HEINONLINE

Citation: 5 William H. Manz Federal Copyright Law The Histories of the Major Enactments of the 105th S1770 1999

Content downloaded/printed from HeinOnline (http://heinonline.org) Wed Apr 10 22:58:55 2013

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at http://heinonline.org/HOL/License

-- The search text of this PDF is generated from uncorrected OCR text.

UNIVERSITY OF DELAWARE "FIGHTING BLUE HENS"

Mr. ROTH. Madam President, the NCAA tournament is called by some the 'Big Dance' because only 64 teams are invited each year. This year, I am proud to say one of those teams is the Fighting Blue Hens from the University of Delaware—the 1998 champions of the America East Conference. The Blue Hens put together a remarkable 20 win season culminating last Saturday in a win over Boston University to clinch a spot in the tournament.

Coach Mike Brey and his team should be proud of their excellent season.

Now some will say that the odds are long because the Blue Hens are seeded 15th and their opponent is seeded 2nd. But I remind you, more than 200 years ago, another group of men from Delaware faced some steep odds themselves. Back then, the number one seed was the Red Coats.

Facing off against the Red Coats was a company of men from Delaware recruited by Captain Jonathan Caldwell. They quickly became known as the Blue Hens because their fighting ability was said to rival that of a famous fighting blue hen. They fought well and hard in battles from Long Island and White Plains to Trenton and Princeton.

Two hundred years ago somebody picked a fight with the Blue Hens and they were sent home packing. Don't be surprised if it happens again.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MARCH 6TH

Mr. HELMS. Madam President, the American Petroleum Institute reports that for the week ending March 6, the U.S. imported 7,700,000 barrels of oil each day, 190,000 barrels more than the 7,510,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 54.9 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 7,700,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business yesterday, Tuesday, March 10, 1998, the federal debt stood at $5,525,631,040,092.91 (Five trillion, five hundred twenty-five billion, six hundred thirty-one million, forty thousand, ninety-two dollars and ninety-one cents).

One year ago, March 10, 1997, the federal debt stood at $5,354,330,000,000 (Five trillion, three hundred fifty-four billion, three hundred thirty million).

Five years ago, March 10, 1993, the federal debt stood at $4,208,636,000,000 (Four trillion, two hundred eight billion, six hundred thirty-six million).

Ten years ago, March 10, 1988, the federal debt stood at $2,481,157,000,000 (Two trillion, four hundred eighty-one billion, one hundred fifty-seven million).

Fifteen years ago, March 10, 1983, the federal debt stood at $1,224,513,000,000 (One trillion, two hundred twenty-four billion, five hundred thirteen million) which reflects a debt increase of more than $4 trillion—$4,301,118,040,092.91 (Four trillion, three hundred one billion, one hundred eighteen million, forty thousand, ninety-two dollars and ninety-one cents) during the past 15 years.

TRIBUTE TO LOUISE CHASE, COMMANDER OF THE AMERICAN LEGION, DEPARTMENT OF PENNSYLVANIA

Mr. SPECTER. Madam President, on April 18, 1998, the Pennsylvania American Legion will honor its State Commander, Louise Chase, a World War II Navy veteran, who was elected Commander at the conclusion of the 79th convention on July 20, 1997. She is the first woman commander of the Department of Pennsylvania in its 80 year history.

In 1979, Commander Louise Chase was elected as the Department of Pennsylvania's first woman vice commander. She has served twice as District Commander. Her Legion service also includes terms as Adjutant of Philadelphia County and the Eastern Judicial Section, two terms as Post Commander and 12 years as Adjutant of Tioga Post 319. She has also served as the organization's state legislative chairman and twice as chairman of the Select Committee on Economics and Benefits, as well as chairman of several other committees.

She is one of only two Pennsylvania Legionnaires to have served on committees of the two National Conventions held in Pennsylvania. She served for 16 years as the Eastern Regional Vice Chairman of the United States Service Academies Selection Committee for Senators John Heinz and Harris Wofford.

Commander Chase served in the U.S. Navy, with duty posting in Washington, D.C. during World War II.

Her family has a long tradition of service to America dating from the Civil War, including her brother Tom who saw sea duty with the U.S. Navy off Cuban waters during the Cuban Missile Crisis. Her late father personally worked with the original astronauts while they were in training at the Johnsville Naval Air Development Center in Warminster, Bucks County, Pennsylvania.

Her business career includes serving as controller and office manager of Philadelphia's prestigious Germantown Cricket Club for 13 years; controller of a construction company, plus manager of two of its high rise apartment buildings for 10 years; and manufacturers' representative for paper container companies for five years. She recently retired as an international marketing representative of a major computer manufacturer.

Her husband, Joseph, was Pennsylvania American Legion Commander in 1991-1992. The two live in Horsham, Montgomery County, Pennsylvania.

Madam President, I congratulate Commander Louise Chase for her service to the veterans of Pennsylvania. I am certain that the Testimonial Dinner being held in her honor on April 18, 1998 will be a fitting tribute to her years of service to The American Legion, veterans, and to her country.

ADVOCACY OF THE DIGITAL COPYRIGHT CLARIFICATION AND TECHNOLOGY EDUCATION ACT OF 1997

Mr. ASHCROFT. Madam President, I rise today to talk about the role of government in the technology sector. Two things can be predicted with confidence about congressional meddling in this sector of the economy. First, legislation will be obsolete on the day it is passed. Second, it will hurt consumers, students, teachers, workers, shareholders, and the economy. if Congress had helped set up the automobile industry, there still might be a livery stable in every town, and buggy whip factories in large cities. America's dynamic, world-leading computer industry must be kept free of regulation by slow-moving federal bureaucrats who cannot possibly understand or keep pace with the most dynamic sector of the economy.

Taken together, these developments highlight the need for Congress to step back and draft with care the necessary legislation to extend copyright protections to those who develop content for the digital age, instead of blindly racing ahead to enact a Clinton Administration proposal supported by major Hollywood interests.

Consider the consequences. Last year, Americans purchased 11 million PCs and 16.8 million VCRs. This year, another 12.6 million PCs and 16.6 million VCRs are expected to be purchased in the United States. These devices enjoy great popularity. At least one VCR is found in 90 million homes and at least one PC is found in 42 million homes, specifically because of the convenience, entertainment and efficiency they bring. They are popular precisely because they are useful and technologically advanced. Nonetheless, a House subcommittee specifically rejected an amendment that would have

HeinOnline -- 5 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress S1770 1999

assured consumers access to the next generation of these products.

This isn't the first time someone has tried to stop the advance of new technology. In the mid 1970s, for example, a lawsuit was filed in an effort to block the introduction of the Betamax video recorder. At that time, representatives of Hollywood declared that the VCR would destroy their business. They could not have been more wrong. Last year video tape rentals accounted for a $16 billion portion of the entertainment market. Indeed, people in the movie industry have stated that video sales often make a movie profitable, and some movies are produced exclusively for the home rental market. The movie industry has not learned from history. The same doomsayers are at it again, decrying the lawful use of products by consumers. Their rhetoric has been updated for the digital age, but their message remains the same.

This is an important debate that is currently taking place in the Congress and that is the discussion regarding how best to update the copyright laws for the digital age. In particular, I want to bring to the attention of my colleagues two significant developments that occurred in the last weeks, and to urge you to join as cosponsors of S. 1146, the Digital Copyright Clarification and Technology Education Act of 1997.

In order to help focus the debate on the best way to update the copyright laws for the digital era, I introduced S. 1146 in September. This legislation is a comprehensive effort to address three broad areas of critical importance to the future of the Internet: (1) the scope of copyright liability for on-line and Internet service providers; (2) the use of computers by teachers, librarians, and students to foster distance learning opportunities and to promote the preservation of important historical works and resources; and (3) the proper implementation of two international copyright treaties. Subsequently, Representatives RICK BOUCHER and TOM CAMPBELL introduced a similar comprehensive bill in the House (H.R. 3048) to foster the growth of the Internet for the benefit of everyone in society.

Two important developments took place in the past two weeks that underscore the importance of a comprehensive approach to updating the copyright laws. First, on February 25th, 40 distinguished professors of intellectual property law and technology law said in a letter to the Chairmen of the Senate and House Judiciary Committees that they believe these two bills, S. 1146 and H.R. 3048, "taken together, would bring U.S. law into compliance with the WIPO treaties while preserving the principle of balance which is at the heart of the American copyright tradition." They went on to say: "At this crucial moment in the history of American intellectual property law, it is important that Congress do neither too much nor too little to bring copyright law into the digital era. In our view, the Ashcroft-Boucher-Campbell bills get the balance right."

Second, just one day later, in a major blow to consumers and the high-tech community, a House subcommittee voted out legislation that would make it illegal to produce or even possess future generations of VCRs and personal computers. Faced squarely with the question of whether the next generation of products found in virtually every home in America should be deemed unlawful "circumvention" devices, a majority of the subcommittee voted for the interests of copyright owners over the interests of consumers and the computer companies that have done so much to make our country the technology leader of the world.

The Subcommittee vote endangers both the liberties that consumers now enjoy and the vitality of the technology industry, which has been the premiere engine for growth in the United States. This approach also suggests the tendency of Congress to "fix first, ask questions later." The bill demonstrates the dangers of fixing what we do not understand. Now is the time to draw a bright line against federal regulation of the computer industry. Washington must not start down the road of dreaming up regulations to fix problems that may or may not exist.

I think it useful to recall what the Supreme Court had to say in ruling for consumers and against two movie studios in that case:

"One may search the Copyright Act in vain for any sign that the elected representatives of the millions of people who watch television every day have made it unlawful to copy a program for later viewing at home, or have enacted a flat prohibition against the sale of machines that make such copying possible."

As someone who filed an independent brief in the Supreme Court as the Missouri Attorney General in support of the right of consumers to buy that first generation of VCRs, I want to reassure consumers across the country that I will fight against legislation that would ban the next, exciting generation of technology.

What kind of a bill should we consider? One that looks to the future. Above all, one that maintains the balance the professors of intellectual property and technology law have reminded us is at the core of our great copyright tradition and protection of property. The House subcommittee bill would make it all but impossible for someone to make a fair use of a copyrighted work, even though a fair use exception has been a fixture of copyright law from the beginning. What is more, the bill would actually make it illegal to make a copy of a portion of a protected work for fair use in certain circumstances. This is not balance. This is a blank check payable to Hollywood.

Unlike the bill starting to move through the House, S. 1146 will spur technological innovation in small entrepreneur workshops and clean-room factories; it will create new educational opportunities in brick schoolhouses and family living rooms; and it will help preserve deteriorating manuscripts in your local library and the nation's largest universities.

The Digital Copyright Clarification and Technology Education Act will encourage the use of computers and other new high-tech products to foster educational opportunities for everyone from children to senior citizens. Twenty-two years ago, Congress recognized that television could connect teachers in one part of town to students in another part of town. Today, technology has moved forward and has provided this country with fantastic new opportunities. We need to update the law so that schools may use computers to bring the world into the classroom and the classroom into the home.

This legislation will ensure librarians and archivists may use the latest high-tech equipment to preserve deteriorating books, manuscripts, and works of art for future genrations to enjoy. New digital technology can enhance the educational experience and preserve our shared culture and history far into the future. Library patrons and students shouldn't be consigned to outmoded equipment when exciting new digital products are on the horizon.

S. 1146 will guarantee that the centuries-old "fair use" rights of students, library patrons, scholars, and consumers will continue to be recognized in the new digital era of the Internet.

In addition the legislation will encourage personal computer manufacturers and software developers to create new products which promote the productivity of Americans across the country. Innovators shouldn't be threatened with criminal penalties for bringing exciting new products to market. Instead, they should be encouraged to develop new products that will add enjoyment and convenience to our lives, while creating good new jobs for American workers.

Finally, we will encourage the growth of the Internet by eliminating the threat of certain copyright infringement lawsuits that telephone companies, service providers, and others face in helping consumers connect to the World Wide Web.

Technology won't stand still. We need to move forward with the consideration of copyright legislation that promotes new technology, while protecting intellectual property rights. In doing so we must be diligent in looking to the future, not to the past, or to interests that would halt innovation to serve their own parochial concerns.

At this critical juncture in history, we need to be sure we get it right. We can only do so by maintaining the balance that has served our country so well and for so long.

HeinOnline -- 5 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress S1771 1999

HeinOnline -- 5 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress S1772 1999

Document No. 109

HeinOnline -- 5 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress [i] 1999

HeinOnline -- 5 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress [ii] 1999