

my staff—Brian Chelcen and Peter Quaranto—be granted floor privileges for the remainder of this Congress.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MIKULSKI. I ask unanimous consent that a fellow in Senator BINGAMAN's office, Michele Mazzocco, be given floor privileges during this bill.

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

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I, too, ask unanimous consent to extend floor privileges to Ann Clough for the remainder of the consideration of the conference report.

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

#### LIBYAN CLAIMS RESOLUTION ACT

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3370, introduced earlier today by Senators BIDEN, LUGAR, LAUTENBERG, WARNER, LEAHY, and LEVIN.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3370) to resolve pending claims against Libya by United States nationals, and for other purposes.

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

Mr. BIDEN. Mr. President, today, with the passage of the Libyan Claims Resolution Act, the United States moves closer to a comprehensive resolution of all outstanding claims by U.S. nationals against Libya for its support for terrorism over several decades. These claims include, most notably, the Pan Am 103 bombing over Lockerbie, Scotland, which killed 270 innocent human beings in December 1988 and the bombing of the LaBelle discotheque in Berlin in April 1986 in which two American military personnel were killed and scores more injured. There are many other pending claims involving attacks against Americans that are attributable to Libya. These, too, will be resolved by this legislation. Although less well known in the public's memory, they were no less devastating to their victims and no less an affront to humanity.

For several months now, the Bush administration has been negotiating with the Government of Libya on a comprehensive settlement to compensate American victims of Libyan terror. The State Department has reported to us in recent days that an agreement has been reached but has not yet been signed. I commend the fine effort of Assistant Secretary of State David Welch and Deputy Legal Adviser Jonathan Schwartz, who led the U.S. delegation in these very difficult negotiations. Signature on the agreement awaits action by Congress, and that is what we are doing today.

The agreement will provide full compensation to pay settlements already reached in the Pan Am 103 and LaBelle cases and enough funds to ensure that every American claimant in these cases involving Libyan terrorism will receive financial compensation comparable to the Pan Am 103 and LaBelle settlements. No U.S. taxpayer money will be used to pay these claims. The regime in Libya is notoriously unpredictable, so there is a chance that the deal could fall apart. But there is reason to believe that the Libyan leader, Colonel Qadhafi, has decided it is in his interest to settle all of these cases, rather than let them languish in court for years or decades, at the expense of progress in the Libyan-American relationship. Should the government of Libya change its position and fail to provide the complete funding, the victims will retain their full rights to proceed with their legal challenges.

But before Libya is willing to sign the agreement, it wants legal assurances that upon providing the full funding it will be immune from further legal repercussions stemming from these cases. This legislation, if signed into law by the President, provides such assurances, allowing the deal to go forward. It authorizes the Secretary of State to work with the Libyans to set up the funding mechanism. It assures the Libyans that if and only if full compensation has been paid to all American victims of Libyan terrorism, they will be immune from further claims of this nature. And it assures the American claimants that their lawsuits will not be extinguished unless the funding promised by the agreement is provided.

If this bill is approved by the House, Congress will have joined with the President to solve an issue of national and international importance, while protecting the interests of its nationals who have valid claims against Libya. Under the Constitution, there is no question the executive and the legislative branches have the authority to work together in this manner to settle claims so as to help the hundreds of American claimants who will benefit from this initiative. This cooperative effort—and the prompt bipartisan support for it—is also a good example of how the two branches should work together to advance our national interests.

I wish to be clear about what my support for this legislation means and does not mean. It is clearly in the interest of the United States to develop better relations with Libya. Libya is an important country as a gateway between Europe and Africa, which shares a border with the Darfur region of Sudan, and is a member of OPEC. Colonel Qadhafi appears to have made a break with his past support for terrorism and efforts to acquire weapons of mass destruction. That is good news for Libya, for the United States, and for the world.

It also is a powerful demonstration that diplomatic engagement, backed

up with sanctions and incentives, can change the behavior of countries whose policies threaten our interests. There is a lesson in here for more productive approaches we could have taken earlier with other problematic countries. It is important for countries like Iran, North Korea, and Syria that pursue malevolent policies to see that there is a roadmap back into the international community if they modify their behavior. In short, the model of normalization with Libya, if applied to other cases, can prove that our goal is conduct change, not regime change and can actually produce that change.

For these reasons, I support the nascent Libyan-American agreement to comprehensively settle all outstanding American claims against Libyan terrorism. Libya's renunciation of its weapons of mass destruction programs and its previous support for terrorism is something all of us should welcome. I support the carefully calibrated movement toward the full normalization of bilateral relations.

But it should be underscored that this legislation does not exonerate or excuse Libya for its despicable and cowardly support for terrorism. I hope that the agreement can provide a modicum of justice and closure for the victims of Libyan terrorism and their families. But it is small consolation indeed and will not bring back the lives that have been lost, nor undo the suffering endured by survivors.

Neither does today's legislation indicate a shift in my views of the fundamental nature of the Qadhafi regime. Yes, Americans are interested in Libya's external behavior. But we are also concerned about the human rights conditions within Libya. Though his support for terrorists has ended, Qadhafi's Libya remains a police state that brooks no political opposition. Four decades after coming to power in a military coup, Qadhafi continues to rule by personal fiat. He may have had a change of mind about Libya's policies, but I doubt that it has been matched by a change of heart.

It is critical that the Bush administration pursue a broader engagement with the Libyan people and civil society. This relationship must be about more than securing contracts for American oil companies. We have learned the hard way that our vital interests can be threatened by relationships that ignore the huge deficiencies in governance and basic freedoms in many Middle Eastern countries and are based exclusively on commercial and security interests. So I am disappointed that this comprehensive claims settlement agreement is not accompanied by a comprehensive plan to engage Libyan society. I urge the Bush administration to put as much energy into developing such a plan as it did in the negotiations for a claims settlement.

For more than 4 years, I have called for the release of Fathi Eljahmi, a courageous Libyan democracy advocate

with serious health problems whose only crime was to speak truth to power. Though the change in direction in Libyan foreign policy in the last few years is as commendable as it is remarkable, Mr. Eljahmi's continuing captivity is a reminder that basic fundamental freedoms such as rule of law and the freedom of speech do not exist inside Libya. As I have made it clear to Colonel Qadhafi, the future of the Libyan-American relationship, at least as far as this Senator is concerned, will be affected by the Libyan Government's treatment of Mr. Eljahmi. I urge the Libyan Government to release him unconditionally and immediately, and to end the harassment of his family.

Engagement does not mean that we surrender our values. Engagement means we are in a stronger position to advance our values and to secure real change. I urge the Bush administration to use this opportunity to assert America's interests in a broader relationship that will put Libya on a more sustainable, and more democratic, path.

Mr. LEAHY. Mr. President, I am pleased that the Senate has unanimously passed legislation that, in conjunction with an international agreement being finalized between the United States and Libya, will at long last provide full and fair compensation to those United States nationals who have terrorism-related claims against Libya. I commend Senator FRANK LAUTENBERG, who has been working hard for years to try to get justice for these victims of terror, as well as the other cosponsors who have enabled this important legislation to win Senate approval.

This legislation takes a critical step in securing the final payment of settlement amounts already reached by the victims of the Pan Am 103 Lockerbie bombing and the LaBelle discotheque bombing, as well as fair compensation for all other similar claims against Libya. It has wide support among victims' rights groups, and it will be an important step in restoring relations between the United States and Libya.

I urge the House to work quickly to pass this legislation so that we can send this bill to the President's desk.

Mr. LEVIN. Mr. President, I join with Senators BIDEN, LUGAR, LAUTENBERG, WARNER, and LEAHY today in submitting the Libya Claims Resolution Act.

During last year's consideration of the Defense authorization bill, I joined with Senator LAUTENBERG and 31 other cosponsors in unanimously adding a provision which allowed victims of terrorism to seek redress in U.S. courts against foreign states whose officials or agents commit acts of terrorism, by establishing a private right of action under the sovereign immunity exception for state sponsors of terrorism.

I supported the LAUTENBERG amendment to the Defense authorization bill out of concern over Libya's backing out of a settlement agreement with the victims and families of victims of the

1986 bombing of the La Belle Discotheque in Berlin, Germany. On April 5, 1986, Libya directed its agents to execute a terrorist attack in West Berlin for the sole purpose of killing as many American military personnel as possible. The La Belle Discotheque was known to be frequented by large numbers of U.S. military personnel. The bombing of the discotheque occurred at a time when 260 people, including U.S. military personnel, were present. When the bomb detonated, two U.S. soldiers were killed and over 90 U.S. soldiers were injured.

Since shortly after the National Defense Authorization Act was enacted in January 2008, and in direct response to the Lautenberg provision, the Libyans approached the State Department about securing a comprehensive settlement of claims against Libya brought by American victims of acts of terrorism.

Under the proposed international agreement the United States would receive sufficient funding to pay the two large outstanding settlements with Libya—the Pan Am 103 families' settlement and the La Belle Discotheque settlement—as Congress has requested in previous legislation. In addition, Libya would provide sufficient funds to ensure fair compensation of the other pending claims for acts of terrorism.

In return for this comprehensive claims settlement, the United States will need to assure Libya that it will not face further terrorism-related litigation in U.S. courts. This legislation, the Libya Claims Resolution Act, will restore Libya's sovereign immunity—once the United States has received the agreed funding.

With the enactment of this legislation, the international agreement can be concluded quickly and the money channeled to American claimants. According to the State Department, the Pan Am and La Belle claimants should receive their settlements shortly after the agreement is signed, ending years of waiting for just compensation from Libya.

I commend the State Department for its efforts to bring these claims to a resolution.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the bill be read three times and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 3370) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3370

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Libyan Claims Resolution Act".

#### SEC. 2. DEFINITIONS.

In this Act—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives;

(2) the term "claims agreement" means an international agreement between the United States and Libya, binding under international law, that provides for the settlement of terrorism-related claims of nationals of the United States against Libya through fair compensation;

(3) the term "national of the United States" has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(4) the term "Secretary" means the Secretary of State; and

(5) the term "state sponsor of terrorism" means a country the government of which the Secretary has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

#### SEC. 3. SENSE OF CONGRESS.

Congress supports the President in his efforts to provide fair compensation to all nationals of the United States who have terrorism-related claims against Libya through a comprehensive settlement of claims by such nationals against Libya pursuant to an international agreement between the United States and Libya as a part of the process of restoring normal relations between Libya and the United States.

#### SEC. 4. ENTITY TO ASSIST IN IMPLEMENTATION OF CLAIMS AGREEMENT.

(a) DESIGNATION OF ENTITY.—

(1) DESIGNATION.—The Secretary, by publication in the Federal Register, may, after consultation with the appropriate congressional committees, designate 1 or more entities to assist in providing compensation to nationals of the United States, pursuant to a claims agreement.

(2) AUTHORITY OF THE SECRETARY.—The designation of an entity under paragraph (1) is within the sole discretion of the Secretary, and may not be delegated. The designation shall not be subject to judicial review.

(b) IMMUNITY.—

(1) PROPERTY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary designates any entity under subsection (a)(1), any property described in subparagraph (B) of this paragraph shall be immune from attachment or any other judicial process. Such immunity shall be in addition to any other applicable immunity.

(B) PROPERTY DESCRIBED.—The property described in this subparagraph is any property that—

(i) relates to the claims agreement; and

(ii) for the purpose of implementing the claims agreement, is—

(I) held by an entity designated by the Secretary under subsection (a)(1);

(II) transferred to the entity; or

(III) transferred from the entity.

(2) OTHER ACTS.—An entity designated by the Secretary under subsection (a)(1), and any person acting through or on behalf of such entity, shall not be liable in any Federal or State court for any action taken to implement a claims agreement.

(c) NONAPPLICABILITY OF THE GOVERNMENT CORPORATION CONTROL ACT.—An entity designated by the Secretary under subsection (a)(1) shall not be subject to chapter 91 of title 31, United States Code (commonly

known as the "Government Corporation Control Act").

**SEC. 5. RECEIPT OF ADEQUATE FUNDS; IMMUNITIES OF LIBYA.**

(a) IMMUNITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, upon submission of a certification described in paragraph (2)—

(A) Libya, an agency or instrumentality of Libya, and the property of Libya or an agency or instrumentality of Libya, shall not be subject to the exceptions to immunity from jurisdiction, liens, attachment, and execution contained in section 1605A, 1605(a)(7), or 1610 (insofar as section 1610 relates to a judgment under such section 1605A or 1605(a)(7)) of title 28, United States Code;

(B) section 1605A(c) of title 28, United States Code, section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 342; 28 U.S.C. 1605A note), section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), and any other private right of action relating to acts by a state sponsor of terrorism arising under Federal, State, or foreign law shall not apply with respect to claims against Libya, or any of its agencies, instrumentalities, officials, employees, or agents in any action in a Federal or State court; and

(C) any attachment, decree, lien, execution, garnishment, or other judicial process brought against property of Libya, or property of any agency, instrumentality, official, employee, or agent of Libya, in connection with an action that would be precluded by subparagraph (A) or (B) shall be void.

(2) CERTIFICATION.—A certification described in this paragraph is a certification—

(A) by the Secretary to the appropriate congressional committees; and

(B) stating that the United States Government has received funds pursuant to the claims agreement that are sufficient to ensure—

(i) payment of the settlements referred to in section 654(b) of division J of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2342); and

(ii) fair compensation of claims of nationals of the United States for wrongful death or physical injury in cases pending on the date of enactment of this Act against Libya arising under section 1605A of title 28, United States Code (including any action brought under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), that has been given effect as if the action had originally been filed under 1605A(c) of title 28, United States Code, pursuant to section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 342; 28 U.S.C. 1605A note)).

(b) TEMPORAL SCOPE.—Subsection (a) shall apply only with respect to any conduct or event occurring before June 30, 2006, regardless of whether, or the extent to which, application of that subsection affects any action filed before, on, or after that date.

(c) AUTHORITY OF THE SECRETARY.—The certification by the Secretary referred to in subsection (a)(2) may not be delegated, and shall not be subject to judicial review.

**AUTHORIZING PRODUCTION OF RECORDS**

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 642 submitted earlier

today by Senators REID and MCCONNELL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 642) to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs.

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

Mr. REID. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has received requests from various law enforcement and regulatory agencies, seeking access to records that the Subcommittee obtained during its recent investigation into tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of those activities on tax compliance in the United States.

This resolution would authorize the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations, acting jointly, to provide records, obtained by the Subcommittee in the course of its investigation, in response to these requests and any similar requests from government entities and officials with a legitimate need for the records.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 642) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

**S. RES. 642**

Whereas, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs conducted an investigation into tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of those activities on tax compliance in the United States;

Whereas, the Subcommittee has received a number of requests from law enforcement and regulatory agencies for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Chairman and Ranking Minority Member of the Permanent Sub-

committee on Investigations of the Committee on Homeland Security and Governmental Affairs, acting jointly, are authorized to provide to law enforcement officials, regulatory agencies, and other entities or individuals duly authorized by federal, state, or foreign governments, records of the Subcommittee's investigation into tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of those activities on tax compliance in the United States.

**MEASURE READ THE FIRST TIME—S. 3406**

Mr. DURBIN. Mr. President, I understand that S. 3406, introduced earlier today by Senator HARKIN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 3406) to restore the intent and protections of the Americans with Disabilities Act of 1990.

Mr. DURBIN. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read for the second time on the next legislative day.

**APPOINTMENT**

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 110-181, appoints the following individual to the Commission on Wartime Contracting: Robert J. Henke of Virginia.

**ORDERS FOR FRIDAY, AUGUST 1, 2008**

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Friday, August 1; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the motion to proceed to S. 3001, the Defense authorization bill, with Senators permitted to speak for up to 10 minutes each.

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

**ADJOURNMENT UNTIL 9:30 A.M. TOMORROW**

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 10:20 p.m., adjourned until Friday, August 1, 2008, at 9:30 a.m.