

Statement of

The Honorable Patrick Leahy

United States Senator

Vermont

June 26, 2008

OPENING STATEMENT OF SENATOR PATRICK LEAHY,

CHAIRMAN, SENATE JUDICIARY COMMITTEE,

OPENING STATEMENT

EXECUTIVE BUSINESS MEETING

JUNE 26, 2008

This is a very busy time. I thank the Senators who are here and I look forward to bipartisan cooperation so that we can complete our work efficiently this morning. Our agenda has many important items held over from our previous meeting. I hope that today we can make progress before the July 4th recess.

Again on this week's agenda are bills to rectify the consequences of crude prohibitions in the law that bar visitation to the United States of those said to be associated with groups slapped with a label of "terrorist," and anyone who is said to have provided what is termed "material support." I have worked long and hard to fix these prohibitions and to make the law more effective and more targeted by focusing on those who would actually do us harm. The bills before us today have to do with the African National Congress, but they could as easily be about others who resisted Sadaam Hussein or the Taliban or even Fidel Castro, or individuals forced at the point of a gun and under extreme duress to be child soldiers, or others who have been caught up in the material support bar.

It is nothing short of ridiculous that the law as interpreted by this administration could bar Nelson Mandela or other members of the ANC from entering the United States. These bills correct that absurdity, but they do not do all that we should. Senator Kerry's bill and the companion sent to us from the House take a step in the right direction by exempting the African National Congress, the party that helped end apartheid in South Africa and now leads our democratic ally, from the sanctions of this ill-conceived ban. Secretary Rice has called the existing law an embarrassment. Today this Committee can finally take a step toward fixing it.

We also have the bill I introduced with Senator Grassley to extend the statutes of limitations on crimes that have been committed in the war zones of Iraq and Afghanistan. This is consistent with actions Congress took in World War II and other wars to ensure that those who commit offenses not escape accountability because their actions cannot be investigated and prosecuted during armed combat.

We have the Feinstein-Grassley drug bill, as well.

New to the agenda is the bipartisan bill Senator Specter, Senator Kohl and I introduced to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act.

Also new to the agenda is the bill Senator Biden, Senator Brownback and Senator Hatch have been working on regarding human trafficking.

We also have my bipartisan FOIA bill, also sponsored by Senator Cornyn. July 4 marks the 42nd anniversary of the Freedom of Information Act, one of our Nation's most important open government laws. Our bill builds upon the OPEN Government Act that we passed last year, which made the first major reform to FOIA in more than a decade. The current bill requires that when a statutory exemption to FOIA is intended to be enacted, Congress state so explicitly.

Just as I have consulted extensively with Senator Specter about nominations, I want to work with him regarding his recent request that we consider a bill controlling how Federal prosecutors should act and superseding Department of Justice guidelines with a statute for assertions of corporate attorney-client privilege and possible abuses of that privilege.

I recently met with the new Deputy Attorney General Mark Filip. He says that he has reviewed the past policy and is working on improvements. I believe that he has also met recently with the Senator from Pennsylvania. If there are not further developments when we return after the July 4 recess, the Committee may well have to turn its attention to legislative options.

I have also listed the judicial nominations from New York to fill district vacancies there, and a U.S. Attorney nominee from Wyoming and the Marshal nominee from North Carolina.

I hope that we will be able to do our work, complete our consideration of a number of these matters, and then report the nominations. If we can, then later today I expect that the Senate will consider and

confirm the nominations of William T. Lawrence of Indiana and Murray Snow of Arizona. I am pleased to be working with Senator Lugar and Senator Kyl on those nominations.

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Statement of Senator Patrick Leahy

"The Wartime Enforcement of Fraud Act of 2008"

Senate Judiciary Committee Mark-Up

In World War II, Congress passed the Wartime Suspension of Limitations Act that extended the statute of limitations for all offenses related to war contracting fraud during wartime. That law, however, only applies to declared wars and does not apply to the wars in Iraq and Afghanistan, where Congress acted to authorize the use of military force under the War Powers Resolution.

The Wartime Enforcement of Fraud Act of 2008 (WEFA) would correct this problem and amend current law to extend the statute of limitations when Congress has authorized the use of military force, as well as during declared wars.

Inspectors General from the Defense Department, the State Department, and the Special Inspector General for Iraq Reconstruction have testified time and again in Congressional hearings about how the ongoing hostilities in Iraq and Afghanistan have hampered their ability to review contracts and pursue investigations. WEFA will give additional time to investigators and auditors to thoroughly investigate and review all war contracts and save the U.S. taxpayers untold millions.

We should act now, as Congress did during World War II, to protect the public fisc during times of war. WEFA is needed to ensure no one takes advantage of the exigencies of war to unfairly profit from contracting fraud, and I hope all Senators will join me in supporting this bill.

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Statement of Senator Patrick Leahy, Chairman

On H.R. 5690 and S. 2979

Senate Judiciary Committee

June 26, 2008

I have included on our agenda legislation to exempt the African National Congress from designation under the Immigration and Nationality Act as a "terrorist" organization.

The historic role that the African National Congress played in ending the era of Apartheid in South Africa is well known, and I suspect that its designation as a terrorist organization is a surprise to many Americans. That the organization Nelson Mandela helped create to fight against an official policy of racism is deemed a terrorist organization is wrong and should be corrected.

I commend Senator Kerry and Congressman Berman for their attention to this issue, and the Members of this Committee--Senators Biden, Schumer, Whitehouse, Feingold, and Cardin--who have lent their support to this effort.

The overly broad laws Congress passed in haste after September 11, 2001, continue to unnecessarily bar legitimate asylum seekers from the sanctuary of the United States. I worked to ensure that the administration has the authority to waive these laws for organizations and individuals, but the administration has been unwilling to exercise this authority of its own accord.

Secretary Rice quite rightly pointed out that her government counterpart in South Africa must apply for a waiver of the material support bar in order to enter the United States for an official visit, and that it is an embarrassment. I would hope and expect that this embarrassment is no less acute when victims of violent conflicts are denied asylum in the United States because of these same laws.

This reminds me of our recent oversight hearing with Secretary Chertoff, where only after much public scrutiny and in response to my having raised it, that his department had reversed its position on a green card denial for an Iraqi who had been admitted into the United States on a special visa from Iraq. Salam Kareem Ahmad entered the United States after working as a translator for U.S. Marines in Iraq, and after receiving commendation from General Petraeus, only to be denied a green card by the administration. Despite all of the administration's rhetoric about its commitment to freedom and democracy, DHS determined that Mr. Ahmad's involvement with an anti-Saddam Hussein group, the Kurdish Democratic Party, amounted to involvement with a terrorist organization.

It should not take political pressure and media scrutiny to do the right thing. But in light of the administration's inattention to resolving injustices created by the material support bars, Congress is once again compelled to do what the administration can and should be doing on its own.

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