OLL 85-2110
23 July 1985

MEMORANDUM FOR: General Counsel
Counsel to the DO
DC/ICAD/OGC
C/PCS/DDO
EO/CPN/DDO
NIO/CT
A/NIO/CT

FROM: [redacted] STAT
Legislation Division
Office of Legislative Liaison

SUBJECT: Anti-Terrorism Legislation - S. 1429 and S. 1383

1. Attached for your information and comment, please find a copy of two pieces of anti-terrorism legislation: S. 1429 and S. 1383 (with accompanying introductory statements). Both bills were introduced by Senator Spector and are scheduled for hearing on Tuesday, 30 July 1985, before the Subcommittee on Security and Terrorism (chaired by Senator Denton) of the Senate Judiciary Committee.

2. S. 1429 would make criminal a terrorist attack against a United States citizen abroad. It would vest jurisdiction over such offenses in the courts of the United States if the offender was within the court's jurisdiction, regardless of where the offense was commited, the nationality of the victim or how that offender was brought within the court's jurisdiction.

3. The bill further provides that the Attorney General, in "enforcing" (as opposed to "prosecuting" the crime) the provisions of the bill, may request and shall receive assistance from any state or federal agency, "any statute, rule or regulation to the contrary notwithstanding". A prior version of the bill, S. 1373, included the Agency in the list of agencies specifically mandated to assist the Attorney General.

4. S. 1383 would make it unlawful for a foreign diplomat or consular officer to use a firearm to commit an act which otherwise would constitute a state or federal felony.

5. Scheduled to testify at the hearing on the 30th are: Dr. Ray Cline; two of the hostages from the recent Beirut hijacking of the TWA airliner; and Robert Oakley, Director, Office for Counterterrorism and Emergency Planning, Department of State.

6. We have advised the Office of Management and Budget (OMB) that the Agency would like an opportunity to comment on the testimony of Director Oakley in the OMB coordination process. As soon as we receive that testimony, it will be sent to you for review and comment. In the meantime, we would appreciate receiving your comments on S. 1429 and S. 1383 by Friday, 26 July.

STAT

Attachment
as stated

II

99TH CONGRESS
1ST SESSION

S. 1383

To protect the internal security of the United States against international terrorism by making the use of a firearm to commit a felony by foreign diplomats in the United States a Federal felony.

IN THE SENATE OF THE UNITED STATES

JUNE 27 (legislative day, JUNE 26), 1985

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To protect the internal security of the United States against international terrorism by making the use of a firearm to commit a felony by foreign diplomats in the United States a Federal felony.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 930. Foreign diplomats

"(a) It shall be unlawful for—

"(1)(A) any member of a foreign diplomatic mission in the United States entitled to immunity from the

criminal jurisdiction of the United States under the provisions of the Vienna Convention on Diplomatic Relations, done on April 18, 1961; or

"(B) any member of a foreign consular post in the United States entitled to immunity from the criminal jurisdiction of the United States under the provisions of the Vienna Convention on Consular Relations, done on April 24, 1963,

to use a firearm to commit any act constituting a felony under the criminal laws of the United States or any State.

"(b) Whoever violates this section shall be punishable by a fine of $10,000 or by imprisonment for 10 years, or both.

"(c) For purposes of this section—

"(1) the term 'member of a foreign diplomatic mission' includes any individual described by Article 1(b) of the Vienna Convention on Diplomatic Relations, done on April 18, 1961; and

"(2) the term 'member of a foreign consular post' includes any individual described by Article 1(g) of the Vienna Convention on Consular Relations, done on April 24, 1963.".

(b) The analysis for chapter 44 of title 18 United States Code is amended by adding at the end thereof the following:

"930. Foreign diplomats.".

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achieve uniformity among the States as regards their minimum drinking ages. If States try to employ sunset mechanisms to undermine the intent of Congress, it will set a dangerous precedent for the 13 States and the District of Columbia which have yet to take action.

Mr. President, it is unfortunate that the Senate should be put in this situation. For the most part, the Uniform Minimum Drinking Age Act has worked exactly as Congress intended. The Governors and State legislatures of States like New Hampshire, Mississippi, Virginia, and Connecticut have taken firm and courageous action to raise their minimum drinking ages.

Mr. President, the legislation we propose today is a direct response to this situation. Instead of ending the withholding of 10 percent of a nonconforming State's highway funds in 1988, the bill will make the 10 percent withholding permanent. This procedure is consistent with enforcement of the 55-mile-per-hour speed limit. Instead of restoring all funds withheld to a State when it takes action to comply with the law, the bill would limit such reimbursement to the first 2 years of withholding as specified in Public Law 98-363. After fiscal year 1988, if a State has still not taken action, no further reimbursement would be in order.

I believe that these amendments to the Uniform Minimum Drinking Age Act are necessary to avoid the circumvention of congressional intent. This bill will have no effect on States which have passed minimum drinking age laws consistent with the spirit of the Uniform Minimum Drinking Age Act of 1984. It will only affect States that seek to evade the intent of the act by sunsetting a 21-year-old drinking age law.

Mr. President, I ask that a text of the Uniform Minimum Drinking Age Act amendments appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 158 of title 23, United States Code, is amended—

(1) in paragraph (2) of subsection (a) by striking out "the fiscal year" and inserting in lieu thereof "each fiscal year"; and

(2) in subsection (b) by striking out "in fiscal year if in any" and inserting in lieu thereof "in the fiscal year beginning after September 30, 1986, or the fiscal year beginning after September 30, 1987, if in the".

● Mr. DANFORTH. Mr. President, I am pleased to join with my distinguished colleague, Senator LAUTENBERG, in introducing this important legislation to amend the 21 year drinking age legislation enacted last year.

Traffic accidents are a serious national problem. One of the major components of this problem is drunk driving. Although significant strides have been made at the Federal, State, and local levels in recent years to combat drunk driving, the fact remains that more than 20,000 Americans are killed each year in drunk driving accidents, and hundreds of thousands more people are seriously injured.

Last year, Congress took a major step toward addressing this problem by enacting Public Law 98-363. This legislation encourages States to set their minimum legal drinking ages at 21; States that do not have a 21 year drinking age will face withholding of 5 percent of their interstate highway construction funds in fiscal 1987 and 10 percent of these funds in fiscal 1988. If the States subsequently enact 21 year drinking age legislation, the funds withheld will be refunded to the affected States.

The 21 year drinking age is one of the most effective means of fighting drunk driving. In order to realize the maximum benefits from the higher drinking age, however, it must be on a nationwide basis. If some States have lower drinking ages, the "blood border" problem will result, with teenagers traveling to the States with the lower drinking ages and subsequently becoming involved in drunk driving accidents.

The 1984 legislation, which I was proud to cosponsor with Senator LAUTENBERG and others, is an important tool in the fight against drunk driving. I am concerned, however, about potential attempts by some States to circumvent the intent of this legislation. State efforts to enact sunset provisions, where the 21 drinking age is in effect only for the 2 years during which highway construction funds are to be withheld are a clear violation of the spirit of the 1984 law. The 21 year drinking age is meant to remain in effect past fiscal 1988.

The legislation we are introducing today will successfully combat this major potential problem. Our bill would require that States without a 21 year drinking age have 10 percent of their highway construction funds withheld in fiscal 1988 and beyond. Therefore, if a State enacts a sunset provision reducing the drinking age in fiscal 1989 or in any future year, that State would then be subject to the withholding requirement.

Mr. President, it is important that we quickly close this loophole in order to ensure that we are taking the most effective action possible to combat drunk driving. I commend my colleague, Senator LAUTENBERG, for his continued efforts in support of highway safety and I look forward to working with him as we seek enactment of this important legislation.●

By Mr. SPECTER:

S. 1429. A bill to amend title 18, United States Code, to authorize prosecution of terrorists who attack United States nationals abroad, and for other purposes; to the Committee on the Judiciary.

TERRORIST PROSECUTION ACT

● Mr. SPECTER. Mr. President, today I am introducing the Terrorist Prosecution Act of 1985 to expand U.S. law by making it a crime for anyone in any country to assault or kill any U.S. national as part of an act of international terrorism.

This bill supplements legislation I introduced earlier this session, S. 1373, in that it makes it clear that the assault or murder intended to be covered is that which is part of an act of international terrorism, as defined in the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801(c).

At the heart of these and other legislative initiatives I have been been pushing for approximately a year now, is the fundamental notion that international terrorists are criminals and ought to be treated as such—they should be promptly located, apprehended, and brought to trial for their heinous crimes.

When President Reagan addressed the American Bar Association earlier this week, he made it clear that just such a policy will be applied, telling the lawyers that "we must act against the criminal menance of terrorism with the full weight of the law—both domestic and international. We will act to indict, apprehend and prosecute those who commit the kind of atrocities the world has witnessed in recent weeks."

This is a new emphasis in administration policy, and I applaud it.

For many years, about a quarter of a century, I have been concerned with fighting criminals, and terrorists are international criminals. They have to be dealt with as criminals, and I think they can be dealt with effectively as criminals. To catch them, to incarcerate them, to punish them, and to deter other criminals, other terrorists, by the examples of our tough approach to the terrorists—that is the way our criminal justice system works, and it can work in the international field as well if we enact the necessary legislation.

Last year we enacted the hostage taking and aircraft sabotage legislation to provide U.S. courts with extraterritorial jurisdiction over those international activities, but there remains a critical gap in our arsenal against terrorism: murder of U.S. citizens outside our borders, other than of specially designated Government officials and diplomats, is not a crime under U.S. law.

I was stunned to realize that those responsible for murdering over 260 U.S. marines while they slept in their barracks in Lebanon are not guilty of any U.S. crime for their murder. Existing law punishes only those who assault our diplomats. Under my bill, when a U.S. marine or any other American is killed or wounded, an investigation can be initiated and the culprits can be brought to this country and prosecuted.

This bill tracks current law protecting diplomats and other "internationally protected persons," found at 18 U.S.C. 112 and 1116, but extends the protection to all U.S. nationals, while making it clear that it is aimed at international terrorism, not bar-room brawls.

This act will in no way contravene or conflict with either international or constitutional law. While criminal jurisdiction is customarily limited to the place where the crime occurred, it is well-established constitutional doctrine that Congress has the power to apply U.S. law extraterritorially if it so chooses. (See for example, *United States* v. *Bowman*, 260 U.S. 94, 98 (1922)).

International law also recognizes broad criminal jurisdiction. If an alleged crime occurs in a foreign country, a nation may still exercise jurisdiction over the defendant if the crime has a potential adverse effect upon its security or the operation of its governmental functions. This basis for jurisdiction over crimes committed outside the United States has been applied by the Federal courts in contexts ranging from drug smuggling to perjury. Clearly, then, the exercise of U.S. criminal jurisdiction is also justified to prosecute the terrorist who assaults or murders American nationals abroad as a means of affecting U.S. policy. Such attacks undoubtedly have an adverse effect upon the conduct of our Government's foreign affairs, and potentially threaten the security interest of the United States as well.

But making terrorist murder a U.S. crime alone will not protect Americans abroad. We must also demonstrate our seriousness by applying the law with fierce determination.

In many cases, the terrorist murderer will be extradited or seized with the cooperation of the government in whose jurisdiction he or she is found. Yet, if the terrorist is hiding in a country like Lebanon, where the government, such as it is, is powerless to aid in his removal, or in Lybia, where the Government is unwilling, we must be willing to apprehend these criminals ourselves and bring them back for trial. We have the ability to do that right now, under existing law. Under current constitutional doctrine, both U.S. citizens and foreign nationals can be seized and brought to trial in the United States without violating due process of law. See, for example, *Frisbie* v. *Collins*, 342 U.S. 519, 522 (1952); *Ker* v. *Illinois*, 119 U.S. 436 (1886).

It may surprise some to hear that such methods are an appropriate way to bring criminals to trial. If someone is charged or chargeable with an offense and is at liberty in some foreign country, it is an accepted principle of law to take that alleged criminal into custody if necessary and return him to the jurisdiction which has authority to try him. That prosecution and conviction is sustainable and is proper under the laws of the United States and under international law.

This principle has been in effect for almost 100 years, going back to 1886 in the landmark case of Ker versus Illinois, where the State of Illinois seized a defendant in Peru, a man being charged with a crime in Illinois, and brought him back to Illinois for trial, where he was convicted. The case went to the Supreme Court of the United States and the Supreme Court of the United States said it was appropriate to try that man in Illinois and to convict him notwithstanding the means which were used to bring him back to trial in that jurisdiction.

That doctrine was upheld in an opinion written by Justice Hugo Black, well known for his concern about defendants' rights, in the case of Frisbie versus Collins, handed down by the Supreme Court of the United States in 1952 and upheld in later decisions. No country in the world, no country in the history of the development of law, has more rigorous concepts of the due process of law than the United States of America and the U.S. Supreme Court.

Forcible seizure and arrest is a strong step but the threat of terrorism requires strong measures, and this is clearly preferable to the alternatives of sending in combat troops or bombing a few neighborhoods.

I have also reintroduced a resolution, Senate Resolution 190, to provide for international prosecution of terrorists, expressing the sense of the Senate that the President should call for international negotiations aimed at determining an international definition of terrorism which could then be established as a "universal crime," like piracy, punishable by any nation that captures the terrorists.

Another necessary step in effective prosecution of terrorists as international criminals is to deny the fallacy of the "terrorist-diplomat." I have introduced legislation, S. 1374 and Senate Resolution 191, aimed at preventing any recurrence of the grotesque spectacle we witnessed after the Libyan shoot-out in London of terrorists walking away from prosecution because of diplomatic immunity, by making it clear that murder is not, and can never be, protected diplomatic activity.

The terrorist diplomat can exist only as a product of state-sponsored terrorism, and it is to this threat that we must next turn our focus. Earlier this year, I introduced legislation to cut off all U.S. trade with Libya because of its support of international terrorism. This proposal was adopted by the Senate as an amendment to the Foreign Assistance Act giving the President authority to summarily cut off trade with Libya and other countries because of its support of international terrorism.

On July 10, 1985, the House passed a similar amendment to the House Foreign Assistance Act mandating a trade boycott of Libya, after I consulted Congressman BENJAMIN GILMAN of New York.

Finally, in response to the immediate concerns raised by the TWA hijacking, I have introduced a resolution calling on the President to work for a worldwide boycott of all international airports that fail to meet adequate security standards. I firmly believe that the United States must take an active role in ensuring the safety of passengers, not just on flights leaving our airports, but on all international flights.

I am ultimately convinced that law abiding nations will succeed against this threat to law and order worldwide, not by adopting the terrorist tactics that threaten innocents, but by fiercely maintaining that threatened order, and bringing the full force of the law to bear against these most heinous criminals.

President Reagan called on the ABA lawyers to help the Government "to deal legally with lawlessness. Where legislation must be enacted to allow appropriate authorities to act," he said, "you should help to craft or change it."

This legislation I am introducing today is urgently needed to provide authority to prosecute international terrorists for the murder of U.S. nationals. It is a simple bill that simply takes the current law protecting diplomats from assault and murder and extends it to all U.S. nationals who are victims of international terrorism.

It should be promptly enacted.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Terrorist Prosecution Act of 1985".

SEC. 2. (a) Part I of title 18, United States Code, is amended by inserting after chapter 113 the following:

"CHAPTER 113A—TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD

"Sec.

"2321. Terrorist acts against United States nationals abroad.

"SEC. 2321. TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD.

"(a) Whoever in an act of international terrorism kills or attempts to kill any national of the United States shall be punished as provided under section 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) Whoever in an act of international terrorism assaults, strikes, wounds, imprisons or makes any other violent attack upon the person or liberty of any national of the United States in any foreign country or in international waters or air space, or, if likely to endanger his or her person or liberty,

makes violent attacks upon his or her official premises, private accommodation, or means of transport, or attempts to commit any of the foregoing, shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than $10,000 or imprisoned not more than ten years or both.

"(c) For the purposes of this section, "international terrorism" is used as defined in the Foreign Intelligence Surveillance Act, title 50, section 1801(c).

"(d) The United States may exercise jurisdiction over the alleged offense if the alleged offender is present in the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.

"(e) In enforcing subsections (a) and (b), the Attorney General may request and shall receive assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, and the Federal Bureau of Investigation, any statute, rule, or regulation to the contrary notwithstanding."

(b) The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113, the following

CHAPTER 113A—TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD

"113A—Terrorist acts against United States nationals abroad. 2321".●

By Mr. LEVIN:

S.J. Res. 157. Joint resolution to designate July 13, 1985, as "Live Aid Day"; to the Committee on the Judiciary.

LIVE AID DAY

● Mr. LEVIN. Mr. President, the legislation I am introducing today designates July 13, 1985 as "Live Aid Day". This date is a significant day because performers and dignitaries from all over the world will gather together in London, England, and Philadelphia, PA, to fight World Hunger. The mission is famine relief.

My colleague in the House, Congressman BOB CARR has introduced an identical resolution, House Joint Resolution 325. Passage by the full House is expected not later than tomorrow.

The Live Aid benefit concert, which will begin in London and continue in Philadelphia, PA, will be broadcast by ABC TV from 7 a.m. until 6 p.m. as well as continuous coverage on independent television stations around the world. This event would reach a possible 1.5 billion viewers in 169 countries.

Mr. President, the purpose of this event is to unite and educate more than 1 billion people relative to the hunger problems that plague the world and how each individual can take action to make a difference in moving from relief for Africans to recovery, and finally to self sufficiency.

Fifty-one of the world's top music performers plus 25 world figures who are involved with this project are donating their efforts free of charge. Dignitaries include Bishop Tutu, Prince Charles, former President Jimmy Carter, Mrs. Jihan Sadat, Rajiv Ghandi, Coretta King, and Geraldine Ferraro just to name a few. Top names in the entertainment field include Paul McCartney, Elton John, Mick Jagger, Joan Baez, Tina Turner, Cyndi Lauper, and many time honored bands will also be there to lend their support and talents.

Mr. President I feel it only fitting that it be resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that July 13, 1985, is designated as "Live Aid Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 157

Whereas the lives of thirteen million Africans are currently in dire jeopardy and massive financial assistance is needed this year to quell the African famine and to save the lives of such people;

Whereas on July 13, 1985, in both Philadelphia, Pennsylvania and London, England, performers from all over the world will gather to broadcast the "Live Aid" benefit concert sponsored by the "Live Aid" organization to aid in the relief of the famine;

Whereas Live Aid provides a way to continue to meet such goal through unity and cooperation of concerned and carrying performers, leaders, private voluntary organizations, corporations, Government agencies, and citizens of the United States in partnership with people from around the world;

Whereas the Live Aid broadcast will unite more than one billion people in learning about the hunger problems of the world and how each individual can take action to make a difference in moving from relief for Africans to recovery, and finally to self-reliance; and

Whereas the magnitude of human suffering in Africa is so enormous as to demand the most profound and immediate response possible: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 13, 1985, is designated as "Live Aid Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.●

By Mr. MURKOWSKI:

S.J. Res. 158. Joint resolution designating October 1985 as "National Community College Month" to the Committee on the Judiciary.

NATIONAL COMMUNITY COLLEGE MONTH

● Mr. MURKOWSKI. Mr. President, I am pleased to introduce legislation declaring October 1985 as "National Community College Month."

Community colleges provides an option to individuals who may not be able to afford the high tuitions of 4-year colleges or universities or whose schedules require flexibility. Students who attend community colleges are often able to continue working while they are going to school.

Technical, community, and junior colleges educate more than half of all first and second year students enrolled in postsecondary institutions. They provide training in over 1,400 occupations at a very low cost. The average tuition is $501 a year.

More than 97 percent of the congressional districts in the United States have at least one community, technical, or junior college. In my home State of Alaska we have a network of 10 community colleges. These colleges focus their curriculums and schedules on the needs of people of all ages, not only the recent high school graduate. They provide associate degrees ranging from nursing to mining and petroleum training services.

This joint resolution, which was introduced by my good friend Congressman DON YOUNG of Alaska, passed the House of Representatives on May 2, 1985. Let us join with our colleagues in the House in saluting community colleges by supporting this joint resolution.●

By Mr. JOHNSTON (for himself, Mr. HATFIELD, Mr. HELMS, and Mr. LONG):

S.J. Res. 159. Joint resolution to designate the rose as the national floral emblem; to the Committee on the Judiciary.

DESIGNATING THE ROSE AS THE NATIONAL FLORAL EMBLEM

● Mr. JOHNSTON. Mr. President, today I have the honor of joining with Senators HATFIELD, HELMS, and LONG in introducing a joint resolution to designate the rose as the national floral emblem of the United States.

The rose has embellished our country with its beauty and perfume for centuries. It has been said that "when love first came to the Earth, the spring spread rosebuds to receive him." Although I hesitate to assign a date to that occurrence, I can say that fossilized roses have been found in Colorado and Oregon which date back as far as 40 million years. And more recently, our first President George Washington began a tradition which still flourishes in our country—that of breeding and hybridizing roses. In fact, one of the varieties he developed, the Mary Washington rose, is still enjoyed today in gardens across the Nation. The rose has been selected to decorate the White House and innumerable other American landmarks and memorials, and three First Ladies have roses named in their honor.

No flower has inspired more poetry and music than the rose, and the rose has been the victor in every survey designed to determine the favorite flower of the American public. I believe it is time to make official the position of honor that the rose has long enjoyed in our culture. I believe it is time to make the rose our national flower.

Mr. President, I ask unanimous consent that my statement and the text of the resolution be printed in the RECORD.

or sell large amounts of stock, based on inside information, before a price increases or declines, they obviously have an advantage over those who are not employed by the corporations. The delay in reporting gives them an unfair advantage.

Every investor should have the right to equal access to the marketplace and should feel assured that they go into the marketplace with as much information about corporate activity as possible. By imposing an immediate reporting requirement, this bill will provide greater access and restore confidence in the marketplace.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 16(a) of the Securities Exchange Act of 1934 is amended by striking out all after "of which he is the beneficial owner, and" and inserting in lieu thereof "at the time of any change in such ownership, shall file with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement indicating such change in his ownership as has occurred.".

(b) Section 32 of such Act is amended by adding at the end thereof the following:

"(d) If the Commission finds, after notice and an opportunity for a hearing on the record, that a person has failed to file a statement as required by section 16(a), it shall assess a civil penalty of $50,000 against such person.".

By Mr. SPECTER:

S. 1383. A bill to protect the internal security of the United States against international terrorism by making the use of a firearm to commit a felony by foreign diplomats in the United States a Federal felony; to the Committee on the Judiciary.

CRIMINALIZATION OF TERRORIST ACTS BY FOREIGN DIPLOMATS

Mr. SPECTER. Mr. President, today I am reintroducing legislation that would make foreign diplomats in the United States a subject to prosecution for using a firearm to commit any act constituting a felony under U.S. law.

I originally introduced this legislation as S. 2771 on June 15, 1984. The need for its speedy enactment has only increased since that time.

In my statement accompanying reintroduction today of my resolution urging the President to seek renegotiation of the Vienna Convention on Diplomatic Relations, I have discussed the case of the Libyan so-called "diplomats" in London, who used their country's embassy as a terrorist base. I need not recite the sad facts of that case again.

Even while we await renegotiation of the Vienna Convention, we must take steps to protect ourselves against the abuse of diplomatic immunity. And if that renegotiation does indeed take place, we will need legislation to implement it. This bill will serve that purpose. I urge my colleagues to give it speedy consideration.

CONCLUSION

The proposals I have outlined reflect the current state of my own effort to provide a viable alternative to a unilateral military respons to terrorism, an alternative I believe will prove more effective.

These suggestions can command the necessary public support, and they will send an urgently needed signal to terrorists-criminals and their patrons that the time of talking tough is over; that the United States has a coherent policy for waging an international war on this international crime and the national will take whatever steps are necessary to carry it out.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was orderd to be printed in the RECORD, as follows:

S. 1383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 930. Foreign diplomats

"(a) It shall be unlawful for—

"(1)(A) any member of a foreign diplomatic mission in the United States entitled to immunity from the criminal jurisdiction of the United States under the provisions of the Vienna Convention on Diplomatic Relations, done on April 18, 1961; or

"(B) any member of a foreign consular post in the United States entitled to immunity from the criminal jurisdiction of the United States under the provisions of the Vienna Convention on Consular Relations, done on April 24, 1963,

to use a firearm to commit any act constituting a felony under the criminal laws of the United States or any State.

"(b) Whoever violates this section shall be punishable by a fine of $10,000 or by imprisonment for 10 years, or both.

"(c) For purposes of this section—

"(1) the term "member of a foreign diplomatic mission" includes any individual described by Article 1(b) of the Vienna Convention on Diplomatic Relations, done on April 18, 1961; and

"(2) the term "member of a foreign consular post" includes any individual described by Article 1(g) of the Vienna Convention on Consular Relations, done on April 24, 1963.".

(b) The analysis for chapter 44 of title 18 United States Code is amended by adding at the end thereof the following:

"930. Foreign diplomats.".

By Mr. SPECTER:

S. 1384. A bill to amend the Copyright Act of 1976 to clarify the operation of the derivative works exception; to the Committee on the Judiciary.

COPYRIGHT HOLDER PROTECTION ACT

Mr. SPECTER. Mr. President, today I introduce a bill to correct an unfair interpretation of a minor, yet complicated, provision of the Copyright Act of 1976. The Supreme Court properly has noted that the principal purpose of the relevant provisions was to provide added benefits to authors. Its decision earlier this year, however, in Mills Music, Inc. versus Snyder, does precisely the opposite, benefiting middlemen at the expense of creators. As the Court's sharply divided 5 to 4 decision was based almost exclusively on its perception of Congress' intent, it is appropriate now for Congress to clarify its intent and alter the effect of the decision in Mills Music.

Mills Music involved the interplay of the termination provisions in the act and the so-called derivative works exception to those provisions. The termination provisions of the act, section 304, affect the rights of certain copyright holders in two important ways. First, they provide an automatic extension of the life of any copyright which was in its renewal term, or for which a renewal registration was made, during 1977. Such copyrights were extended to endure for a term of 75 years from the date of the original copyright.

Second, the provisions gave the author or his heirs a right to terminate any preexisting grant of rights to others in a renewal copyright. The act provides that such a termination causes all rights covered by the terminated grant to revert to the author or his heirs.

The purpose of these unusual provisions was plain: To allow an author or his heirs to reclaim a copyright he previously had bargained away, along with any rights under that copyright, and to extend the term of such copyright an additional 19 years.

Congress undertook these changes in order to allow an author who had underestimated the value of his creation at the outset to reap some of the benefits of its eventual success. In so doing, it recognized the unequal bargaining position of authors that resulted from the impossibility of determining a work's value before it had been exploited. Congress created the termination right as a means of correcting this imbalance.

The author's right to terminate his prior grant of rights to a copyright was made subject, however, to a major exception. Under the "derivative works" exception, the "utilizer" of a derivative work may continue to use the derivative work under the terms of the prior grant, notwithstanding a termination of the grant by the author or his heirs.

The exception was intended to protect the actual owners of derivative works from having to renegotiate rights in underlying works, when an author exercised termination rights with regard to the underlying work. Were it otherwise, the author or his heirs might exercise veto power over continued performance of a derivative work lawfully created prior to the termination. For example, the author of