior.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR WEDNESDAY, OCTOBER 29, 1997

Mr. DEWINE. Mr. President, again on behalf of the leader, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m., on Wednesday, October 29. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate immediately begin consideration of Calendar No. 312, the nomination of William E. Kennard to be a member of the Federal Communications Commission under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DEWINE. Again on behalf of the leader, tomorrow morning at 11 a.m., under the previous order, the Senate will proceed to executive session to consider the nomination of William Kennard to be a member of the Federal Communications Commission. Under the order, there will be 30 minutes of debate on the nomination with a roll-call vote occurring at the expiration or yielding back of that time. Therefore, Members can anticipate a vote at approximately 11:30 a.m.

At 12 noon, it will be the leader's intention for the Senate to turn to consideration of H.R. 1119, the national

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