

get in, do get in; people who should not get in are kept out; and people who are judged deportable are required to leave. You cannot state it any more clearly than that.

The pending business is a Simpson second-degree amendment on a motion to recommit. This is the Simpson amendment No. 2, the pilot program. I believe that is now the pending business. I believe the debate on that amendment has been had. It was at the desk. Let me just refresh your memory on that. That was the amendment to provide a pilot student-tracking program. The aim was to enable the INS to keep track of foreign students studying in this country. The amendment would provide a source of funding to the INS to establish a very basic, computer-based system for keeping track of foreign students. It is a measure supported by the FBI Director, who expressed deep concerns about our ability to track such students in a 1994 memo regarding possible entry venues for tourists.

This is not an intrusive provision. Colleges and universities already are required to provide this sort of information to the INS. The problem in the past has been that the INS has not devoted sufficient resources to this activity to create a body of reliable information. So the amendment's aim is to provide funding so the INS can implement a system to keep track of foreign students studying here. It seems reasonable that such funding should come from the students themselves and not from the taxpayer. A student who is willing to pay \$10,000 or \$20,000 in this country or \$80,000 to \$100,000 over the course of study, is unlikely to be greatly concerned at being asked to pay an additional fee of \$50 or \$100 for the issuance of a student visa.

That is the substance of the amendment. I inquire if there is further debate on the amendment, or move the question on the amendment.

Mr. KENNEDY. Mr. President, effectively, in terms of the substance of the legislation that we have before the Senate, I support these three amendments, for the reasons we outlined the other evening when we commenced the debate on these items. One allows us to be able to track foreign students to find out what happens to those students. We are unable to do so now. There is a serious question about whether the foreign student visas are being used for real education or as another way to circumvent the laws. That is reasonable.

The second amendment deals with the situation where a young person gets a student visa to be able to come in and attend a private university and is able to demonstrate he or she has the resources to be able to do it and then makes a decision, after he or she is here, to go to a public university. It is a drain on the taxpayer funds. We want to address that situation. It is not unimportant. We are supportive of that particular legislation.

A final amendment deals with an individual who, either for employment or to get some kind of support funding, makes a false claim that they are a citizen when they are not. The amendment makes them subject to deportation. I think that makes a good deal of sense. If an individual is trying to either displace an American in a job and misrepresents his or her status by lying to the employer and stating that he or she is a citizen, or stating to other local or State or Federal officials that he or she is a citizen, when they are not, in order to benefit from some other kind of emergency services, that individual, I believe, ought to be subject to deportation.

On the substance of these amendments, I support all of them. The second-degree amendments are only a means for effectively denying the opportunity to amend the underlying amendments. As I understand, the substance of those is to change the date of enactment of those particular provisions by a day, meeting the requirements of the Senate rules in not changing the substance of it.

Finally, Mr. President, I understand that because of the changes in the parliamentary situation, now we will address those three at whatever time it is fine to move ahead on those amendments as far as this Senator is concerned. There may be other considerations which would dictate a time designated by the majority-minority leaders for the consideration of those measures.

Instead, moving back, then, to what would have been the Dorgan amendment and have that the pending business through the changes in the parliamentary situation which were just agreed to. The Dorgan amendment, for all intents and purposes, would not be the pending business. There would be then an opportunity after these amendments are addressed to amend the underlying legislation at that time. The pending business would no longer be the Dorgan amendment.

For those who are interested, both Senator DORGAN and myself will, at least hopefully, have some opportunity to address for a brief time, but hopefully within an agreement of a short timeframe, either the minimum wage or Senator DORGAN's amendment.

I was glad to try to place the minimum wage as a second degree to underlying amendments previously. We did not have the opportunity to do so. Perhaps there will be an effort to completely foreclose the opportunity to address it, but it is certainly my intention not to delay this legislation but for a short timeframe to address the minimum wage. This legislation will be before the Senate for a time, and we will try to at least see if there is some opportunity to do so. I know that is not the desire of the floor manager to move ahead. In any event, that would be my intention.

I yield to the majority leader without losing the right of recognition after he has concluded.

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

CORRECTING THE ENROLLMENT OF S. 735

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 54 and Senate Concurrent Resolution 55, submitted earlier by Senator HATCH. I further ask unanimous consent that these resolutions be agreed to, en bloc, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to either of these resolutions appear at the appropriate place in the RECORD.

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

The concurrent resolutions (S. Con. Res. 54 and S. Con. Res. 55) were agreed to, en bloc, as follows:

S. CON. RES. 54

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to section 431 through 443 respectively.

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 325 of the bill—

- (1) strike "may" and insert "shall";
- (2) strike "shall be provided"; and
- (3) insert "section" before "6(j)".

In section 319, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

- (1) in subsection (a)(1), insert "foreign" before "terrorist organization";
- (2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";
- (3) in subsection (a)(2)(C), insert "foreign" before "organization"; and
- (4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

- (1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";
- (2) strike "with the Secretary of the Treasury" and insert "with the Secretary of state"; and
- (3) add the words "the government of" after "engages in a financial transaction with";

At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act."

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 and 444 as section 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entirety and inserting:

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulation that shall be published on or before January 1, 1997.

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring). That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

"(g) LIMITATION ON DISCOVERY.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

"(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

"(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

"(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

"(i) create a serious threat of death or serious bodily injury to any person;

"(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

"(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

"(3) EVALUATION OF EVIDENCE.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

"(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States."

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 629G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of State";

(3) add the words "the government of" after "engages in a financial transaction with";

At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act."

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entirety and inserting: (d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3726

Mr. KENNEDY. Mr. President, we will have a brief quorum call to discuss with the floor manager whether or not they want to have a series of rollcalls. I hope we will dispose of the amendments in a timely way. If we can move ahead with voice votes on all of those—well, 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. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SIMPSON. We will proceed now, but I would make a remark because I certainly can understand the position of Senator KENNEDY and the issue that is driving him in this debate, but not necessarily on this bill, and also Senator DORGAN. As I heard Senator KENNEDY describing what is out there, eventually, it reminded me of Edgar Allan Poe in "The Pit and the Pendulum," as the arc of the blade swung closer and closer to the object. I just wanted to state that. It was a great iteration that came over me—the blade swinging back and forth, and eventually it will hit, and we will have to do what we always do here, which is sometimes difficult. It is called vote. And that is a time to come.

So with that, I urge the adoption of amendment No. 3726.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY. Mr. President, we were just trying to follow the numbers. We had a series of amendments. Could the Senator just restate that amendment number.

Mr. SIMPSON. That is the pilot program, originally Simpson No. 2.

Mr. KENNEDY. I appreciate that.

I urge support of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3726) was agreed to.

AMENDMENT NO. 3727 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3727 to amendment No. 3725.

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

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

The amendment is as follows:

Strike the last word in the pending amendment and insert: "act (8 U.S.C. 110(a)(15)

"SEC. . FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by