

States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on May 5, 1997 (Treaty Doc. 105-26), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) INDIGENOUS INHABITANTS.—The United States understands that the term "indigenous inhabitants" as used in Article I means a permanent resident of a village within a subsistence harvest area, regardless of race. In its implementation of Article I, the United States also understands that where it is appropriate to recognize a need to assist indigenous inhabitants in meeting nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, there may be cases where, with the permission of the village council and the appropriate permits, immediate family members of indigenous inhabitants may be invited to participate in the customary spring and summer subsistence harvest.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1998, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I ask unanimous consent to propound a parliamentary inquiry concerning the treaties that were agreed to.

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

Mr. BYRD. Mr. President, did the Chair actually count Senators on the division that took place with respect to the adoption of the resolution of ratification of those treaties?

The PRESIDING OFFICER. The Chair is required to and so did.

Mr. BYRD. I thank the Chair.

Mr. LOTT. Mr. President, those treaties were the Agreement with Hong Kong for the Surrender of Fugitive Offenders; the International Telecommunications Union Constitution and Convention; the U.S.-Mexico Treaty on Maritime Boundaries; the Migratory Bird Protocol with Canada; and the Migratory Bird Protocol with Mexico.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## AUTHORIZING EXPENDITURES FOR CONSULTANTS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 138, submitted earlier today by Senator WARNER and Senator FORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 138) authorizing the expenditures for consultants by the Committee on Rules and Administration.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 138) was agreed to, as follows:

### S. RES. 138

*Resolved.* That section 16(b) of Senate Resolution 54, 105th Congress, agreed to February 13, 1997, is amended by striking "\$300,000" and inserting "\$400,000".

## EXTRADITION TREATIES INTERPRETATION ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 196, S. 1266.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1266) to interpret the term "kidnaping" in extradition treaties to which the United States is a party.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

### AMENDMENT NO. 1523

(Purpose: To provide substitute language for the text of the bill)

Mr. LOTT. Mr. President, Senator HELMS has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HELMS, for himself, and Mr. BIDEN, proposes an amendment No. 1523.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Extradition Treaties Interpretation Act of 1997".

## SEC. 2. FINDINGS.

Congress finds that—

(1) each year, several hundred children are kidnapped by a parent in violation of law, court order, or legally binding agreement and brought to, or taken from, the United States;

(2) until the mid-1970's, parental abduction generally was not considered a criminal offense in the United States;

(3) since the mid-1970's, United States criminal law has evolved such that parental abduction is now a criminal offense in each of the 50 States and the District of Columbia;

(4) in enacting the International Parental Kidnapping Crime Act of 1993 (Public Law 103-173; 107 Stat. 1998; 18 U.S.C. 1204), Congress recognized the need to combat parental abduction by making the act of international parental kidnapping a Federal criminal offense;

(5) many of the extradition treaties to which the United States is a party specifically list the offenses that are extraditable and use the word "kidnaping", but it has been the practice of the United States not to consider the term to include parental abduction because these treaties were negotiated by the United States prior to the development in United States criminal law described in paragraphs (3) and (4);

(6) the more modern extradition treaties to which the United States is a party contain dual criminality provisions, which provide for extradition where both parties make the offense a felony, and therefore it is the practice of the United States to consider such treaties to include parental abduction if the other foreign state party also considers the act of parental abduction to be a criminal offense; and

(7) this circumstance has resulted in a disparity in United States extradition law which should be rectified to better protect the interests of children and their parents.

## SEC. 3. INTERPRETATION OF EXTRADITION TREATIES.

For purposes of any extradition treaty to which the United States is a party, Congress authorizes the interpretation of the terms "kidnaping" and "kidnapping" to include parental kidnapping.

Mr. BIDEN. Mr. President, I am pleased that the Senate is today acting on the Extradition Treaties Interpretation Act. I appreciate the cooperation of the chairman of the committee, and the cooperation and assistance of the executive branch, in moving this bill forward.

The bill is very short, and I will not take the Senate's time to review it at length. In brief, the bill is designed to remedy a disparity in U.S. extradition law and practice. The disparity is this: under certain extradition treaties, the crime of parental abduction—when one parent takes a child in violation of law or a custody order and against the wishes of the other parent—is not extraditable. That is so for two related reasons.

The criminalization of parental abduction is a relatively recent development in U.S. criminal law. Prior to the mid-1970's, parental abduction was generally considered a family law matter not covered by criminal law. In the last two decades or so, U.S. criminal law has evolved significantly. All 50 states

make the act a crime, as does the District of Columbia and the Federal Government.

As a consequence of this development in the law, a disparity has been created in U.S. extradition law. The disparity occurs in a subset of extradition treaties referred to as "list" treaties—so named because they specifically enumerate, or list, the crimes under the treaty that are considered extraditable. Thus, because the act of parental abduction was not a crime when these older list treaties were ratified, it has been the practice of the executive branch to interpret the treaties as excluding parental abduction. This concern does not arise in more modern "dual criminality" treaties, which avoid the limiting nature of the list treaties by allowing extradition in any case where both countries make a practice a felony.

Seeking to remove this disparity, the Clinton administration has requested authority to adopt a new interpretation of the term "kidnapping" in the list treaties so that it encompasses parental abduction. The Foreign Relations Committee strongly supports this request, and voted unanimously last month to report the bill to the Senate.

The chairman and I have offered a substitute amendment which makes several changes to the Committee-reported bill which were recommended by the Justice Department after it gave closer review to the legislation. The changes are modest, and mostly technical. I would highlight only one: the committee-reported bill provided, in the operative section of the bill, section 3, that the Congress authorizes the interpretation of the term kidnapping to include international parental kidnapping. The substitute omits the word "international," for an important reason: the crime of international parental abduction, which includes as an element the taking of a child out of the country, is a Federal offense. But the practical reality is that most extradition cases will involve crimes prosecuted at the state level, where the offense does not include the aforementioned element of removing the child from the country. Thus, the substitute ensures that the bill has the broadest possible reach.

Mr. President, the abduction of children by their parents is a heartwrenching crime. This bill will ensure that there is no disparity in U.S. extradition law and practice with regard to this crime, and, I hope, will help lead to the extradition of individuals wanted for this crime. I urge my colleagues to support the bill.

Mr. LOTT. Mr. President, I ask unanimous that the amendment be agreed to.

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

The amendment (No. 1523) was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as

amended; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 1266), as amended, was read the third time and passed.

#### ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I believe there is still some more debate on the ISTEAA legislation or other actions that may be considered tonight. So we will not do the closing at this time. But just so Senators will know what the present situation is and what they can expect later on tonight, of course, we do not expect any further recorded votes tonight. It is our anticipation that at 9:45 in the morning, there will be a vote on the cloture motion relating to the ISTEAA highway construction bill. I am still trying to find a way to clear this bill of the obstructions that have been placed in its path so that we will have safe highways and safe roads and get this major legislation through the Senate. We have had two cloture votes. The next cloture vote will be tomorrow at 9:45 a.m.

We made a serious effort today by all concerned on both sides of the aisle and both sides of the issue with relation to the campaign finance reform matter to find a way to move forward, and I believe that Senator DASCHLE and I had basically reached an agreement, but then other Senators indicated that they wanted something more and we couldn't complete that agreement.

I think that is really unfortunate. I thought what we had come up with was very fair, that we would take up campaign finance reform by the first week of March and that amendments would be in order. But we will continue to work on it, hopefully, because I do think this is very important legislation. I will have to make a decision as majority leader after tomorrow's cloture vote as to what to do at that point. If we get cloture, obviously, we will go right on with the amendments with regard to ISTEAA, the highway transportation bill, and I believe we can get it completed next week even though we have a lot of very important amendments pending.

If we don't get cloture, I have to make a call as to whether to spend another half of a week trying to cut off basically the filibuster that has gone on with regard to this legislation and move on to other matters. I think that would be unfortunate. I think this is important legislation that needs to be passed.

On Monday, if we have not been able to clear from hold the Federal Reserve nominees, it would be my intention to move to debate those and get a vote on them. And we also are going to have to act early next week, in some form, with regard to the threatened Amtrak strike.

Beyond that, we will consult with Members on both sides of the aisle and let them know what will be the legislative schedule next week.

If we cannot get something worked out on ISTEAA, we will move on to other issues. And, of course, I would like to continue to work on the Executive Calendar, but that takes cooperation on both sides of the aisle. And if we cannot get cooperation on committee meetings and on how we resolve campaign finance reform, I guess we will not get cooperation on nominations either. But we will keep moving forward and see if we can come to some reasonable agreement so we can get this very important legislation completed.

I yield the floor, Mr. President.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is still conducting morning business until 6:30 this evening.

Mr. BYRD. Mr. President, I wonder if the distinguished majority leader would mind if the Senate returned to the consideration of the highway bill?

Mr. LOTT. Mr. President, I would have no objection to that. I would like to make sure that the manager of the bill has no objection at this time.

Mr. CHAFEE. It is my understanding that the distinguished Senator from West Virginia is going to make some comments and no motions or anything are involved. It is strictly some remarks in connection with the legislation.

Mr. BYRD. That is correct. I would like to make them while the highway bill is pending before the Senate.

Mr. CHAFEE. So I have no objection.

Mr. BYRD. I thank the Chair.

#### INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The PRESIDING OFFICER. If there is no objection, the Senate will proceed to consideration of the highway bill. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Chafee/Warner amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization.

Chafee/Warner amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature.

Chafee/Warner amendment No. 1314 (to Amendment No. 1313), of a perfecting nature.

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions.

Lott amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs.