

S. 2591. A bill to amend chapter 1 of title 17, United States Code, to provide an exemption from exclusive rights in copyright for certain nonprofit organizations to display live football games, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I rise to introduce legislation which would modify the limitations on churches showing the Super Bowl under the NFL copyright franchise. Churches across the country were notified by the NFL not to show the Super Bowl on a big screen because it infringed their copyright. There is an exception under the copyright laws for bars. It is anomalous that you can go to a bar and see the Super Bowl, but you cannot go to a church for a social gathering and do the same. This legislation will correct that.

Mr. President, I ask unanimous consent that my full statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION OF LEGISLATION EXEMPTING RELIGIOUS ESTABLISHMENTS FROM THE PUBLIC PERFORMANCE RIGHT FOR SPORTS PROGRAMMING

Few images are more distinctly American than that of a religious community coming together not only in prayer but in fellowship to watch a major sporting event. For years, houses of worship across this country have opened up their doors and welcomed their congregation into their halls to watch the Super Bowl. They have provided families with an alternative to going to the local bar down the street to cheer for their favorite team. However, if the National Football League has its way, such gatherings will come to an end.

A strict reading of the copyright code prohibits virtually anyone from bringing a large group of people together and watching the Super Bowl. The one exception to this general rule is "food service and drinking establishments." This exemption allows sports bars to show a sporting event, so long as they do so on screens that do not exceed fifty-five, 55, inches. Although the law is nearly impossible to enforce for Super Bowl parties held in places other than food service and drinking establishments, the NFL has turned its sights on churches and other houses of worship, which use the large screens normally reserved for displaying hymns to show the Super Bowl to their congregation.

Over the past several years, the NFL has begun sending churches across the country cease-and-desist letters, warning them not to show the game on their big-screen televisions and threatening them with a copyright infringement suit if they do. These religious establishments—many of which do not have enough money to even think about defending themselves against a giant such as the NFL—have had little choice but to shut down these gatherings.

This is unfortunate because many houses of worship have used these events to reach out to their members, as well as potential new members, particularly young people. As Reverend Thomas Omholt, senior pastor of St. Paul's Lutheran in Washington, DC, stated in a recent Washington Post article, "It takes people who are not coming frequently, or who have fallen away, and shows them that the church can still have some fun." These churches do not charge their members

to watch the game nor have they used them as fundraisers. Rather, these events provide churches with a means of connecting with the greater community and new potential members of their congregation. The uniqueness of these events is underscored by the fact that these churches do not use the Academy Awards or other popular television programming as a means of outreach.

When Congress created the sports bar exemption in 1998, they did so based on the rationale that the display of copyrighted performances—such as football games—in sports bars and similar establishments did not negatively impact the overall viewership for the game and value of the rights to the game. The same rationale applies to churches. Allowing churches to show the game would not diminish the overall viewership for the Super Bowl. If anything, it increases the viewership by making it a social event and bringing people out to watch the game who might not have watched it at home or in a bar.

Today, I am introducing legislation that will create a new exemption for religious establishments. This legislation will provide churches and other houses of worship with the protection that they need to gather to watch the Super Bowl without fear of being sued for copyright infringement. This exemption will have limitations. For example, in order to qualify for the exemption, a church may not charge a fee to view the game. This will ensure that religious establishments do not unfairly profit from the NFL's copyright. Further, the exemption only applies to the live broadcast of a professional football game at the church or house of worship. A church may not tape the game to show at a later date or rebroadcast the game to another location. In other words, the legislation simply provides churches with a limited yet justifiable exemption to allow them to bring their congregation together to watch the Super Bowl.

I am aware that some may argue that this bill implicates constitutional concerns. This is not the first time that we have recognized the unique needs of the religious community in the Copyright Code. Indeed, the section of the Copyright Code that we are amending already has an exemption for houses of worship and other religious assemblies for the use of copyrighted works of a religious nature. Although the Constitution does not require the creation of an exception in this case, it is reasonable to pursue one. In preparing this measure, my staff has researched the issue and spoken with some of the foremost experts in the field of First Amendment law. They share our view that this legislation appears consistent with the Establishment Clause of the Constitution. This legislation will not further entangle Government with religion but instead accommodates the needs of houses of worship and recognizes their important role in the communities they serve.

In a time when our country is divided by war and anxious about a fluctuating economy, these type of events give people a reason to come together in the spirit of camaraderie. We, Congress, need to recognize the unique need that these events satisfy and provide religious establishments with the protection that they need. I urge my colleagues to join me in this effort.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 441—CONGRATULATING THE NEW YORK GIANTS ON THEIR VICTORY IN SUPER BOWL XLII

Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. LAUTENBERG, and Mr. MENENDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 441

Whereas, on Sunday, February 3, 2008, the New York Giants defeated the New England Patriots by a score of 17-14 to win Super Bowl XLII;

Whereas the Giants, who were double-digit underdogs, overcame overwhelming odds to defeat the Patriots;

Whereas Giants owners John K. Mara and Steve Tisch have built the Giants organization into a championship caliber team;

Whereas Eli Manning, having led a game-winning drive for 83 yards at the end of the fourth quarter, was named the game's Most Valuable Player;

Whereas David Tyree's game-breaking catch will forever go down in Super Bowl history as one of the greatest plays ever;

Whereas the relentless onslaught of the Giants defensive line, highlighted by spectacular plays by Justin Tuck, Osi Umenyiora, and team Captain Michael Strahan, sacked Patriots quarterback Tom Brady 5 times;

Whereas the Giants capped off an amazing playoff run by winning all 4 playoff games on the road as underdogs;

Whereas Giants head coach Tom Coughlin, in his first appearance in the Super Bowl, led his team to victory from the wild card spot;

Whereas this marks the third time in franchise history that the Giants have won the Super Bowl;

Whereas the Giants attract fans from New York, New Jersey, and Connecticut to their home games in East Rutherford, New Jersey, and to away games across the country; and

Whereas Giants fans from across the tri-state region have rallied together to cheer the Giants for coming from behind to win in the biggest upset in Super Bowl history: Now, therefore, be it

Resolved, That the Senate congratulates the New York Giants on their victory in Super Bowl XLII.

SENATE RESOLUTION 442—COMMEMORATING THE LIFE OF A. LEON HIGGINBOTHAM, JR

Mr. CASEY (for himself, Mr. SPECTER, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 442

Whereas the late A. Leon Higginbotham, Jr., dedicated his life to eliminating racial barriers in the society of the United States;

Whereas, having grown up during the Great Depression and the era of Jim Crow laws, A. Leon Higginbotham, Jr., overcame a childhood marked by economic hardship and segregation;

Whereas, having personally experienced the effects of racism, A. Leon Higginbotham, Jr., sought an education and career in law during which he fought institutionalized racism in the United States judicial system;

Whereas A. Leon Higginbotham, Jr., began his legal career as a law clerk to Justice Curtis Bok of the Superior Court of Pennsylvania and soon became the youngest and