Extending Term to December 31, 1970

COPYRIGHT PROTECTION IN CERTAIN CASES

OCTOBER 2, 1969.--Ordered to printed

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

R E P O R T

[To accompany S.J. Res. 143]

The Committee on the Judiciary, to which was referred the joint resolution (S.J. Res. 143) extending the duration of copyright 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, 1970, the renewal term of any copyright subsisting on the date of approval of this resolution, or the term as extended by Public Law 87-668, by Public Law 89-442, Public Law 90-141, or Public Law 90-416 (or by all or certain said laws) where such term would otherwise expire prior to December 31, 1970. The joint resolution would provide an interim extension of the renewal term of copyrights 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 fifth such interim extension of copyright. The fourth extension (Public Law 90-416) will expire on December 31, 1969.

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 and again in the 89th and 90th Congresses. The House of Representatives on April 11, 1967, passed H.R. 2512 of the 90th Congress for the general revision of the copyright law. This committee's Subcommittee on Patents, Trademarks, and Copyrights held 17 days of hearings on copyright law revision, but no further action was taken by the subcommittee. On January 26, 1969, the chairman of the Subcommittee on Patents, Trademarks, and Copyrights introduced S. 543 for the general revision of the copyright law. This bill is now being actively considered by the subcommittee. Both, S. 543 and the bill passed by the House of Representatives in the 90th Congress would increase the copyright term of new works from the present 28 years, renewable for a second period of 28 years, to a term for the life of the author and for 50 years thereafter. They also provide for a substantial extension of the term of subsisting copyrights.

While several major provisions of the copyright revision legislation are controversial, the provisions relating to cable television systems have been the principal, if not exclusive, factor delaying action on this legislation. Throughout 1969 the principal parties involved in the CATV question have been engaged in negotiations seeking to reach agreement on a joint recommendation to be made to the appropriate committees of the Congress. While these negotiations were being actively pursued, it has not been feasible for the subcommittee to undertake to act on this issue. The negotiations are still in progress, and it remains uncertain whether they will result in a compromise agreement. Meanwhile, the copyright legislation has been necessarily delayed and the archaic act of 1909 remains in effect.

Under these circumstances, the chairman of the subcommittee in introducing Senate Joint Resolution 143, suggested that the subcommittee may wish to consider the feasibility of separating the cable television question from the general revision bill, and consider the cable television question in separate legislation. No decision on this matter has yet been reached by the subcommittee. Regardless of what procedure is followed by the subcommittee, it is the hope of the committee that during this Congress legislation will be enacted providing for the general revision of the copyright law and the resolution of the cable television question.

Since the general revision bill has been unavoidably delayed, 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 the previous extensions warrant the approval of this joint resolution.

After a study of the joint resolution, the committee recommends that the legislation be favorably considered.

Form

Attached, hereto, is the report of the Librarian of Congress, dated August 22, 1969.

THE LIBRARIAN OF CONGRESS,
Washington, D.C., August 22, 1969.

Form

HON. JAMES O. EASTLAND,
U.S. Senate
Washington, D.C.

DEAR SENATOR EASTLAND: This is in response to your letter of August 14, 1969, requesting our report on Senate Joint Resolution 143, extending the duration of copyright protection in certain cases. This joint resolution continues, until December 31, 1970, the renewal term of any copyright that would otherwise expire before that date, including renewal copyrights previously extended to December 31, 1969, by Public Laws 87-668, 89-442, 90-141, and 90-416.

The resolution, if enacted, would be the fifth in a series of interim extensions to continue temporarily the renewal term of expiring copyrights pending enactment of a comprehensive revision of the present copyright law. The proposed new copyright law (S. 543) increases the duration of copyright and extends the total available term of all subsisting copyrights from 56 to 75 years. The purpose of the joint resolution, and of previous interim extensions, is to prevent works already in their second copyright term from falling into the public domain for the time being, so that they may enjoy the 75-year term when the anticipated new copyright law becomes effective.

The urgent need for complete revision of the anachronistic 1909 copyright law now in effect is widely recognized. Rapid development of new information, entertainment, and communications media creates a progression of copyright problems. Ironically, while expanding technology increases the need for copyright revision, it also creates new and difficult issues whose resolution has delayed the revision program.

Significant steps in the advancement of the 1967 revision bill (H.R. 2512, S. 597) were its passage by the House of Representatives on April 11, 1967, and the conclusion of public hearings before the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Committee on the Judiciary during the 90th Congress. Further congressional action in the 90th Congress was precluded by the continuing controversy over cable television. The Supreme Court's 1969 decisions on the copyright and regulatory aspects of cable television have failed to bring this problem any closer to a solution.

A series of subcommittee-sponsored and privately initiated meetings has also failed to resolve the problem, although some progress has been reported. A proposed agreement worked out by the staffs of the National Association of Broadcasters and the National Cable Television Association was not accepted by the board of directors of the NAB. Under these circumstances Senator McClellan, chairman of the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights, introduced Joint Resolution 143 on August 5, 1969. At that time he issued a statement indicating that he is "now reluctantly prepared to support the separation of the CATV issue from the general copyright revision bill," and noting his concern that, unless this is done, "the entire revision effort may well collapse."

I share Senator McClellan's hope that, with the CATV controversy removed, the general revision bill will be promptly enacted. In any event, another interim extension is necessary to preserve subsisting copyrights until Congress acts on the general bill.

I strongly support Senate Joint Resolution 143 as a means of preserving the continuity and momentum of the program for general revision of the copyright law. At the same time, I share the concern that to delay enactment of a new copyright law any further will seriously jeopardize its chances for eventual passage. I hope that this fifth interim

extension of subsisting copyrights will be the last of the series, and will be closely followed by the enactment of a much needed new copyright law for the United States. I believe this goal is sufficiently important to warrant the efforts essential to its achievement before the expiration of the extension on December 31, 1970.

Sincerely yours,

L. QUINCY MUMFORD,
Librarian of Congress.

EXTENDING THE DURATION OF COPYRIGHT PROTECTION IN CERTAIN CASES

NOVEMBER 18, 1969.--Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany S.J. Res. 143]

The Committee on the Judiciary, to whom was referred the joint resolution (S.J.Res. 143), extending the duration of copyright in certain cases, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

PURPOSE

The purpose of Senate Joint Resolution 143 is to continue until December 31, 1970, the renewal term of any copyright subsisting on the date of approval of this resolution, or the term as extended by Public Law 87-668, by Public Law 89-442, by Public Law 90-141, or by Public Law 90-416 (or by all or certain of said laws), where such term would otherwise expire prior to December 31, 1970. The joint resolution would thus provide an interim extension of the renewal term of copyrights pending the enactment by the Congress of a general revision of the copyright law, including a proposed increase in the length of the copyright term. Enactment of this legislation would mark the fifth such interim extension. The fourth extension, provided by Public Law 90-416, will expire on December 31, 1969.

It should be noted that the legislation would merely provide a prolongation of the renewal term of copyrights that are about to expire; it would not create a new term of copyright.

STATEMENT

For its report herein, the Committee adopts in substance the report on this measure filed by the Senate Committee on the Judiciary (S. Rept. No. 91-447, 91st Cong., 1st Sess.) reading as follows:

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 and again in the 89th and 90th Congresses. The House of Representatives on April 11, 1967, passed H.R. 2512 of the 90th Congress for the general revision of the copyright law. This committee's Subcommittee on Patents, Trademarks, and Copyrights held 17 days of hearings on copyright law revision, but no further action was taken by the subcommittee. On January 26, 1969, the chairman of the Subcommittee on Patents, Trademarks, and Copyrights introduced S. 543 for the general revision of the copyright law. This bill is now being actively considered by the subcommittee. Both S. 543 and the bill passed by the House of Representatives in the 90th Congress would increase the copyright term of new works from the present 28 years, renewable for a second period of 28 years, to a term for the life of the author and for 50 years thereafter. They also provide for a substantial extension of the term of subsisting copyrights.

While several major provisions of the copyright revision legislation are controversial, the provisions relating to cable television systems have been the principal, if not exclusive, factor delaying action on this legislation. Throughout 1969 the principal parties involved in the CATV question have been engaged in negotiations seeking to reach agreement on a joint recommendation to be made to the appropriate committees of the Congress. While these negotiations were being actively pursued, it has not been feasible for the subcommittee to undertake to act on this issue. The negotiations are still in progress, and it remains uncertain whether they will result in a compromise agreement. Meanwhile, the copyright legislation has been necessarily delayed and the archaic act of 1909 remains in effect.

Under these circumstances, the chairman of the subcommittee in introducing Senate Joint Resolution 143, suggested that the subcommittee may wish to consider the feasibility of separating the cable television question from the

general revision bill, and consider the cable television question in separate legislation. No decision on this matter has yet been reached by the subcommittee. Regardless of what procedure is followed by the subcommittee, it is the hope of the committee that during this Congress legislation will be enacted providing for the general revision of the copyright law and the resolution of the cable television question.

The committee agrees with the Senate Committee on the Judiciary that since the general revision bill has been unavoidably delayed, 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 the previous extensions warrant the approval of this joint resolution.

After a study of the joint resolution, the committee recommends that the legislation be favorably considered.

Form

Attached hereto is the report of the Librarian of Congress, dated October 23, 1969.

THE LIBRARIAN OF CONGRESS,
Washington, D.C., October 23, 1969.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CELLER: This is in response to your letter of October 13, 1969, requesting our report on Senate Joint Resolution 143, extending the duration of copyright protection in certain cases. This joint resolution, which passed the Senate on October 6, 1969, continues, until December 31, 1970, the renewal term of any copyright that would otherwise expire before that date, including renewal copyrights previously extended to December 31, 1969, by Public Laws 87-668, 89-442, 90-141, and 90-416.

If enacted, the resolution would be the fifth in a series of interim extensions to continue temporarily the renewal term of expiring copyrights pending enactment of a comprehensive revision of the present copyright law. The proposed new copyright law, which was passed by the House of Representatives in the 90th Congress on April 11, 1967 (H.R. 2512) and is now under active consideration by the Senate Judiciary Committee (S. 453), increases the duration of copyright and extends the total available term of all subsisting copyrights from 56 to 75 years. The purpose of the joint resolution, and of previous interim extensions, is to prevent works already in their second copyright term from falling into the public domain for the time being, so that they may enjoy the 75-year term when the anticipated new copyright law becomes effective.

The urgent need for complete revision of the anachronistic 1909 copyright law now in effect is widely recognized. At the same time, the rapid development of new information, entertainment, and communications media has created a progression of new copyright problems. Ironically, while expanding technology increases the need for copyright revision, it also creates new and difficult issues whose resolution has delayed the revision program.

Following House passage of the 1967 revision bill, the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights concluded extensive public hearings on the bill, but further congressional action in the 90th Congress was precluded by the continuing controversy over cable television. The Supreme Court's 1968 decisions on the copyright and regulatory aspects of cable television failed to bring the problem any closer to a solution and, although some progress was reported, a series of meetings sponsored by the Senate subcommittee and the private interests also failed to resolve the issue. A proposed agreement worked out by the staffs of the National Association of Broadcasters and the National Cable Television Association was not accepted by the Board of Directors of the NAG. Under these circumstances, Senator McClellan, chairman of the Senate Judiciary Subcommittee announced his determination to proceed immediately toward Senate action on the revision bill in this session of the 91st Congress, and work toward this end is progressing rapidly at the present time.

I strongly support Senate Joint Resolution 143 as a means of preserving the continuity and momentum of the program for general revision of the copyright law. At the same time, I continue to be seriously concerned about the effect any further delays in consideration of the general revision will have on its chances for eventual passage. It is important that this fifth interim extension of subsisting copyright be the last of the series, and that it be followed closely

by enactment of the badly needed new copyright law. I believe that this goal is sufficiently important to warrant the efforts essential to its achievement before the expiration of the extension on December 31, 1970.

Sincerely yours,

L. QUINCY MUMFORD,
Librarian of Congress.

Public Law 91-147
91st Congress, S.J. Res. 143
December 16, 1969
83 Stat. 360

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, by Public Law 89-142, by Public Law 90-141, or by Public Law 90-416 (or by all or certain of said laws), would expire prior to December 31, 1970, such term is hereby continued until December 31, 1970.

Approved December 16, 1969.