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1. Bill	2. Date	3. Pages
H.R.2372	Nov 25, 1991 (176)	H11257-61

4. Action:

PASSED UNDER SUSPENSION OF THE RULES

Copyright renewal: Passed H.R. 2372, amended, to amend title 17, United States Code, with respect to fair use and copyright renewal, and to reauthorize the National Film Registry Board. Agreed to amend the title;

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COPYRIGHT AMENDMENTS ACT OF 1991

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2372) to amend title 17, United States Code, with respect to fair use and copyright renewal, to reauthorize

the National Film Registry Board, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Amendments Act of 1991".

TITLE I—RENEWAL OF COPYRIGHT

SEC. 101. SHORT TITLE.

This title may be referred to as the "Copyright Renewal Act of 1991".

SEC. 102. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of—

"(i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or

"(ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire,

the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work—

"(i) the author of such work, if the author is still living,

"(ii) the widow, widower, or children of the author, if the author is not living,

"(iii) the author's executors, if such author, widow, widower, or children are not living, or

"(iv) the author's next of kin, in the absence of a will of the author, shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, if the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragrpah (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year before the expiration of the original term of copyright by any person entitled under paragraph (1)(B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2)(A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

In the case of applications made under clause (i) for works not originally registered, the Register may, in accordance with regulations, require an original term registration as a condition to the registration for the renewed and extended term, except in the case of a Berne Convention work whose country of origin is not the United States.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant or a transfer or license of copyright that is made before the expiration of the original term of copyright, may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the copyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.

"(C) If an application to register a claim in the first term of copyright is not made before expiration of the first term, the remedies of actual and statutory damages, attorney's fees, and seizure and forfeiture otherwise provided by sections 504, 505, and 509, respectively, shall not be available to the copyright owner for any act of infringement that commences before registration is made of a claim in the renewed and extended term of copyright, even if the infringing conduct continues after registration is made.".

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under paragraphs (1) and (2) of section 304(a) of title 17, United States Code, (as amended by subsection (a) of this section) shall have the same effect with respect to any grant, before the effective date of this section, of a transfer or license of the further term as did the renewal of a copyright before the effective date of this section under the law in effect at the time of such grant.

(c) CONFORMING AMENDMENT.—Section 304(c) of title 17, United States Code, is amended in the matter preceding paragraph (1) by striking "second proviso of subsection (a)" and inserting "subsection (a)(1)(C)".

(d) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended by striking "At" and all that follows through "unpublished work," and inserting "At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date,".

(e) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended by inserting after "409," the following: "in the application for a renewal registration,".

(f) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended—

(1) by striking "in the first term"; and

(2) by striking "$12" and inserting "$20".

(g) EFFECTIVE DATE: COPYRIGHTS AFFECTED BY AMENDMENT.—(1) Subject to paragraphs (2) and (3), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply only to those copyrights secured between January 1, 1963, and December 31, 1977. Copyrights secured before January 1, 1963, shall be governed by the provisions of section 304(a) of title 17, United States Code, as in effect on the day before the effective date of this section.

(3) This section and the amendments made by this section shall not affect any court proceedings pending on the effective date of this section.

TITLE II—NATIONAL FILM PRESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Act of 1991".

SEC. 202. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereinafter in this title referred to as the "Librarian") shall establish a National Film Registry pursuant to the provisions of this title, for the purpose of maintaining and preserving films that are culturally, historically, or aesthetically significant.

SEC. 203. DUTIES OF THE LIBRARIAN OF CONGRESS

(a) STUDY OF FILM PRESERVATION.—The Librarian shall, after consultation with the Board established pursuant to section 204, conduct a study on the current state of film preservation and restoration activities, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall, in conducting the study—

(A) take into account the objectives of the national film preservation program set forth in clauses (i) through (iii) of subsection (b)(1)(A); and

(B) consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation.

(2) Not later than 1 year after the date of the enactment of this Act, the Librarian shall submit to the Congress a report con-

taining the results of the study conducted under paragraph (1).

(b) POWERS.—(1) The Librarian shall, after consultation with the Board, do the following:

(A) After completion of the study required by subsection (a), the Librarian shall, taking into account the results of the study, establish a comprehensive national film preservation program for motion pictures, in conjunction with other film archivists and copyright owners. The objectives of such a program shall include—

(i) coordinating activities to assure that efforts of archivists and copyright owners, and others in the public and private sector, are effective and complementary;

(ii) generating public awareness of and support for those activities; and

(iii) increasing accessibility of films for educational purposes, and improving nationwide activities in the preservation of works in other media such as videotape.

(B) The Librarian shall establish guidelines and procedures under which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication.

(C) The Librarian shall establish procedures under which the general public may make recommendations to the Board regarding the inclusion of films in the National Film Registry.

(D) The Librarian shall establish procedures for the examination by the Librarian of prints of films named for inclusion in the National Film Registry to determine their eligibility for the use of the seal of the National Film Registry under paragraph (3).

(E) The Librarian shall determine which films satisfy the criteria established under subparagraph (B) and qualify for inclusion in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in the Registry.

(2) The Librarian shall publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3) The Librarian shall provide a seal to indicate that a film has been included in the National Film Registry and is the Registry version of that film.

(4) The Librarian shall publish in the Federal Register the criteria used to determine the Registry version of a film.

(5) The Librarian shall submit to the Congress a report, not less than once every two years, listing films included in the National Film Registry and describing the activities of the Board.

(c) SEAL.—The seal provided under subsection (b)(3) may be used on any copy of the Registry version of a film. Such seal may be used only after the Librarian has examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or an authorized licensee of the copyright may place or authorize the placement of the seal on a copy of a film selected for inclusion in the National Film Registry, and the Librarian may place the seal on any print or copy of the film that is maintained in the National Film Registry Collection of the Library of Congress. The person authorized to place the seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

(d) DEVELOPMENT OF STANDARDS.—The Librarian shall develop standards or guidelines by which to assess the preservation or restoration of films that will qualify films for use of the seal under this section.

SEC. 204. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of up to 18 members, who shall be selected by the Librarian in accordance with the provisions of this section. Subject to subparagraphs (C) and (O), the Librarian shall request each organization listed in subparagraphs (A) through (P) to submit to the Librarian a list of not less than 3 candidates qualified to serve as a member of the Board. Except for the members-at-large appointed under paragraph (2), the Librarian shall appoint 1 member from each such list submitted by such organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. The organizations are the following:

(A) The Academy of Motion Pictures Arts and Sciences.

(B) The Directors Guild of America.

(C) The Writers Guild of America. The Writers Guild of America East and the Writers Guild of America West shall each nominate not less than 3 candidates, and a representative from 1 such organization shall be selected as the member and a representative from the other such organization as the alternate.

(D) The National Society of Film Critics.

(E) The Society for Cinema Studies.

(F) The American Film Institute.

(G) The Department of Theatre, Film and Television of the College of Fine Arts at the University of California, Los Angeles.

(H) The Department of Film and Television of the Tisch School of the Arts at New York University.

(I) The University Film and Video Association.

(J) The Motion Picture Association of America.

(K) The National Association of Broadcasters.

(L) The Alliance of Motion Picture and Television Producers.

(M) THe Screen Actors Guild of America.

(N) The National Association of Theater Owners.

(O) The American Society of Cinematographers and the International Photographers Guild, which shall jointly submit 1 list of candidates from which a member and alternate will be selected.

(P) The United States members of the International Federation of Film Archives.

(2) In addition to the Members appointed under paragraph (1), the Librarian shall appoint up to 2 members-at-large. The Librarian shall select the at-large members from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with the film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall, in selecting 1 such member-at-large, give preference to individuals who are commercial film archivists. The Librarian shall also select from the names submitted under this paragraph an alternate for each member-at-large, who may attend those meetings to which the member-at-large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member of the Board to serve as Chairperson.

(c) TERM OF OFFICE.—The term of each member of the Board shall be 3 years, except that there shall be no limit to the number of terms that any individual member may serve.

(2) The vacancy in the Board shall be filled in the manner in which the original appointment was made under subsection (a), except that the Librarian may fill the vacancy from a list of candidates previously submitted by the organization or organizations involved. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—9 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home of regular places of business in the performance of functions of the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and the responsibilities of the Board.

SEC. 205. RESPONSIBILITIES AND POWERS OF BOARD.

(a) IN GENERAL.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and shall consult with the Librarian, as provided in section 203, with respect to the inclusion of such films in the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations, and representatives of academic institutions with film study programs. The Board shall nominate not more than 25 films each year for inclusion in the Registry.

(c) GENERAL POWERS.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Librarian and the Board considers appropriate.

SEC. 206. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) ACQUISITION OF ARCHIVAL QUALITY COPIES.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of the Registry version of each film included in the National Film Registry. Whenever possible, the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—The Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film included in the National Film Registry, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials.

(c) PROPERTY OF UNITED STATES.—All copies of films on the National Film Registry that are received by the Librarian and other materials received by the Librarian under subsection (b) shall become the prop-

erty of the United States Government, subject to the provisions of title 17, United States Code.

(d) NATIONAL FILM REGISTRY COLLECTION.—All copies of films on the National Film Registry that are received by the Librarian and all materials received by the Librarian under subsection (b) shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, and in accordance with title 17, United States Code, provide for reasonable access to films such collection for scholarly and research purposes.

SEC. 207. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—(1) No person shall knowingly distribute or exhibit to the public a version of a film which bears the seal described in section 203(b)(3) if such film—

(A) is not included in the National Film Registry; or

(B) is included in the National Film Registry, but such copy was not made from a print that was examined and approved for the use of the seal by the Librarian under section 203(c).

(2) No person shall knowingly use the seal described in section 203(b)(3) to promote any version of a film other than a Registry version.

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal described in section 203(b)(3) shall be effective for each film after the Librarian publishes in the Federal Register the name of that film as selected for inclusion in the National Film Registry.

SEC. 208. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 207(a).

(b) RELIEF.—(1) Except as provided in paragraph (2), relief for a violation of section 207(a) shall be limited to the removal of the seal of the National Film Registry from the film involved in the violation.

(2) In the case of a pattern or practice of the willful violation of section 207(a), the United States district courts may order a civil fine of not more than $10,000 and appropriate injunctive relief.

SEC. 209. LIMITATIONS OF REMEDIES.

The remedies provided in section 208 shall be the exclusive remedies under this title, or any other Federal or State law, regarding the use of the seal described in section 203(b)(3).

SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate to carry out this title.

(b) EXPERTS AND CONSULTANTS.—The Librarian may, in carrying out this title, procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule. In no case may a member of the Board be paid as an expert or consultant under such section.

SEC. 211. DEFINITIONS.

As used in this title—

(1) the term "Librarian" means the Librarian of Congress;

(2) the term "Board" means the National Film Preservation Board;

(3) the term "film" means a "motion picture" as defined in section 101 of title 17, United States Code, except that such term does not include any work not originally fixed on film stock, such as work fixed on videotape or laser disks;

(4) the term "publication" means "publication" as defined in section 101 of title 17, United States Code; and

(5) the term "Registry version" means, with respect to a film, the version of the film first published, or as complete a version as the bona fide preservation and restoration activities by the Librarian, an archivist other than the Librarian, or the copyright owner can compile in those cases where the original material has been irretrievably lost.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Librarian to carry out the purposes to this title—

(1) $300,000 for fiscal year 1992, and

(2) $300,000 for each of the fiscal years 1993 and 1994, plus such additional amount, for each such fiscal year, as reflects any increase in the Consumer Price Index, as determined by the Secretary of Labor, occurring since the beginning of fiscal year 1992.

SEC. 213. EFFECTIVE DATE.

The provisions of this title shall apply to any copy of any film, including those copies of film selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988, except that any film so selected under such Act shall be deemed to have been selected for the National Film Registry under this title.

SEC. 214. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 and following) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, H.R. 2372—the Copyright Amendments Act of 1991—is a two-titled bill that will improve this Nation's copyright system. The bill was reported favorably by the Committee on the Judiciary with amendments on November 19, 1991. It is the workproduct of my subcommittee—the Subcommittee on Intellectual Property and Judicial Administration—which has jurisdiction over copyright law matters.

Title I is the Copyright Renewal Act of 1991, providing for the automatic renewal of copyrights secured on or after January 1, 1963, and before January 1, 1978, the effective date of the Copyright Revision Act of 1976.

Title I is a compromise which balances the rights of creators with the interests of users, such as those who engage in the pursuit—be it business or academic—of finding and distributing inaccessible copyrighted works.

The purpose of the renewal proposal is to allow the automatic renewal of copyright in works eligible for renewal between the years 1991 and 2005. At the same time, the bill encourages voluntary registration by removing the availability of most copyright remedies from authors or their heirs who fail to register their works.

Currently, renewal is a trap for the unwary. Compliance with the law requires authors to be aware and to remember that 27 years after first publication, a renewal registration must be filed in the Copyright Office in order to sustain the work's protection. In 1976 Congress opted to eliminate renewal for post-1987 works. This bill takes the same path.

At the same time, the bill limits the remedies of authors who fail a timely original term registration—that is, before the end of the first 28-year term of protection. Failure to file an original term registration would deny these authors the remedies of actual and monetary damages, attorneys fees, and seizure and forfeiture—provided in sections 504, 505 and 509 of the Copyright Act—for all infringements that occur in the second term of protection—47 years. These same authors would enjoy the automatic second term of protection of 47 years, whether or not they file an original term registration or a renewal term registration. Authors can cure their failure to register an original term registration by filing a renewal registration at any time during the second term, thereby availing themselves of all of the remedies of copyright for infringements which commence after the filing of the renewal registration. Prior infringements, even those that continue after the filing of a renewal registration, could only be met with a motion for injunctive relief—cease and desist—as provided in section 502 of the Copyright Act.

Permissive registration is already contemplated in the Copyright Act, and comports with our international treaty obligations. As this committee noted in its report of the Berne Convention Implement Act, "Registration * * * is in the public interest." Copyright registration promotes efficient litigation practices, to the benefit of the courts and the public as well as the parties to a lawsuit. Registration as a prerequisite to lawsuit helps to maintain the existence of a central, public depository of copyright claims. And registration fuels the Library of Congress.

Title I continues existing Copyright Office practice, allowing a renewal registration during the first term of copyright only where an original term registration has been filed. Exceptions would be made for Berne Convention works, whose country of origin is not the United States, and for universal copyright convention works—consistent with current practice—and with current obligations under both of those treaties.

Title II is the National Film Preservation Act of 1991, authorizing funding for film preservation activities through the year 1994. Title II will assure that films of important cultural, historical, and aesthetic significance to our country are properly preserved.

"It's a Wonderful Life," The Wizard of Oz", "Citizen Kane," and "Mr. Smith Goes to Washington" have long been cherished as part of our cultural heritage. Today these films are among the 75 Films of the National Film Registry and will be preserved for future generations. However, more than half of the feature films made in the United States before 1951 have literally vanished, and many more recent films are deteriorating quickly.

Congress first enacted the Film Preservation Act in 1988, under the leadership of Representative BOB MRAZEK, after achieving a compromise between proponents and opponents of moral rights for filmmakers. Title II of H.R. 2372 would advance the goals of the 1988 act: The promotion of film as an art form and the increased public awareness of the need to preserve our Nation's motion pictures. However, controversial film labeling provisions contained in the 1988 act have been deleted, and the current legislation places a new emphasis on the physical preservation of American films.

The film preservation activities of the Librarian of Congress fall within the jurisdictions of both the Judiciary Committee and the House Administration Committee. I would like to acknowledge the constructive efforts of the chairman of the Committee on House Administration, the gentleman from North Carolina, [Mr. ROSE], and the chairman of the Subcommittee on Libraries and Memorials, the gentleman from Missouri [Mr. CLAY] to preserve America's treasured films.

In closing, I would also thank the ranking minority member of the subcommittee, the gentleman from California, [Mr. MOORHEAD] and all of my subcommittee members for their assistance. I would also recognize the contributions of the chairman of the committee, the gentleman from Texas [Mr. BROOKS] and the ranking minority member, the gentleman from New York, [Mr. FISH].

I urge support for H.R. 2372.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my support for H.R. 2372, the Copyright Amendments Act of 1991. The legislation contains two titles. Title I deals with the automatic renewal of copyrights secured from 1963 to 1977 and title II would reauthorize the National Film Board.

Perhaps the best statement of the need for title I is found in the House report on the 1976 Copyright Revision Act. In that report the Judiciary Committee noted that:

> One of the worst features of the present (1909) copyright law is the provision for renewal of copyright. A substantial burden and expense, this unclear and highly technical requirement results in incalculable amounts of unproductive work. In a number of cases it is the cause of inadvertent and unjust loss of copyright.

Title I of H.R. 2372 represents an innovative solution to the problems caused by the two-term renewal system by providing for the automatic renewal of copyrights secured from 1963 to 1977.

That said, I wish also to note a closely related issue. I am speaking of the interpretation of the law which may prevent the continued distribution of motion pictures during the renewal term of the underlying works on which they are based and which they incorporate.

This problem has resulted from Steward versus Abend, a 1990 Supreme Court decision which overturned settled law on which the motion picture industry and copyright owners had relied since 1977. The problem comes up in this situation. A producer wishes to make a motion picture based on a preexisting work—say a novel. The producer and the novel's author strike a bargain, and the author grants a license to make and use the movie, for which he is paid. In return, his license allows the producer to use the motion picture in both The initial and renewal terms of the novel's copyright. If the author lives through the initial term, the contract remains binding. But, under Abend, if the author happens to die before the renewal term, his successors may unilaterally break the contract and demand additional payment, or even stop the continued distribution of the movie, even through the producer has fully lived up to the contract and has already paid the author for all continued uses of the movie.

It appears to me that even the Court of Appeals for the Ninth Circuit, whose decision in Abend the Supreme Court affirmed, expressed uneasiness about the result. Rather than allow the author's successor to bar continued distribution of the derivative motion picture, the court refused to enjoin that distribution and limited recovery only to monetary damages. What the outcome of that particular case will be we do not know, for the court has not yet set the amount of the recovery.

In any event, the chairman of the Intellectual Property Subcommittee, Mr. HUGHES, will join me in monitoring the way the law in this area evolves. It's possible that at some point we may need to consider corrective legislation.

Title II of H.R. 2372 would reauthorize the National Film Preservation Act for 3 additional years. The provisions of the act expired at the end of September. The original act that passed in 1988 was controversial and the existing law was the product of many political compromises which were arrived at without the benefit of the Judiciary Committee.

Title II drops the moral rights and labeling issues which are the source of the controversy in existing law and focuses on the physical preservation of films. The bill would also develop a national plan in conjunction with other major film archives to work together in the preservation of films.

Titles I and II are supported by the Copyright Office and the copyright community.

I urge its adoption.

□ 2220

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

I have no additional speakers. It is a good bill, Mr. Speaker. I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 2372, as amended.

The question was taken; and, two-thirds having voted in favor thereof, the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read; "A bill to amend title 17, United States Code, with respect to copyright renewal, to reauthorize the National Film Preservation Board, and for other purposes."

A motion to reconsider was laid on the table.