

These funds will enable this area to eventually increase its woefully inadequate 50-year protection level to an acceptable 500-year protection level.

Increasing Sacramento's mere 85-year level of protection is a daunting task, but the support of my colleagues to protect my constituents has been unwavering and strong. Time and again, the federal commitment has risen to the occasion. On behalf of my constituents, and myself I thank you for recognizing the grave danger that Sacramento faces and acting to alleviate those threats.

REGARDING H.R. 3204, THE "INTELLECTUAL PROPERTY PROTECTION RESTORATION ACT OF 2001"

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 2001

Mr. COBLE. Mr. Speaker, today Representative HOWARD BERMAN and I are introducing H.R. 3204, the "Intellectual Property Protection Restoration Act of 2001." Senator LEAHY is also introducing the same legislation in the Senate today. This important legislation takes a balanced and minimal approach to solving the complex problem of preventing the individual States from infringing intellectual property with impunity. This bill simply prevents the award of damages for infringement of intellectual property owned by a State if that State has not waived its immunity under the Eleventh Amendment. Currently, private parties are unable to sue and receive damages for infringement by States. H.R. 3204 will level the playing field without curtailing States' rights. It is my hope that H.R. 3204 will be enacted into law during the 107th Congress.

Finally, Mr. Speaker, on July 27, 2000, in the 106th Congress, the Subcommittee on Courts and Intellectual Property held a hearing on this issue. My statement from that hearing is included below.

STATEMENT OF HON. HOWARD COBLE, CHAIRMAN, SUBCOMMITTEE ON COURTS AND INTELLECTUAL PROPERTY REGARDING STATE SOVEREIGN IMMUNITY AND PROTECTION OF INTELLECTUAL PROPERTY

Good Morning. The Subcommittee will come to order. Today, we will discuss state sovereign immunity and protection of intellectual property.

To the great benefit of the United States, the authors of the Constitution understood how the creative arts and sciences would be valuable to the American people, both financially and culturally. The Constitution gives Congress the power to enact laws that give authors and inventors rights in their respective creations for a limited time. Congress has enacted such laws since 1790, resulting in the development of American intellectual property that is the envy of the world. It is one of the top U.S. exports, generates billions of dollars in revenue, creates jobs, and enriches the lives of the American people and the world.

Since the enactment of the first intellectual property laws, it was universally understood that these laws applied to the states, which would be subject to suit in federal court for damages resulting from infringement. Historically, Congress assumed its Ar-

ticle I powers enabled it to abrogate states sovereign immunity under the 11th Amendment. However, after the Supreme Court ruled that the intent to abrogate based on Article I must be explicitly evident in the relevant statute, some district courts held that the 1976 Copyright Act did not effectively abrogate state sovereign immunity.

To close this loophole, Congress enacted three laws between 1990 and 1992 to abrogate state sovereign immunity: the Copyright Remedy Clarification Act; the Patent and Plant Variety Protection Remedy Clarification Act; and the Trademark Remedy Clarification Act.

In 1993, the Copyright Remedy Clarification Act was challenged. Before the 5th Circuit made a final ruling, the Supreme Court handed down several decisions that had a direct impact on the case. In *Seminole Tribe of Florida v. Florida*, the Court overruled previous case law and held that Congress could not use its Article I powers to abrogate state sovereign immunity. In *Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank*, the Court voided the Patent and Plant Variety Protection Remedy Clarification Act. While the Court held that abrogation was possible under the Enforcement Clause of the 14th Amendment, the Act was not a proper exercise of that power. Finally, in *College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board*, the Court voided the Trademark Remedy Clarification Act to the extent it abrogated state immunity with regard to false advertising claims. Based on these rulings, the 5th Circuit subsequently held that the Copyright Remedy Clarification Act was unconstitutional.

The import of these decisions is very serious for intellectual property owners, since states now have the ability to infringe copyrights, patents, and trademarks with impunity. These potential infringements add up to millions of dollars of lost revenue to intellectual property owners. Adding to the unfairness of the situation is the fact that states can and do own copyrights, patents, and trademarks. A state may bring an infringement suit in federal court against a private individual but a private individual may not sue that state for the same transgression. This result creates an uneven playing field and otherwise conflicts with the spirit of Article 1, Section 8 of the Constitution.

In conclusion, this hearing is not intended to focus on a definitive solution to this problem, rather, it represents the first step in doing so. The hearing is intended to educate the Subcommittee about this important issue: its background, the implications of current case law on the subject, and those efforts to find a solution to the problem of consistently protecting intellectual property rights in a constitutionally permissible manner.

HONORING JAN C. MENNIG

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Jan C. Mennig for his extensive career in public service. Mr. Mennig has decided to retire after serving in many capacities in the public and private sectors.

Mennig has a notable educational background. He graduated with honors from the University of Southern California with a degree in Public Administration. He went on to earn his M.S. and Ph.D. degrees. He also completed many advanced courses while a Colonel in the United States Army Reserve. Mennig is a U.S. Army Certified Logistician and received an Honorary Doctor of Laws Degree from August Vollmer University.

While living in Southern California, Mr. Mennig served as Assistant Chief and Chief of Police in the Culver City Police Department for over twenty years. While in Culver City, he served on many boards, including the Executive Committee for the California Police Chiefs Association and the Los Angeles County Regional Criminal Justice Planning Board. Mennig also served as President of the Culver City Lions Club and Chairman of the Board of Culver Palms Family YMCA.

In 1987, Mennig retired from the Culver City Police Department and the U.S. Army Reserve and moved to Mariposa, California. Since relocating to Mariposa, Mr. Mennig has served in many positions, including President of the Mariposa Wine Grape Growers Association and as a member of the Mental Health Board of Mariposa County. Mr. Mennig retired as the Executive Director of the Mariposa County Chamber of Commerce on June 30, 2001.

Mr. Speaker, I wish to congratulate Jan C. Mennig for his extensive career as a public servant. I urge my colleagues to join me in wishing Jan C. Mennig a happy retirement and continued success.

THE WORLD OF AFGHAN WOMEN

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 2001

Mr. CUMMINGS. Mr. Speaker, imagine a world where you are: banned from revealing any skin and are required to be fully covered even in stifling heat; and banned from wearing white shoes because it is the color of your nation's flags; or shoes that are high heels because they may make noise.

Imagine a world where you are: unable to leave your home without permission; and where working and gaining education are illegal.

Imagine a world where a woman is: banned from men-only hospitals, even in the severest of medical emergencies and the hospitals that are available have no oxygen, clean water, intravenous equipment, medicine, or x-ray machines.

Imagine a world where: you attend a sporting event but cannot display any emotion and may experience the interruption of the event for the purpose of a "public execution" of a woman; possibly carried out by her own family member and witnessed by her children and other children in attendance.

Finally, imagine a world where: it is taboo to read the religious book that is used to set these rules.

For some people this is not an imaginary world. For Afghan woman this is their reality. Women in Afghanistan have suffered an assault on their human rights during more than