Renewal Term Extensions under the 1909 Copyright Act

Extending Term to December 31, 1967

HREP98-369 EXTENDING THE DURATION OF COPYRIGHT PROTECTION IN CERTAIN CASES

MAY 25, 1965.--Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WILLIS, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.J. Res. 431]

The Committee on the Judiciary, to whom was referred the joint resolution (H.J. Res. 431) extending the duration of copyright protection in certain cases, having considered the same, report favorably thereon with amendment and recommend that the joint resolution do pass.

The amendment is as follows:

On line 6, delete "87-688" and insert in lieu thereof "87-668". This amendment corrects a typographical error.

PURPOSE

The purpose of House Joint Resolution 431 is to continue until December 31, 1967, the renewal term of any copyright subsisting on the date of approval of the measure (including any renewal term extended by Public Law 87-668) where such term would otherwise expire prior to December 31, 1967. The measure thus contemplates a second general interim suspension of copyright expirations pending the perfection and enactment of a general revision of the copyright law. An earlier such suspension (public Law 87-668, approved Sept. 19, 1962) will expire by its terms on December 31, 1965. The present measure is requested by the Coordinating Committee on Copyright Revision on behalf of 15 organizations comprising authors, composers, and publishers of copyrighted literary and musical works.n1

Since 1909, the term of copyright under existing law has been 28 years from first publication or registration, renewable by certain persons for a second period of 28 years. This means that during 1966 and 1967 the renewal terms of copyrights initiating in 1908 and 1909 will go into the public domain unless Congress intervenes. Meanwhile, however, Congress has before it a measure (H.R. 4347) drafted by the Copyright Office and providing an overall revision of the copyright law. This measure marks the culmination of 10 years of study by the Copyright Office under authorization by Congress. The proposed legislation contemplates a basic copyright term that would endure during the life of the author and for 50 years thereafter. It also provides for a substantial extension of the term of subsisting copyrights. Hearings on the revision bill have been scheduled and witnesses of all shades of opinion will be heard.

In the circumstances, it seems equitable that copyright holders whose renewal terms of copyright may expire before a new law can be enacted should not be foreclosed from benefiting from an extension of term, should such an extension meet congressional approval. In connection with the 1962 extension, this committee said:

Although there is no unanimity concerning the ultimate form which an extension of the term of copyright should take, or with respect to the most equitable distribution of the rights that would be created by such an extension, it appears to be generally conceded that the term of copyright should be substantially extended. The testimony elicited by Subcommittee No. 3 at its hearing on the joint resolution reflects this overwhelming consensus. (H. Rept. 1742, 87th Cong., 2d sess.)

House Joint Resolution 627, 87th Congress, which gave rise to the 1962 extension originally contained the same expiration date as the present measure, that is, December 31, 1967. The committee, however, at the suggestion of the Register of Copyrights, amended House Joint Resolution 627 by inserting an earlier expiration date of December 31, 1965. In so doing the committee said:

The amendment shortens by 2 years the interim prolongation of the life of expiring renewal terms of copyright which would be effectuated by the joint resolution. It is the view of the committee that incentive for achieving a prompt

overall revision of the copyright law (in which permanent extension of copyright term would be only one element) might be unduly impaired by suspending all expirations beyond 1965. (H. Rept. 1742, 87th Cong., 2d sess.).

Since the enactment of Public Law 87-668, substantial progress has been made toward the realization of copyright law revision. Numerous meetings of groups and individuals interested in copyrights were held under the auspices of the Register of Copyrights and others. In July 1964, Chairman Celler introduced H.R. 11947 (88th Cong.) at the Register's request, and on February 4, 1965, he similarly introduced H.R. 4347, the subject of the scheduled hearings. It thus appears that the adoption of the 1962 interim extension measure did not appreciably retard the general revision program, and that after 10 years of study by the Copyright Office and others, congressional scrutiny of a revision bill has become a reality. On the other hand, both Houses of Congress may not have had time to complete their study of the measure and enact it before December 31, 1965, when the 1962 extension will expire. In the circumstances, the committee believes that a further 2-year extension, to December 31, 1967, to assure persons whose renewal terms of copyright will otherwise expire of the benefits of the new law, is appropriate and it accordingly recommends adoption of the resolution.

Attached hereto as exhibit A is a letter from the Coordinating Committee on Copyright Revision, requesting the subject legislation and submitting a memorandum in support thereof.

EXHIBIT A

EXHIBIT A

THE COORDINATING COMMITTEE ON COPYRIGHT REVISION,
April 21, 1965.

HON. EDWIN E. WILLIS,
House of Representatives,
House Office Building, Washington, D.C.

DEAR REPRESENTATIVE WILLIS: There is enclosed a statement setting forth the importance of legislation to extend the protection of works now in the second term of copyright to extend through December 31, 1967.

This statement is submitted in behalf of American Book Publishers Council, American Guild of Authors and Composers, American Society of Composers, Authors, and Publishers, American Society of Magazine Photographers, American Textbook Publishers Institute, Association of American University Presses, Authors League of America, Broadcast Music, Inc., Composers and Lyricists Guild of America, Motion Picture Association of America, Music Publishers Association of the United States, Music Publishers Protective Association, Society of Magazine Writers, and Writers Guild of America.

These organizations include among their members most American authors, composers, and other creators of copyrighted works and most of the individuals and firms in the Nation devoted to the dissemination of literature and music.

It was the obvious intent of Congress, in enacting Public Law 87-668, to preserve the present status of copyrighted works until Congress should have an opportunity to decide whether it wishes to enact the general copyright revision bill (H.R. 4347) now before your committee.

It is clear that the general revision bill (H.R. 4347) commands very broad support and its enactment by the 89th Congress, with such amendments as the Congress may wish to make, would appear to be highly probable. The care with which Congress will wish to consider so important a matter, and the pressures of other demands on its time, make it reasonably clear that the second as well as the first session may be necessary to complete passage. If this should prove to be the case, and if an extension bill like that here proposed is not enacted in this calendar year, all the works Congress sought to protect by Public Law 87-668 will fall into the public domain after December 31, 1965, and the intention of the Congress in enacting that law will have been frustrated.

We urgently hope, therefore, that your committee will give the earliest practicable consideration to an extension bill such as that here proposed.

We understand that the Register of Copyrights concurs fully in this proposal.

Sincerely yours,

DAN LACY.

P.S.--Since this letter was written, the National Audio-Visual Association has asked to be included in the list of organizations supporting the proposed copyright extension bill.

MEMORANDUM IN SUPPORT OF A PROPOSED JOINT RESOLUTION FOR AN INTERIM EXTENSION OF SUBSISTING COPYRIGHT RENEWAL TERMS

This memorandum is submitted in support of a request that an interim extension, until December 31, 1967, be provided for all subsisting copyright renewal terms which would otherwise expire prior to that date. Submitted herewith is a draft of a proposed joint resolution patterned upon Public Law 87-668 (Sept. 19, 1962), which could accomplish that purpose.

When the Congress considered the joint resolution (H.J. Res. 627), which was subsequently enacted as Public Law 87-668 (Sept. 19, 1962), the proponents thereof had requested an extension which would continue the renewal terms until December 31, 1967. That request had been predicated upon an estimate that the revision of the copyright law, which was then in the process of being formulated, would take approximately 4 to 5 years. For that reason, a 5-year extension was sought.

The Register of Copyrights and the Librarian of Congress, although not opposing an extension in principle, expressed concern that the prolongation of copyright terms might "delay the sorely needed revision of the copyright law as a whole." It was suggested by the Register that, "the period of extension should run no longer than 2 or 3 years."

The House Judiciary Committee, reporting favorably upon the resolution, proposed an amendment which shortened, by 2 years, the interim prolongation of the life of expiring renewal terms. It said (Rept. No. 1742, 87th Cong., 2d sess.):

"The amendment shortens by 2 years the interim prolongation of the life of expiring renewal terms of copyright which would be effectuated by the joint resolution. It is the view of the committee that incentive for achieving a prompt overall revision of the copyright law (in which permanent extension of copyright term would be only one element) might be unduly impaired by suspending all expirations beyond 1965."

It now appears that significant progress has been made toward the achievement of copyright revision. At the time the committee report was issued, no actual bill for the revision of the copyright law had as yet been prepared for submission to Congress. The project was still in its preliminary discussion stage.

The adoption of the interim extension resolution did not impede the progress of the general revision program. On the contrary, that action and the committee's favorable report gave to the revision program even greater impetus and encouragement.

Numerous meetings of groups and individuals interested in copyright and located in all parts of the country were held under the auspices of the Register of Copyrights, of the American Bar Association Section of Patents, Trademarks, and Copyrights, and of other organizations. These meetings produced and stimulated various suggestions and proposals which have been carefully considered, discussed, and freely debated.

In July 1964 a revision bill was introduced in the House of Representatives by Mr. Celler, chairman of the Judiciary Committee, and a companion bill was presented in the Senate by Senator McClellan, (H.R. 11947, S. 3008). The provisions of these bills were again carefully reviewed and widely debated, and various changes were proposed to improve or clarify the language of the bill. Changes on matter of substance were also proposed.

On February 4, 1965, H.R. 4347 and S. 1006 (identical bills), were introduced giving effect to many of these proposals.

This committee has recently announced that hearings on H.R. 4347 would commence on May 12, 1965. It is therefore respectfully submitted, not only that significant progress has been made, but that the ultimate goal of a new copyright law can be achieved in the foreseeable future.

These developments support the conclusion that no time has been wasted and no effort has been spared to reach this stage. The time consumed has manifestly been profitably devoted to a full exploration of the needs and necessities of all segments of our society. This scrutiny has taken place with the closest cooperation between the Library of Congress, the

Register of Copyrights, its panel of specialists, the various bar associations, and other groups and individuals who are interested in or affected by the copyright law.

It now appears that the estimate made by the proponents of the extension resolution was accurate and that by virtue of sheer logistics there is little likelihood that the bill before Congress can be enacted prior to the adjournment of the present session. It is contemplated that the provisions of the bill will be studied with the greatest of care both in the House and the Senate, and that numerous individuals and groups will want to be heard.

Congress is faced with many pressing problems and it is only reasonable to assume that the final enactment of the copyright bill cannot reasonably be expected in the present session. The additional 2 years extension which had been originally sought, should therefore be granted by the adoption of the joint resolution of which a copy is enclosed herewith.

Inquiry has been made of the Register of Copyrights and it now appears that his concern about an adverse effect of an extension no longer exists, and that he is in favor of the additional extension.

The revision bill pending in Congress (H.R. 4347) and (S. 1006) provides for a basic term of copyright which would endure during the lifetime of an author and 50 years after his death. It also provides for a substantial extension of the term of subsisting copyrights. It is only equitable that, those citizens whose renewal terms of copyright may expire prior to the enactment of the new law, should be enabled to enjoy benefits of the new law and should not be deprived thereof merely because of the time which has necessarily been consumed in forging this important legislation. In the interests of these citizens, most of whom are among the elderly groups, action should be taken, before the adjournment of Congress, to enact a resolution extending the terms of their copyrights.

SREP548 EXTENDING THE DURATION OF COPYRIGHT PROTECTION IN CERTAIN CASES

AUGUST 10, 1965.--Ordered to printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

R E P O R T
[To accompany H.J. Res. 431]

The Committee on the Judiciary, to which was referred the joint resolution (H.J. Res. 431) extending the duration of copyright protection in certain cases, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

PURPOSE

The purpose of this legislation is to continue until December 31, 1967, the renewal term of any copy right subsisting on the date of approval of this measure (including any renewal term extended by Public Law 87-668) where such term would otherwise expire prior to December 31, 1967. The joint resolution would provide an interim extension of the renewal term of copyright pending the enactment by the Congress of a general revision of the copyright laws, including a proposed increase in the length of the copyright term. This resolution would be the second such interim extension of copyright. The first extension (Public Law 87-668, approved September 19, 1962) will expire on December 31, 1965.

This legislation merely provides for the prolongation of the renewal term of copyright and does not involve creation of a new term of copyright.

STATEMENT

This legislation arises from a study of the U.S. copyright system authorized by the Congress in 1955. After extensive preparatory work, copyright revision bills were introduced in both Houses during the 88th Congress. During the current Congress copyright revision bills have again been introduced. The Senate bill (S. 1006) is now under consideration by this committee's Subcommittee on Patents, Trademarks, and Copyrights. This measure would increase the basic copyright term of new works from 28 years, renewable for a second period of 28 years, to a term for the life of the author and for 50 years thereafter. It also provides for a substantial extension of the term of subsisting copyrights.

Although this legislation is now receiving consideration in both Houses, it is doubtful that a new law can be enacted before the expiration of the temporary extension. In these circumstances it seems desirable that the terms of expiring

copyrights should be extended so that the copyright holders may enjoy the benefit of any increase in term that may be enacted by the Congress. It is the view of the committee that the same considerations that led to the enactment of Public Law 87-668 warrant the approval of this joint resolution.

The present measure has been requested by the Coordinating Committee on Copyright revision representing a number of organizations comprising authors, composers, and publishers of copyrighted literary and musical works.

AGENCY REPORT

Attached hereto and made a part hereof is the report of the Librarian of Congress on Senate Joint Resolution 82, which is identical to House Joint Resolution 431, as approved by the House of Representatives.

LEGISLATIVE HISTORY

LEGISLATIVE HISTORY

THE LIBRARY OF CONGRESS,
THE LIBRARIAN OF CONGRESS,
Washington, D.C., June 15, 1965.

HON. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee,
New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: This is in response to your letter of May 20 requesting our report on Senate Joint Resolution 82, extending the duration of copyright protection in certain cases.

This joint resolution would continue until December 31, 1967, the renewal term of all copyrights which would otherwise expire before that date, including those renewal copyrights which were previously extended until December 31, 1965, by Public Law 87-668, approved September 19, 1962.

Public Law 87-668 was enacted to preserve until December 31, 1965, renewal copyrights that would otherwise have expired, pending consideration of legislation for general revision of the copyright law which, it was contemplated, would lengthen the renewal term of all subsisting copyrights. The joint resolution (H.J.Res. 627, 87th Cong.) which became Public Law 87-668 had originally provided for an extension of the renewal copyrights that would otherwise expire until December 31, 1967. The earlier expiration date of December 31, 1965, was substituted at the suggestion of the Register of Copyrights to avoid the possible effect of a later date in slackening the impetus to work out a general revision bill.

Since the enactment of Public Law 87-668, good progress has been made toward a general revision of the copyright law. A completed draft of a revision bill was introduced by Senator McClellan in the Senate and Mr. Celler in the House of Representatives on July 20, 1964 (S. 3008 and H.R. 11947, 88th Cong.), at the request of the Register of Copyrights, for purposes of discussion. An amended bill, S. 1006 and H.R. 4347, was introduced by them in the present session of Congress on February 4, 1965, and hearings on H.R. 4347 are now in progress before a subcommittee of the House Committee on the Judiciary.

The pending revision bill would extend the renewal term of all subsisting copyrights to run for 19 years beyond the 28-year-renewal period provided in the present law. In accordance with the considerations that led to the enactment of Public Law 87-668, we believe it would be appropriate to preserve renewal copyrights now subsisting which will otherwise expire before enactment of a general revision bill.

Inasmuch as the legislative process for enactment of a general revision bill may not be completed this year, we recommend approval of Senate Joint Resolution 82 to continue all renewal copyrights now subsisting until December 31, 1967.

Sincerely yours,

L. QUINCY MUMFORD,
Librarian of Congress.

Public Law 89-142
89th Congress, H. J. Res. 431

August 28, 1965

JOINT RESOLUTION

Extending the duration of copyright protection in certain cases:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case in which the renewal term of copyright subsisting in any work on the date of approval of this resolution, or the term thereof as extended by Public Law 87-668, would expire prior to December 31, 1967, such term is hereby continued until December 31, 1967.

Approved August 28, 1965.

FOOTNOTES:

[n1] Footnote 1. American Book Publishers Council, American Guild of Authors and Composers, American Society of Composers, Authors, and Publishers, American Society of Magazine Photographers, American Textbook Publishers Institute, Association of American University Presses, Authors League of America, Broadcast Music, Inc., Composers and Lyricists Guild of America, Motion Picture Association of America, Music Publishers Association of the United States, Music Publishers Protective Association, National Audio-Visual Association Society of Magazine Writers, and Writers Guild of America.