Renewal Term Extensions under the 1909 Copyright Act

Extending Term to December 31, 1974

COPYRIGHT PROTECTION IN CERTAIN CASES

JUNE 29, (Legislative day, JUNE 28),
1972.--Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following
R E P O R T
[To accompany S.J. Res. 247]

The Committee on the Judiciary, to which was referred the joint resolution (S.J. Res. 247) extending the duration of copyright protection in certain cases, having considered the same, reports favorably thereon and recommends that the joint resolution do pass.

PURPOSE

The purpose of this legislation is to continue until December 31, 1974, the renewal term of any copyright subsisting on the date of approval of this joint resolution, or the term as extended by Public Law 87-668, by Public Law 89-142, by Public Law 90-141, by Public Law 90-416, by Public Law 91-147, by Public Law 91-555, or Public Law 92-170 (or by all or certain said laws) where such term would otherwise expire prior to December 31, 1974. 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. The most recent extension (Public Law 92-170 will expire on December 31, 1972.

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 **[2]** 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, and in 1969 reported S. 543 for the general revision of the copyright law. No further action was taken on that legislation. On February 8, 1971, Senator John L. McClellan introduced S. 644 of the 92d Congress for the general revision of the copyright law. That bill is now pending in the Subcommittee on Patents, Trademarks and Copyrights.

For all practical purposes action on copyright revision legislation has been suspended during the past several years awaiting the determination by the Federal Communications Commission of its new cable television policy. The resolution of the copyright aspects of the cable television issue, which is a principal provision of the revision bill, is necessarly [sic] contingent on the determination of the regulatory policies relating to CATV. After protracted delays the Federal Communications Commission has adopted new CATV rules which became effective on March 31, 1972. A number of petitions for reconsideration of those rules were filed, and it was only on June 16th of this year that the Commission completed action on those petitions.

It is apparent that the Commission action has come too late to allow the Congress to enact the copyright revision bill during this session. However, the adoption of the FCC cable television rules removes the barrier to progress on copyright revision, and creates a real prospect for enactment of the revision bill in the 93d Congress. Since it is uncertain if final action on that legislation can be accomplished during the 1st session of the 93d Congress, Senate Joint Resolution 247 extends the renewal term of expiring copyrights to December 31, 1974. While it is to be hoped that the revision bill can be enacted substantially in advance of that date, the Copyright Office will require a period of from 4 to 6 months to prepare for the administration of the new statute.

Both S. 644 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.

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.

HREP92-1449 COPYRIGHT PROTECTION IN CERTAIN CASES

SEPTEMBER 26, 1972.--Referred to the House Calendar and ordered to be printed

Mr. CELLER, from the Committee on the Judiciary, submitted the following
R E P O R T
together with
DISSENTING VIEWS
[To accompany S.J. Res. 247]

The Committee on the Judiciary, to whom was referred the joint resolution (S.J. Res. 247) extending the duration of copyright protection in certain cases, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

PURPOSE

The purpose of this legislation is to continue until December 31, 1974, the renewal term of any copyright subsisting on the date of approval of this joint resolution, or the term as extended by Public Law 87-668, by Public Law 89-142, by Public Law 90-141, by Public Law 90-416, by Public Law 91-147, by Public Law 91-555, or Public Law 92-170 (or by all or certain said laws) where such term would otherwise expire prior to December 31, 1974. 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. The most recent extension (Public Law 92-170) will expire on December 31, 1972.

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

For its report herein the Committee adopts in substance the statement in Senate Report 92-934 which accompanied Senate Joint Resolution 247 in the Senate, as follows:

This legislation arises from a study of the U.S. copyright system authorized by the Congress in 1955. After extensive **[2]** 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, and in 1969 reported S. 513 for the general revision of the copyright law. No further action was taken on that legislation. On February 8, 1971, Senator John L. McClellan introduced S. 611 of the 92d Congress for the general revision of the copyright law. That bill is now pending in the Subcommittee on Patents, Trademarks and Copyrights.

For all practical purposes action on copyright revision legislation has been suspended during the past several years awaiting the determination by the Federal Communications Commission of its new cable television policy. The resolution of the copyright aspects of the cable television issue, which is a principal provision of the revision bill, is necessarily contingent on the determination of the regulatory policies relating to CATV. After protracted delays the Federal Communications Commission has adopted new CATV rules which became effective on March 31, 1972. A number of petitions for reconsideration of those rules were filed, and it was only on June 16th of this year that the Commission completed action on those petitions.

It is apparent that the Commission action has come too late to allow the Congress to enact the copyright revision bill during this session. However, the adoption of the FCC cable television rules removes the barrier to progress on copyright revision, and creates a real prospect for enactment of the revision bill in the 93d Congress. Since it is uncertain if final action on that legislation can be accomplished during the 1st session of the 93d Congress, Senate Joint Resolution 247 extends the renewal term of expiring copyrights to December 31, 1974. While it is to be hoped that the revision bill can be enacted substantially in advance of that date, the Copyright Office will require a period of from 4 to 6 months to prepare for the administration of the new statute.

Both S. 644 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.

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.

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

COST

Enactment of Senate Joint Resolution 247 will entail no cost to the Government of the United States.

AGENCY REPORTS

AGENCY REPORTS

Attached hereto and made part hereof are a letter from the Department of State and a letter from the Librarian of Congress in support of the legislation.

DEPARTMENT OF STATE,
Washington, D.C.,
September 8, 1972.

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

DEAR MR. CHAIRMAN: This letter is being sent in response to your request of August 9, 1972 for a report by the Department of State on S.J. Res. 247, a Bill to extend the duration of copyright protection in certain cases. The Department of State fully endorses and supports this Bill.

As you are aware, since 1962 the Congress has passed a series of temporary bills extending the term of copyright for existing works whose renewal term was due to expire. This was done in order to prevent works from falling into the public domain that would otherwise remain subject to copyright if the pending legislation to revise the U.S. Copyright Law, with its extended term of protection, were to become law.

The Department of State strongly supports a passage of S. 644, the legislation to revise the Copyright Law. Among other things the Revision Bill would provide copyright protection for new works for a term of the lifetime of the author plus fifty years and, for existing works, when the copyright is renewed, for a total term of seventy-five years. Thus, for existing works, the previous maximum term of 56 years would be increased by 19 years. This change in our Copyright Law would go far toward enabling the United States to become party to the Berne Copyright Convention. The Berne Convention, together with the Universal Copyright Convention to which the United States adheres, constitute the major sources of international copyright protection. Because of the prominent role of U.S. citizens in the fields of writing, cinema, music and art, the Department has for some time supported eventual membership of the U.S. in the Berne Convention.

Since it does not appear likely, however, that the Copyright Revision Bill will pass the Congress before December 31, 1972 when the current Copyright Extension Bill expires, the Department believes that another Extension Bill should be passed so that the term of protection for renewed copyrights can be extended at least until the Congress has taken

definite action on the Revision Bill. The Department very much hopes that the Congress can take action on the Revision Bill in the next session and that the need for future Extension Bills will thus be eliminated.

[4] It should be noted that the proposed Extension Bill affects not only the interests of U.S. copyright proprietors but also those of copyright owners who are nationals of many other countries. To date, the Department has received letters from groups representing authors and publishers in the United Kingdom, Italy, France, Israel, Spain, Austria, Switzerland and Denmark, expressing deep conern that a significant number of valuable U.S. copyrights held by their members might be allowed to lapse after December 31, 1972. All of these countries, by the way, are members of the Berne Copyright Convention and a U.S. author first or simultaneously publishing his work in these or any other Berne member State receives protection in all Berne States for his life plus fifty years.

Since the advent of the Universal Copyright Convention in the early nineteen fifties, the United States has played a leading role in insuring fair and adequate copyright protection on an international scale. This leading role was most recently manifested in the negotiations leading up to the July 1971 revision of the Universal Copyright Convention, to which the Senate gave advice and consent to ratification on August 14, 1972. The U.S. credibility as a leader in assuring international copyright protection would be clearly enhanced if S.J. Res. 247 is passed.

For the foregoing reasons, the Department of State fully supports S.J. Res. 247 and recommends its early enactment into public law.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

DAVID ABSHIRE,
Assistant Secretary for
Congressional Relations.

Form

THE LIBRARIAN OF CONGRESS,
Washington, D.C., August 24, 1972.

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

DEAR MR. CELLER: This is in response to your request of August 17, 1972, for a report on Senate Joint Resolution 247, extending the duration of copyright protection in certain cases. This joint resolution, which passed the Senate on June 30, 1972, continues until December 31, 1974, the renewal term of copyrights that would otherwise expire before that date, including renewal copyrights previously extended to December 31, 1972, by Public Laws 87-668, 89-142, 90-141, 90-416, 91-147, 91-555, and 92-170.

If enacted, the joint resolution would be the eighth 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 on April 11, 1967 (H.R. 2512, 90th Congress) and is now pending in the Senate Judiciary Committee (S. 644, 92d Congress), extends the total duration of subsisting **[5]** copyrights that have been renewed, from 56 to 75 years. The purpose of the joint resolution, as of the previous interim extensions, is to prevent works already in their renewal term from falling into the public domain for the time being, so that they will have the benefit of the 75-year term when the anticipated new copyright law is enacted.

The seven previous interim extensions of renewed copyrights that would otherwise have expired preserved the copyrights in a total of about 99,500 works. Senate Joint Resolution 247 would add about 25,300 more works to that number, thus preserving until December 31, 1974, the copyrights in a total of about 124,800 works. Of this new total number, about 85,700 represent musical compositions, 19,300 represent books, 12,900 represent periodicals, and 6,900 represent all other classes.

Senator McClellan, Chairman of the Senate Judiciary Subcommittee, has indicated that, while the remaining unresolved issues, chiefly that of cable television carriage of broadcasts of copyrighted material, are now in process of resolution, action on the legislation for general revision of the copyright law cannot be completed this year. The extension of subsisting renewal copyrights provided for by the joint resolution is necessary to preserve them pending

enactment of the general revision bill. We support Senate Joint Resolution 247, with the fervent hope that enactment of the general revision bill can be accomplished before the end of the 93d Congress.

Sincerely yours,

L. QUINCY MUMFORD,
Librarian of Congress.

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DISSENTING VIEWS OF HON. ROBERT W. KASTENMEIER
AND CONCURRENCE THEREIN
BY HON. DON EDWARDS, HON.
JOHN CONYERS, JR., AND
HON. ROBERT F. DRINAN

I regret that I am again constrained to dissent from the action of the Committee in the matter of these annually recurring, ostensibly "interim," extensions of expiring copyrights.

If enacted, S.J. Res. 247 will be the eighth in a series of such extensions which would continue temporarily the renewal term of expiring copyrights, pending enactment of a general revision of the present copyright law. What began in 1962 with a three-year extension, in anticipation of prompt copyright law revision, was followed in 1965 with a further two-year extension, and since then by five annual one-year extensions. Legislation of this character has come to occupy a familiar place at the end of each legislative session.

Although the House sent a copyright revision bill (H.R. 2512) to the other body in 1967, and although the Chairman of the Senate Copyright Subcommittee has indicated his belief that the Senate will complete its work on a copyright revision bill in the 93d Congress, the history of the legislative impasse surrounding the copyright revision project over the past five years gives little cause for confidence that a revision bill can pass the Senate in the foreseeable future.

Although many of us on the Subcommittee have on earlier occasions supported interim extension legislation, we have reached the con **[6]** clusion that this may have been a mistake. Furthermore, we believe that S.J. Res. 247 affords a windfall to the holders of copyrights in their renewal terms, where such term would otherwise expire this year, and it is impossible to identify any public interest that would be served by the enactment of this measure. Our former colleague, Congressman Poff, and I, on behalf of the Subcommittee, promised the House, in the past, that we would not support any further interim extension, and in acting upon this promise, I am opposing Senate Joint Resolution 247. I regret to see our efforts undercut.

The most frequently heard defense of the legislation invokes compassion for elderly authors and composers whose retirement income is threatened by the expiration of their copyrights. What is lost sight of here is that we are talking about copyrights that are between 56 and 67 years old, so that their present owners are in all but very rare cases descendents and assignees, including commercial, corporate assignees, of authors and composers rather than the creators of the copyrighted works themselves.

We must remember that the national policy is to encourage free enterprise as well as authorship--not to preempt ever greater segments of the public domain, as this measure and its predecessors tend to do.

On December 7, 1970, our Chairman, during a House colloquy on another copyright extension, Senate Joint Resolution 230, said:

I have told those in the other body who are responsible for passing this bill that we are now considering that I would under no circumstances renew this copyright provision, but that they must pass the comprehensive compromise code, otherwise there would be no more extensions. This is the last extension.

I would say that it is time we took our Chairman at his word and permitted these copyrights to expire and pass into the public domain.

ROBERT W. KASTENMEIER.

The undersigned concur in the foregoing dissenting views:

DON EDWARDS
JOHN CONYERS, Jr.
ROBERT F. DRINAN

Public Law 92-566
92nd Congress, S.J. Res. 247
October 25, 1972

JOINT RESOLUTION

Extending the duration of copyright protection in certain cases.

Resolved by the Senate and House 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, by Public Law 90-416, by Public Law 91-147, by Public Law 91-555, or by Public Law 92-170 (or by all or certain of said laws) would expire prior to December 31, 1974, such term is hereby continued until December 31, 1974.

Approved October 25, 1972.