

The amendment (No. 3722), as amended, was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3732 AND 3733, EN BLOC

Mr. MCCAIN. Mr. President, I send two amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes amendments numbered 3732 and 3733, en bloc.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3732

(Purpose: To modify the duties of the Commission)

On page 22, line 2, strike "interstate" and insert "in interstate, interstate".

AMENDMENT NO. 3733

(Purpose: To modify the report of the Commission)

On page 25, line 12, insert "Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce." after "this title".

Mr. MCCAIN. These have been accepted by both sides. I know of no further debate.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendments are agreed to.

The amendments (No. 3732 and No. 3733), en bloc, were agreed to.

Mr. MCCAIN. Mr. President, we are now down to basically two issues about which the Senator from Wyoming, the Senator from North Dakota, and the Senator from Oregon are deeply concerned. We are negotiating those. We hope we can get an agreement on those so that we can finish up on this legislation. If not, we will probably have votes on those two issues. But we have resolved the remaining amendments, except for those two. There is more than one amendment associated with those two issues. But if we can get that agreement within the next half hour or so, I think we can move to final passage. I thank the Senator from North Dakota for his cooperation with this difficult issue.

I yield the floor.

Mr. DORGAN. Mr. President, it is also my hope that in a relatively short period of time we will be able to resolve the remaining issues. We have made a lot of progress on the bill. I will say again that the Senator from Arizona has done an excellent job, and the Senator from Oregon and others have pushed very hard to get us to this point. There are other significant issues, but I expect to get them resolved in relatively short order. I hope

we will make the final progress necessary on this piece of legislation.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, we are working on a unanimous consent agreement now that we hope we can get approved, which would allow us to get to a conclusion and a final vote on the Internet tax freedom bill. I commend all who have been involved, including Senators MCCAIN, DORGAN and WYDEN. I believe we can actually get to a conclusion. There has been the possibility that it would be tangled up in other matters, but I think maybe we have an agreement that will allow us to complete that.

UNANIMOUS CONSENT REQUEST— S.J. RES. 40

Mr. LOTT. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S.J. Res. 40, proposing an amendment to the Constitution of the United States prohibiting the physical desecration of the flag; further, that there be 2 hours of debate equally divided on the resolution, with no amendments or motions in order, and at the conclusion or yielding back of time, the Senate proceed to vote on passage of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST— S. 505

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 505, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, is this the copyright bill?

Mr. LOTT. Yes.

Mr. DODD. I don't want to object, but I have been asked about clearing this. Maybe a couple of us have questions about this. If the majority leader will withhold for about 15 minutes so we might be able to clear it up, we would appreciate it.

Mr. LOTT. That is a reasonable request. I will withhold on that. I had believed that we cleared it with both sides of the aisle, but some Members may not have had a chance to check on it.

Mr. LEAHY. Mr. President, I take the blame for that. I assumed it had been cleared. The Senator from Connecticut said he had an issue, so if the majority leader will give us a few minutes to see if we can work it out.

Mr. LOTT. I will do that.

Let me just say again that I hope we can get this cleared because it looks like, after a lot of hard and good work by a number of Senators—Senator HATCH worked very hard on this—that we are now in the position of being able to move the music licensing issue, the copyright bill, the international property issue, the international treaty; those are three major achievements that I thought a week ago we probably could not get done. They are all interrelated, actually. I hope we can get clearance to move forward on these issues. This is a reasonable request, and I withhold the unanimous consent request at this time.

Mr. LEAHY. Mr. President, will the Senator from Mississippi yield to me for a moment on this?

Mr. LOTT. I yield to the Senator from Vermont.

Mr. LEAHY. The Senator from Mississippi is right. He has been working very hard with both sides of the aisle to clear the items he has mentioned. As he knows, we have been working very hard, as well. These are extraordinarily complex pieces of legislation. Unfortunately, the more complex they are, the more like a Rubik's Cube they are. I think we are extremely close, and we will continue to work with him. I compliment him on his efforts to help work these out.

Mr. LOTT. Again, I say that I appreciate the help from Senator LEAHY, and I also urge that we do this as soon as we can, because, as you know, at this late stage of the game, sometimes people come in with unrelated issues that start causing problems. Let's do it as quickly as we can.

I yield the floor.

OBJECTION TO 2-HOUR TIME AGREEMENT ON S.J. RES. 40

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be very brief on this. There was another unanimous consent request just now to which the distinguished senior Senator from Nebraska objected. I join in that objection. The Senator from Nebraska is a distinguished veteran. In fact, he is the only person I have ever served with in either body that has been awarded the Congressional Medal of Honor. He is a servant of his country in every sense of the word.

Mr. President, the reason we were objecting is not that people would hesitate to vote on this, but a 2-hour proposal is not realistic. We are dealing here with a proposal to amend the Constitution of the United States. That is something that, as Madison put it, should be reserved for "certain great and extraordinary occasions."

This is a serious issue—one deserving of our full attention, our most thoughtful consideration, and our most serious debate. Instead, we are asked to consider this at the most hectic time of

the entire legislative calendar—at the end of a session when the attention of Senators quite properly is focused on passing the necessary appropriations bills so that we will not once again shut down the Federal Government. This is inappropriate timing. I might say that it is entirely unnecessary.

This amendment was reported by the Judiciary Committee on June 24, over 3 months ago. The committee report was sent to the Senate on September 1, over a month ago. This amendment could have been brought up at any time.

I ask, why is it being proposed to be brought up now? It would be nothing less than irresponsible for us to consider it in the short, hectic time line that is available. As if this matter could be made worse, we are asked to consider it not only during 2 hours of debate, but also when one of our most distinguished colleagues, also a distinguished veteran of World War II and of the Korean conflict, Senator GLENN, necessarily is absent on a dangerous and important project on behalf of the Nation.

Frankly—I don't want to interrupt the conversation going on to the right of me, Mr. President. So I will withhold for a moment.

The PRESIDING OFFICER. May we please have order on the Senate floor? The Senator from Vermont.

Mr. LEAHY. I thank the Chair.

No one has fought harder for the flag than JOHN GLENN. No one has fought harder than he to protect the Bill of Rights. It shocks and really offends me that the proponents of this amendment would take advantage of his absence to debate this proposal as he embarks once again in harm's way in the service of the United States.

I am astounded to have something as important as an amendment to the Constitution of the United States called up at this late date in the session. We are less than a week away from adjournment. We have important work to do—work that cannot wait. And to call this up seems even less responsible when you consider the restraint of some of our other Members.

This is not the only constitutional amendment pending before the Congress. The Senator from Arizona, Mr. KYL, and the Senator from California, Mrs. FEINSTEIN, have worked long and hard on an amendment to the Constitution to deal with the rights of victims of crime. While I have not supported that amendment and very much am for a statutory approach to that important issue, I know that it was propounded in a responsible fashion. Both Senator KYL and Senator FEINSTEIN came to the floor just a few days ago, on September 28, to acknowledge that as much as they support the amendment, there simply is not time left in the session to consider it properly.

The Senator from Arizona made this point: "It has been very difficult in the waning days of the session to get floor time to take up even the most mun-

dane of bills, because the Senate is very much concentrated on getting the appropriations bills passed so that we can fund the Government." He went on to note: "We understood that for something as important as amending the Constitution we want to do it right. The last thing Senator FEINSTEIN and I would ever do is hurry an amendment to the U.S. Constitution to try to push this through without an adequate debate without giving everyone an opportunity to have their say."

The last thing we would ever do, as these two distinguished Senators said, is to hurry an amendment to the U.S. Constitution. Frankly, that should be the last thing any U.S. Senator should do—Republican or Democrat. But to ask to consider an amendment to the Constitution that would for the first time in our history cut back on the First Amendment and to propose that the Senate do so under a 2-hour time agreement would be just that. It comes across as just politics.

The sponsor of this amendment, the distinguished senior Senator from Utah, told reporters last Friday that he did not have the votes to win it, that this amendment was not going to pass. If it is not going to pass, why are we even being asked to bring it up as a constitutional amendment in these waning days? It is because it is not a question of passing this amendment that the request is being made. It is to get some material for a campaign commercial. It is for a sound bite, for 30-second attack ads, politics at its worst. It has less to do with passing an amendment than with avoiding things that we should be doing, like HMO reform, or protecting the Social Security system, or protecting veterans' health care.

In the closing days of a session, where Congress has not passed a budget, which was required to be passed by April 15, where both sides flirt with the idea of what might happen with another Government shutdown, we should be completing the matters that must be completed this week.

Obviously, there will be amendments that may come up from all sides for political points. But the one place that should be off limits for such political points is the Constitution of the United States—this short and powerful document that holds the greatest democracy history has ever known together. We should not trivialize it by talking about a 2-hour debate to amend it.

Mr. President, even as we speak here today, this Congress is facing a major test of our Constitution just down the hall in the other body. This is a test that no matter how one looks at it, no matter what position one takes, whether that of special prosecutor Starr, that of the President, or that of anybody else, the American people, no matter how they feel about this, have some sense that the bedrock of our country is our Constitution, and somehow the Constitution, if upheld by 535 people, men and women who are sworn

in a most solemn oath to uphold that Constitution, that somehow the Constitution will pull us through.

Mr. President, having said that, I believe that no matter how much politics may or may not get played, that in the end the American people will be justified in relying on us and the Constitution. But we do not give them hopes in that if we in turn trivialize the Constitution.

At one time this year, I am told, there were over 100 amendments filed in the Congress to the Constitution—over 100 amendments. Somehow some feel that Congress should be considering over 100 amendments and asking this great country to consider 100 amendments to its Constitution.

Mr. President, the genius of our Constitution and the reason why this democracy has been able to survive is that we have been very careful about amending it—extremely careful about amending it, because we like the integrity of it, the consistency of it, and in some ways the comfort of a Constitution that we know so well.

So we should never hurry through an amendment to the U.S. Constitution. We should never try to push one through without an adequate debate. We should never try to do it without giving everyone an opportunity to have their say. Especially today, Mr. President, with the crisis the country faces, we of all people—the Members of the U.S. Senate—should make it very clear to the country that we revere the Constitution, and that, whatever else we may get involved in with regard to politics, the Constitution will not be part of that.

There are over a quarter billion Americans—over a quarter of a billion Americans. Only 100 of us get the opportunity to serve in this Chamber at any time. The seat I now hold, in the last 58 years only two Vermonters have held this seat. I am one of the two in 58 years. It is a great privilege. Frankly, it is one that humbles me every day when I come to work. I still feel the same thrill coming up this Hill and coming into this Chamber as I felt when I was a day away from being a 34-year-old prosecutor in Vermont and was the junior-most Member of the U.S. Senate.

Part of that thrill is to know that it is a rare opportunity, a rare privilege, an honor that I have never been absolutely sure I deserve, but one I cherish, given to me by the people of Vermont to represent them and to speak as one of the 100 voices for this country, in full knowledge that there will be somebody else outstanding at this seat who will also represent my State of Vermont and the United States. But I hope that they will carry with them the same reverence for the Constitution that I feel I carry. There will be times to amend the Constitution. We did it after the tragic death of President Kennedy to allow for the succession of a Vice President. Time showed the necessity for it and the American public

came together and knew the need for it.

But let us make it very clear how we feel about the Constitution and the Bill of Rights, as the 100 who hold this responsibility, so that the American people know that if we are going to change our Constitution, we will do it with real debate and real consideration, and all 100 of us will be able to stand up on this floor and vote.

Now, the entire Senate has known—in fact, the Nation has known—for weeks that Senator GLENN would be unavailable this week, and certainly that alone would be a reason not to bring this up now. Senator GLENN is one of the most distinguished Americans of all time. He obviously should have a chance to vote on this. So I am glad the Senator from Nebraska has lodged the objection he did. I concur with it. I have voted on this proposed constitutional amendment before. I am not afraid to do so again. But the First Amendment, the Constitution, the Bill of Rights deserve more than cursory attention.

Let us all make it clear to the people of this country that the Constitution stands first and foremost. We serve here only for the time our States allow us to serve. The Constitution predated us and will be here after us.

I see the distinguished majority leader once again in the Chamber, and so I will yield the floor.

UNANIMOUS CONSENT REQUEST— S. 505

The PRESIDING OFFICER (Ms. COLLINS). The majority leader is recognized.

Mr. LOTT. I thank the Chair. I thank Senator LEAHY for completing his remarks so we could proceed with this unanimous consent agreement.

This is with regard to S. 505, the copyright bill. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 505 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection—

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I am told there is one other Senator who still has a question on this, and I would tell my friend from Mississippi that as a result of that, while I have no objection to this unanimous consent agreement, and I will be supporting the bill and have worked hard on the bill, there is an objection over here and I will have to lodge an objection.

Mr. LOTT. I will withhold the unanimous consent request, but I would once again like to urge my colleagues to agree to this. This is a very important bill that work has been done on for a period of months, and it also is connected to the music licensing issue which has been worked out. It has been extremely tedious, working with all

the interested parties, but they have been responsible, they have agreed, and I want to commend and thank all of those who worked with us and helped us reach agreement with music licensing, including the Restaurant Association, the National Federation of Independent Businesses, and the writers who have been involved in this music issue, including BMI and ASCAP and others. They have all given more than they wanted to, but I think we have come to a reasonable agreement. And then also, it is connected to the treaty with regard to intellectual property.

So I will withhold at this time, but I hope Senators will not begin putting a hold on this very important legislation because of unrelated issues that we probably are going to get resolved in the next 2 days anyway.

Mr. LEAHY. Madam President, I say to my friend from Mississippi, I have worked on each one of these pieces of legislation so much. There are times when I have attempted to pull out what little bit of hair I have left, and, frankly, I hope we can move this. I will personally go to anybody who is lodging objection to see what I can do to clear it up, because I absolutely concur with the Senator from Mississippi and the Senator from South Dakota, the Democratic leader, that this is something which should be moved forward; we want to move it forward. I hope I can tell the distinguished majority leader within a few minutes we do have it cleared.

Mr. LOTT. I yield the floor, Madam President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COPYRIGHT TERM EXTENSION ACT OF 1997

Mr. LOTT. I renew my unanimous consent request that the Judiciary Committee be discharged from further consideration of S. 505, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 505) to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3782

Mr. LOTT. Senator HATCH has a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HATCH, proposes an amendment numbered 3782.

Mr. LOTT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LEAHY. Madam President, I am delighted that the Senate is finally considering the Copyright Term Extension Act.

Copyright has been the engine that has traditionally converted the energy of artistic creativity into publicly available art and entertainment. Historically, government's role has been to encourage creativity and innovation by protecting rights that create incentives for such activity through copyright.

On July 1, 1995, the European Union issued a directive to its member countries mandating a copyright term of 20 years longer than the term in the U.S. As a result, the E.U. will not have to guard American works beyond the American term limit, whereas European works will have 20 years more security and revenues in the marketplace.

The songwriter Carlos Santana put it eloquently in his statement submitted to the Senate Judiciary Committee three years ago on this subject, "As an American songwriter whose works are performed throughout the world, I find it unacceptable that I am accorded inferior copyright protection in the world marketplace."

His reasons are as relevant today as the day he made that statement. The 1998 Report on Copyright Industries in the U.S. Economy issued by the International Intellectual Property Alliance indicates just how important the U.S. copyright industries are today to American jobs and the economy and, therefore, how important it is for the U.S. to give its copyright industries at least the level of protection that is enjoyed by European Union industries.

The Report indicates that from the years 1977 through 1996, the U.S. copyright industries' share of the gross national product grew more than twice as fast as the remainder of the economy. During those same 20 years, job growth in core copyright industries was nearly three times the employment growth in the economy as a whole. These statistics underscore why it is so important that we finally pass this legislation today.

I cosponsored the original Senate copyright term legislation, the Copyright Term Extension Act of 1995, S. 483. The Senate Judiciary Committee held a hearing on that bill on September 20, 1995. At that hearing, we heard the testimony of Marybeth Peters, Register of Copyrights, and Bruce Lehman, Assistant Secretary of Commerce and Commissioner of the Patent and