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Whereas the tribunal's decisions were to be reviewable by Congress, those of the commission could be appealed only to a U.S. appeals court.

Conferees generally went along with the House concept, but they named the agency the Copyright Royalty Tribunal, expanded its membership to five and placed it in the legislative branch as an independent agency.

Ornamental Designs

Attempting to bridge a gap between patent and copyright law that had left unprotected a large body of created works, the Senate had written a separate title to give protection to "original ornamental designs of useful articles." Protected would be designs on, but not of, useful articles, such as patterns on wallpaper or textiles. The House, however, dropped that title, and the conferees agreed.

-By Ted Vaden

Final Action:

Arts and Humanities

Congress Sept. 27 gave final approval to legislation (HR 12838) extending the National Foundation on the Arts and Humanities for four years, through fiscal 1980.

On its surface, HR 12838 appeared to be a routine reauthorization of the twin endowments on the arts and humanities, created in 1965 to disperse federal funds in support of work in these fields. The measure carried authorizations of $250-million in fiscal 1977 and $300-million in fiscal 1978—approximately the levels requested by the Ford administration and not drastically different from the fiscal 1976 authorization of $252-million. Funding for the remaining years, though left indefinite, was not expected to differ greatly from the fiscal 1978 figure. (Previous extension, 1973 Almanac p. 1018)

The final version of the bill also included authorizations for two new programs: an Institute of Museum Services to provide technical assistance on exhibits and other museum activities and a special matching grants program to encourage greater private support of impoverished cultural institutions.

This relatively modest package, however, was the product of a lengthy and heated conference—even though separate House and Senate bills authorized similar amounts of money. (Weekly Report pp. 1381, 1018)

The main sticking point was a Senate proposal by Claiborne Pell (D.R.I.), chairman of the Special Subcommittee on the Arts and the Humanities, to give state governments control over the membership of state humanities councils. Unlike the state-appointed arts councils, members of the state humanities groups were chosen by the chairman of the National Endowment for the Humanities—which, in Pell's view, gave them little incentive to respond to popular interests.

The current chairman of the humanities endowment, Ronald Berman, opposed the Pell plan as an unnecessary politicization of the state humanities programs, a stand that apparently cost him his job. Pell, charging that Berman was an "elitist," argued vigorously against his renomination as chairman. After waiting nearly seven months before holding hearings on Berman's re-appointment, the Senate Labor and Public Welfare Committee Sept. 29 finally decided not to vote on it at all.

The eventual compromise on the make-up of the state humanities councils adopted by the conferees allowed state governors to appoint half of the council members, as long as they agreed to match certain proportions of federal humanities grants.

Provisions

As cleared by Congress, HR 12838 contained the following authorizations for the first two years of the extension, with open-ended funding for fiscal years 1979 and 1980, unless otherwise indicated:

- $93.5-million in fiscal 1977 and $105-million in fiscal 1978 for each endowment to support basic arts and humanities programs.
- $20-million in fiscal 1977 and $25-million in fiscal 1978 for each endowment to match private grants to cultural institutions.
- $15-million in fiscal 1977 and $25-million in fiscal 1978 for a new Institute of Museum Services to be located within the Department of Health, Education and Welfare. The institute aimed to assist a wide variety of museums with exhibits, professional training and education programs, and related activities.
- $12-million in fiscal 1977 and $18-million in fiscal 1978 for each endowment to operate a new "challenge" grants program to aid financially strapped cultural institutions. Awards under the program required $3 of private funds for every federal dollar.
- $4-million in fiscal 1977 and $2-million in fiscal 1978, with no additional funding authorized, for a Bicentennial-related photographic and film project.
- $2-million in fiscal 1978, with no additional funding authorized, to continue an arts education program run by the Office of Education.

In addition, the bill:
- Required the National Endowment for the Humanities to allocate at least $200,000 per state or 20 per cent of all grant funds to state humanities programs. (A similar requirement already applied to the National Endowment for the Arts.)
- Permitted state governments to appoint up to half of the members of their humanities councils, as long as the states met certain matching funds requirements on grants involving federal assistance. States falling short of the matching funds obligations were allowed only two appointments of their own.

Legislative History

By a vote of 279-59, the House April 26 passed HR 12838, after the measure was unanimously reported (H Rept 94-1024) by the Education and Labor Committee on April 9. The Senate passed HR 12838 by voice vote May 20 after substituting the provisions of a companion bill (S 3440—S Rept 94-880) reported May 14.

After weeks of deliberations, House-Senate conferees reached a key compromise on the issue of the state humanities councils that allowed state governors greater, though not complete, control over appointments to these bodies. The conference report (S Rept 94-1260) filed Sept. 20, was approved by voice vote of the House Sept. 22 and the Senate Sept. 27.

-By Mary Eisner Eccles