

a sound recording or the musical work embodied therein, including by means of a digital transmission, under sections 106(4) and 106(6), (ii) except for compulsory licensing under the conditions specified by this section, the exclusive rights to reproduce and distribute the sound recording and the musical work embodied therein under sections 106(1) and 106(3), including by means of a digital phonorecord delivery, or (iii) any other rights under any other provision of section 106, or remedies available under this title, as such rights or remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995.

“(L) The provisions of this section concerning digital phonorecord deliveries shall not apply to any exempt transmissions or retransmissions under section 114(d)(1). The exemptions created in section 114(d)(1) do not expand or reduce the rights of copyright owners under section 106(1) through (5) with respect to such transmissions and retransmissions.”; and

(5) by adding after subsection (c) the following:

“(d) **DEFINITION.**—As used in this section, the following term has the following meaning: A ‘digital phonorecord delivery’ is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. A digital phonorecord delivery does not result from a real-time, noninteractive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible.”.

SEC. 5. CONFORMING AMENDMENTS.

(a) **DEFINITIONS.**—Section 101 of title 17, United States Code, is amended by inserting after the definition of “device”, “machine”, or “process” the following:

“A ‘digital transmission’ is a transmission in whole or in part in a digital or other non-analog format.”.

(b) **LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS.**—Section 111(c)(1) of title 17, United States Code, is amended in the first sentence by inserting “and section 114(d)” after “of this subsection”.

(c) **LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.**—

(1) Section 119(a)(1) of title 17, United States Code, is amended in the first sentence by inserting “and section 114(d)” after “of this subsection”.

(2) Section 119(a)(2)(A) of title 17, United States Code, is amended in the first sentence by inserting “and section 114(d)” after “of this subsection”.

(d) **COPYRIGHT ARBITRATION ROYALTY PANELS.**—

(1) Section 801(b)(1) of title 17, United States Code, is amended in the first and second sentences by striking “115” each place it appears and inserting “114, 115.”.

(2) Section 802(c) of title 17, United States Code, is amended in the third sentence by striking “section 111, 116, or 119,” and inserting “section 111, 114, 116, or 119, any person entitled to a compulsory license under section 114(d), any person entitled to a compulsory license under section 115.”.

(3) Section 802(g) of title 17, United States Code, is amended in the third sentence by inserting “114,” after “111.”.

(4) Section 802(h)(2) of title 17, United States Code, is amended by inserting “114,” after “111.”.

(5) Section 803(a)(1) of title 17, United States Code, is amended in the first sentence by striking “115” and inserting “114, 115” and by striking “and (4)” and inserting “(4) and (5)”.

(6) Section 803(a)(3) of title 17, United States Code, is amended by inserting before the period “or as prescribed in section 115(c)(3)(D)”.

(7) Section 803(a) of title 17, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

“(5) With respect to proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 114, the Librarian of Congress shall proceed when and as provided by that section.”.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 3 months after the date of enactment of this Act, except that the provisions of sections 114(e) and 114(f) of title 17, United States Code (as added by section 3 of this Act) shall take effect immediately upon the date of enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Similar House bills (H.R. 1506) and (H.R. 587) were laid on the table.

GENERAL LEAVE

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR DISTRIBUTION OF USIA FILM “FRAGILE RING OF LIFE”

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2070) to provide for the distribution within the United States of the U.S. Information Agency film entitled “Fragile Ring of Life.”

The Clerk read as follows:

H.R. 2070

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

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE UNITED STATES INFORMATION AGENCY FILM ENTITLED “FRAGILE RING OF LIFE”.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled “Fragile Ring of Life”; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. MORAN] each will be recognized for 20 minutes.

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

□ 1545

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

(Mr. SMITH of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 2070 as introduced by our colleague, Mr. MORAN. This legislation authorizes the distribution within the United States of a specific film, “The Fragile Ring of Life” produced by the U.S. Information Agency.

This legislation is necessary because section 501 of the Smith Mundt Act of 1948 prevents the release within the United States of products commissioned by the U.S. Information Agency for 12 years.

The intent of the Smith Mundt Act is to prevent the executive branch from using the U.S. Information Agency as a political tool within the United States. While this is a reasonable objective, over the years Congress has approved the early release of several films and videotape programs through legislative action. The decision to waive the Smith Mundt Act restriction on domestic dissemination is usually based on finding the material offers worthwhile educational or cultural information of interest or value to American citizens.

The “Fragile Ring of Life” does meet these standards. The film discusses programs operating around the world that are focused on protecting sea life and coral reefs. In addition, it provides a useful summary of various efforts to establish environmentally sound practices within countries that rely upon the sea for food, commerce, or tourism.

I urge support for H.R. 2070 so that this film may be made available to domestic viewers.

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

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

This is a very simple, straightforward, noncontroversial bill. It simply allows the film that the U.S. Information Agency sponsored, the “Fragile Ring of Fire,” to be distributed within the United States.

If it were not for this legislation, this film could not be shown for another 12 years, because, as the gentleman from

New Jersey [Mr. SMITH] said, the Smith-Mundt Act of 1948, and I gather that was no relation to the gentleman from New Jersey [Mr. SMITH], it was another Mr. Smith, but in 1948 to prevent the executive branch from using the U.S. Information Agency as a political tool, and it said that the film has to be around for 12 years before it can be shown initially in the United States.

We have passed any number of other pieces of legislation because of this restrictive law. The Thomas Jefferson papers show, which commemorated the 250th anniversary of Thomas Jefferson's birth; we had a documentary about crimes against humanity regarding the conflict in Yugoslavia; we had a film called "The Long Way Home," about the humanitarian crisis in Afghanistan; a tribute to Mickey Leland; photographs of military operations-related activities in the Republic of Vietnam for the purpose of developing and publishing military histories. All of these films served an important purpose, but they all had to get this kind of specific legislative authority before they could be shown in the United States.

The "Fragile Ring of Fire" is important because it will contribute to scholarly efforts and public awareness of these undersea issues. There are a number of private sector efforts going on to protect the world's coral reefs by revealing the incredible beauty and productivity of coral reefs in generating food, income, and employment to communities around the world. This film shows some stark examples of the environmental degradation that has occurred and highlights the most successful reef conservation programs. The filmmakers went all the way around the Florida keys, Sri Lanka, Jamaica, Egypt, Israel, Jordan, and shot some stunning underwater scenes in all of these locations. It is just so ironic that it cannot be shown in the United States.

Coral reefs are one of the most diverse and important of all natural ecosystems. They are considered the rain forests of the ocean. They are located within eight States, U.S. States and territories, and the third largest reef in the world is located next to the Florida keys. It spans 150 miles from the south of Miami to the Gulf of Mexico, and over 6 million tourists every year visit the keys to boat, fish, and snorkel and scuba dive and see more than 6,000 species of plants, fish, and invertebrates.

Because the keys are so important, not only commercially but because of protein they provide, any number of environmental contributions that coral reefs make, it is disturbing that 10 percent of the reefs have been lost already, and scientists estimate another 20 to 30 percent could be lost over the next 15 years.

That is why this is important to be shown. The State Department has a coral reef initiative that brings seven

countries together to more effectively manage coral reef ecosystems.

The Department of State already has a long list of organizations that want to participate in this within the United States, schools, museums, environmental groups, and they need to be able to show this film.

I cannot imagine any reason why all of the Members would not want them to be able to show this film, and, in fact, many of the Members may want to make it available to their school systems.

I do want to express my appreciation to the gentleman from Indiana [Mr. HAMILTON], the ranking Democrat on the full committee, and the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations, in moving this through the committee, and lastly, I want to put in a plug in recognition to the superb staff of the Committee on International Relations, Beth Ford and Kristen Gilley. They have done a terrific job, as well as Kris King, on my staff, who has followed this for months and made sure it got legislated, as well as putting all of these thoughts together.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

I do thank the gentleman for his kind words. It is a good bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from New Jersey [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 2070.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1 and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2070, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE FALL RIVER VISITOR CENTER ACT OF 1995

Mr. ALLARD. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 629) to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado.

The Clerk read as follows:

H.R. 629

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 Fall River Visitor Center Act of 1995".

SEC. 2. EXPENDITURE OF FUNDS OUTSIDE AUTHORIZED BOUNDARY OF ROCKY MOUNTAIN NATIONAL PARK.

(a) VISITOR CENTER.—The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on the privately owned lands described in subsection (b).

(b) DESCRIPTION OF PARCELS OF LAND.—The lands referred to in subsection (a) are described as follows:

Being land owned by H.W. Stewart, Inc., and more particularly described as follows:

Beginning at the southwest corner of the north one-half of section 16, township 5 north, range 73 west of the sixth principal meridian, Colorado; thence south eighty-seven degrees six minutes east, eight hundred and fifty-four feet; thence north two degrees west, three hundred and forty-six and one-tenth feet to the south boundary of the right-of-way of U.S. Highway 34; thence northwesterly along said south boundary nine hundred and sixty feet to the west line of said section 16; thence south along the west line of said section 16 to the point of beginning.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes, and the gentleman from California [Mr. MILLER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. ALLARD].

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

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

Mr. ALLARD. Mr. Speaker, this bill was brought before the Natural Resources Committee's Subcommittee on National Parks, Forests and Lands last year but could not be moved forward because of concerns raised during the planning process. I am happy to report that all of those concerns have now been addressed and the proposal was approved by the Larimer County Planning Commission in January. The Larimer County Commissioners approved the plan in March. Finally, last year the Park Service suggested a technical change to the bill language which was incorporated into this year's bill. This legislation is a fine example of how the Government and private sector can work together and I appreciate the opportunity to bring the bill before the House today.

This bill is a simple piece of legislation, but one that will have a noticeable impact on the people who enjoy