

work, U.S. law regards corporations as the legal author of a film.

We then end up with situations which are absurd. Is the Sony Corporation the author of "The Bridge on the River Kwai"? Is the Turner Corporation the author of "Citizen Kane"? Is Universal Studios the author of "E.T."?

My legislation does not overturn the work-for-hire doctrine or in any way disturb the economics of moviemaking or the export of any film product.

The measure does seek to give directors, screenwriters, and cinematographers the legal tools necessary to defend the integrity of their work, if there is an egregious effort to alter it for other distribution purposes after its theatrical release.

I regard filmmaking as an art form—and filmmakers are artists. Those who finance films rhetorically agree with this statement, but their real interest is in making as much money from a film product as possible.

If this desire to maximize profits requires a radical alteration in the film, the financial owner may make that alteration with no consideration of the resulting creative mayhem.

I understand that there will be substantial opposition to this measure from the financial interests, but the discussion and debate that its introduction will inspire will be healthy and valuable.

I trust this legislation will lead to a negotiated resolution of the legal role of the creative artists in the film industry. However, we ought to at least examine the issue of giving non-economic rights to filmmakers. These are the men and women who care most passionately about their work as a part of our country's culture.

Let the artists be the guardians of their art.

I will ask Chairman MOORHEAD for a hearing on this issue in the near future so that all parties may fully address the rights of creative artists. I hope Senator HATCH will do the same in the Senate.

I invite my colleagues to join me in supporting this bill and thereby preserve the integrity of our creative artists in our wonderful film industry.

H.R. —

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 "Theatrical Motion Picture Authorship Act of 1995".

SEC. 2. THEATRICAL MOTION PICTURE DEFINED.

Section 101 of title 17, United States Code, is amended by inserting after the paragraph defining "State" the following:

"A 'theatrical motion picture' is a motion picture of 60 minutes duration or greater intended for public exhibition, public performance, public sale, or lease, and includes made for television motion pictures, but does not include episodic television programs of less than 60 minutes duration (exclusive of commercials), motion pictures prepared for private commercial or industrial purposes, or program-length commercials."

SEC. 3. NONECONOMIC INTERESTS OF THEATRICAL MOTION PICTURE ARTISTS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by inserting after section 106A the following:

§ 106B. Noneconomic interests of certain theatrical motion picture artists

"(a) NONECONOMIC INTERESTS.—Subject to section 107 and independent of the exclusive rights provided in section 106, the principal

director, screenwriter, and cinematographer of a theatrical motion picture have the non-economic interests in that motion picture. The non-economic interests in a theatrical motion picture that are referred to in the preceding sentence are of the principal director, screenwriter, or cinematographer—

"(1) the right of the principal director, screenwriter, or cinematographer (as the case may be) of that motion picture to claim that he or she was the principal director, screenwriter, or cinematographer (as the case may be) of that motion picture;

"(2) the right of the principal director, screenwriter, or cinematographer (as the case may be) of that motion picture to prevent the use of his or her name as the principal director, screenwriter, or cinematographer (as the case may be) of a theatrical motion picture of which he or she was not the principal director, screenwriter, or cinematographer (as the case may be); and

"(3) the right of the principal director, screenwriter, or cinematographer (as the case may be) of that motion picture to prevent any intentional distortion, mutilation, or other modification of that motion picture which would be prejudicial to his or her honor or reputation.

"(b) SCOPE AND EXERCISE OF RIGHTS.—Only a physical person may exercise the rights conferred by subsection (a) in a theatrical motion picture, but such rights may be exercised whether or not that person is the copy-right owner.

"(c) DURATION OF RIGHTS.—The duration of the noneconomic interests in a theatrical motion picture shall be coextensive with, and shall expire at the same time as, the rights conferred by section 106 in that motion picture.

"(d) TRANSFER AND WAIVER.—The non-economic interests in a theatrical motion picture may not be transferred, but they may be exercised by the heir of the principal director, screenwriter, or cinematographer, as the case may be. Those rights may be waived if the principal director, screenwriter, or cinematographer, as the case may be, expressly agrees to such waiver in a written instrument signed by such person, except that—

"(1) such written instrument may not be executed before the first public performance of the motion picture (after previews and trial runs); and

"(2) no consideration in excess of one dollar may be given for the grant of the waiver. Such instrument shall specifically identify the theatrical motion picture and the uses of that motion picture to which the waiver supplies, and the waiver shall apply only to the motion picture and uses so identified.

"(e) DEFINITION.—As used in this section, the term 'heir' means the person to whom the noneconomic interests conferred by this section are bequeathed by will or pass by the applicable laws of interstate succession."

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 106A the following:

"106B. Noneconomic interests of certain theatrical motion picture artists".

SEC. 4. CLARIFICATION OF AUTHORSHIP.

Section 201(b) of title 17, United States Code, is amended—

(1) by striking "In the case of a work made for hire," and inserting "In the case of a work made for hire, except in the case of the theatrical motion pictures with respect to the noneconomic interests in the work,"; and

(2) by adding at the end the following:

"(2) In the case of theatrical motion pictures with respect to ownership of non-economic interests in the work, the author shall be the principal director, principal

screenwriter, and principal cinematographer."

SEC. 5. INFRINGEMENT ACTIONS.

Section 501(a) of title 17, United States Code, is amended in the first sentence by inserting "or in section 106B(a)" after "of the author as provided in section 106A(a)".

"SHOWCASE MORGAN HILL AWARDS"

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 15, 1995

Ms. LOFGREN. Mr. Speaker, I rise today in congratulating the eight winners of the Second Annual Morgan Hill Awards. These awards are presented by the Morgan Hill Chamber of Commerce.

The female volunteer of the year is Mrs. Elena Moreno, a longtime educator and resident of Morgan Hill, who has served the community for 60 years. She has been and is currently on numerous boards ranging from the American Association of University Women to Head Start to the California Retired Teacher's Association. Mrs. Moreno was instrumental in instituting the wildflower program in Morgan Hill area schools. She has also served as a docent for school groups at the Morgan Hill Historical Museum. As part of a dance troupe called the Fabulous Flappers, she performs tap, jazz, rock, and Latin dances for retirees functions, convalescent homes, benefits and many other events in the area.

The male volunteer of the year is Mr. Curtis Wright, another longtime resident of the Morgan Hill area. Mr. Wright is a past mayor of the city of Morgan Hill, former city councilman for Morgan Hill, past president of the Morgan Hill chapter of the American Heart Association and past president of the Pet Assisted Therapy. He has also been instrumental in encouraging businesses to relocate in Morgan Hill by forming the Economic Development Council. As president of an advertising agency in San Jose, he has used his promotional abilities and advertising expertise to help launch successful events in the Morgan Hill area.

Mr. James Yinger has been selected to receive the Educator of the Year Award. Mr. Yinger is currently the principal of the Nordstrom School, currently a regional nominee for the California School Recognition Program. This school, under Mr. Yinger's tenure, has been recognized for its outstanding integrated GATE, Gifted and Talented Education, program. As an education leader, he takes the initiative to make changes that will have a positive effect in the school system from organizing a safety patrol program to extending daycare for disadvantaged students.

The Bridge Counseling Center, which is a private non-profit community-based mental health agency, has been awarded the Non-Profit of the Year Award. This center has become one of the largest and most extensive mental health agencies in the South County region part of Santa Clara County. Recently, the United Way of Santa Clara County presented the distinguished VIDA award to this counseling center. This counseling center has a plethora of services including prevention programs, intervention and treatment. Recently, The Bridge Counseling Center has

been involved in the formation of the Morgan Hill Family Center and bringing experts into the Gang Awareness Task Force.

The winner in the Civic Category is Mr. Al Alciati, city of Morgan Hill's chief building official. His expertise and knowledge in the building inspection field is recognized statewide. He has served on the California building officials board of directors and was past president of the Peninsula Chapter for the International Council of Building Officials. Mr. Alciati has also given his time and talents to youth in the community by officiating at football and baseball games, and he has been a longtime member of the Live Oak Boosters Century Club.

The Guglielmo Winery has been selected as the Small Business of the Year. The winery will be celebrating its 70th year in business in Morgan Hill. The Guglielmo Winery has made many contributions to the Morgan Hill community through support of the American Heart Association, the American Red Cross, the local Girl and Boy Scouts, and many of the Chamber of Commerce's event through the year. It has been involved with the Santa Clara Valley Winegrowers by serving on the board of directors. The Guglielmo family members consistently donate their time and talents for many community functions and fundraisers.

The Partner in Education Award is presented to the Live Oak Foundation, founded in 1981. The sole purpose of this foundation is to raise funds for the district schools. These funds are used to provide scholarships to graduating students and contribute extra funds for academic programs to all the schools in the area. The foundation operates entirely through volunteers who organize fundraising projects and administer the grants to schools.

The Nob Hill Foods Co. is the recipient of the Chamber's Large Business Award. The Nob Hill Foods Co. was founded by and still run by the Bonfante family of Morgan Hill and Gilroy. The company has 25 stores serving more than 200,000 local customers a week, and employs over 2,200 employees. This company has built its solid reputation from the outstanding customer service they provide. The Bonfante family are recognized as very strong supporters of the schools and non-profit organizations in our community.

Mr. Speaker, I applaud and command these people whose commitment and dedication to the community has greatly enriched the Morgan Hill area.

BRONX DISTRICT ATTORNEY ROBERT JOHNSON'S BRAVE STAND AGAINST THE DEATH PENALTY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 15, 1995

Mr. SERRANO. Mr. Speaker, when New York State reinstated capital punishment on March 7 of this year, the highest ranking law enforcement official in my community, the Bronx, issued the following statement, which I commend to my colleagues' attention.

STATEMENT OF BRONX DISTRICT ATTORNEY

While the law enacted today reinstates the death penalty in New York, far more significant is its feature that permits a sentence of life without parole for the first time in our state's history. Since this law confers upon

me the discretion to seek either sentence, I wish to make my policy clear regarding the exercise of that discretion.

I was raised by loving parents who instilled in me an intense respect for the value and sanctity of human life. As a result, I have devoted my life to the criminal justice system. During more than 20 years in that system, I have seen the devastation inflicted by those guilty of horrible crimes. I have felt the rage and thirst for vengeance which all but consumed the victims and their families. I understand the desire of many of them to "throw the switch" themselves. But I have also personally witnessed the devastation of those wrongfully accused. As an assistant district attorney, I convicted a defendant of intentional murder. He was released after his brother later plead guilty to committing the crime. Would even a brother come forward to save an innocent man if the consequence was death? and if he didn't, who would have been able to "throw the switch" back?

Those familiar with the criminal justice system know that the surest deterrents to crime are the probability of conviction and the certainty of punishment. However, under our system of justice the death penalty neither can nor should be mandatory. Consequently, it is highly uncertain that the penalty actually will be imposed by a jury in a given case, that its application will be fair, that the sentence will be upheld on appeal, that the defendant will be executed and that others will be deterred. Moreover, the price of this uncertainty is enormous given the cost in time and resources of trials and appeals in death penalty cases. Clearly, this money could be better spent on providing more judges and courtrooms so that more defendants could be brought to trial more quickly. The money could also be better spent on valuable and broadly-based crime-fighting and crime prevention programs, including reducing the flow of illegal guns, incarcerating more violent criminals and providing more assistance for crime victims. While these programs may not provide the visceral gratification of the death penalty, they will do a lot more to improve the quality of our lives.

For all of these reasons, while I will exercise my discretion to aggressively pursue life without parole in every appropriate case, it is my present intention not to utilize the death penalty provisions of the statute.

TRIBUTE TO DR. ROBERT H. MCCABE: THE EDUCATOR WHO TOOK THE "JUNIOR" OUT OF "JUNIOR COLLEGE"

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 15, 1995

Mrs. MEEK of Florida. Mr. Speaker, on Tuesday Dr. Robert H. McCabe, an outstanding educator and administrator who led Miami-Dade Community College for the past 15 years, announced his retirement.

Throughout his 32 years at Miami-Dade Community College, Dr. McCabe built a tiny institution into the nation's largest and most respected two-year college. Recognized nationally as an innovator in the community college field, Dr. McCabe kept his focus squarely on the students who came to the Miami-Dade Community College to prepare for jobs and a brighter future.

Dr. McCabe believed in quality and results. He instituted changes that reward professors

for success in the classroom instead of for research, higher academic degrees or publishing. He tightened up curriculums and evaluation standards that made more demands on students and revolutionized what courses they took, when they took them and what happened if they didn't succeed. But succeed they did, in extraordinary numbers.

Robert McCabe built bridges to local employers and created business centers to insure that Miami-Dade students would get training in skills that employers need so that graduates could get good jobs. Under his guidance Miami-Dade, through its neighborhood and outreach programs, became the integral part of our community that it is today.

In recognition of the extraordinary impact he has had on education in this country, Dr. McCabe won one of the prestigious MacArthur Foundation "genius grants" that provided him with \$365,000 to spend however he wished. However, the true measure of his distinguished career can best be measured in the achievements and contributions of the tens of thousands of students whose lives he so profoundly touched.

For his tireless and dedicated efforts, I join with our entire community in extending to Dr. Robert McCabe our profound thanks.

Mr. Speaker, I wish to share with my colleagues an editorial on Dr. McCabe that appeared in the *Miami Herald*:

HE GAVE THOUSANDS A CHANCE

In serving Miami-Dade Community College for 32 years—15 as its president—Bob McCabe has left an enduring mark on the South Florida landscape. Now Dr. McCabe, 65, has announced that he'll retire on June 30 to go to work for a group promoting community college innovations nationwide.

The true measure of Dr. McCabe's leadership won't be found in bricks and mortar—although the expansion of this multicampus school's facilities has been phenomenal. Nor will it be found in Miami-Dade's unique endowment—although that, too, is a singular achievement.

Not even Miami-Dade's undisputed reputation as one of the nation's best community colleges captures the full impact of Dr. McCabe's leadership.

No, for that one must look at the thousands of success stories starring ordinary individuals whose extraordinary lives, like Dr. McCabe's, took a detour before they got serious about their education. Their lives and others' are more fulfilled today because MDCC gave them a chance—often when no other institution would—to expand their knowledge, develop their talents, and hone their skills. This community is infinitely richer for their contributions.

How do you top an act like that? You don't. Martin Fine, chairman of Miami-Dade's Board of Trustees, articulated the thoughts of many on Dr. McCabe's retirement and the board's new challenge: "I believe that you can never replace a great leader like Bob McCabe when he retires; you can only attempt to find a worthy successor."

SUSSMAN'S SUCCESS IN SCIENCE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 15, 1995

Mr. PORTER. Mr. Speaker, I rise today to congratulate Ms. Beverly Sussman of Buffalo