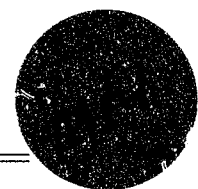


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TERRORISM LEGISLATION



HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 5612, H.R. 5689, and H.R. 5690
TERRORISM LEGISLATION

SEPTEMBER 26, 1984

Serial No. 155



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(II)

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TERRORISM LEGISLATION

WEDNESDAY, SEPTEMBER 26, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, at 9:10 a.m., in room B-352, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes, Smith, Shaw, and Sensenbrenner.

Staff present: Hayden Gregory, counsel; Virginia Sloan, assistant counsel; Theresa A. Bourgeois, staff assistant; Charlene Vanlier, associate counsel; and Phyllis N. Henderson, clerical staff.

Mr. HUGHES. The Subcommittee on Crime will come to order.

Today the Subcommittee on Crime holds its first hearing on three bills, H.R. 5689, concerning the taking of hostages; H.R. 5690, implementing the so-called Montreal Convention, relating to offenses against aircraft and aircraft facilities; and H.R. 5612, which authorizes the payment of rewards for information concerning acts of terrorism.

As we all know, the concern over acts of terrorism has been very much in the news in the last few years. Unfortunately, just last week, we were once again confronted with the tragedy of an explosion and resulting deaths and injuries at the U.S. Embassy in Beirut.

While terrorism has for a long time been a problem of serious proportions outside the United States, there unfortunately has been a growing number of incidents either in the United States or involving American citizens. We can no longer allow this situation to continue. The time to act against terrorism, in my judgment, is now. Passage of this legislation will send the signal—loud and clear—that this country will not tolerate terrorism at home or abroad.

One of the purposes of this hearing is to determine the exact extent of the problem in the United States or affecting American citizens. We must also determine the extent to which the exercise of extraterritorial jurisdiction is both required by convention and is proper.

In addition, we must decide whether the legislation before us, which has been proposed as necessary to implement certain international conventions, meets the requirements of those conventions

in a way that is consistent with our Constitution and the traditional division of responsibilities between State and local law enforcement.

We have with us today some experts on the subject and I am looking forward to hearing their testimony.
[The three bills follow:]

98TH CONGRESS
2D SESSION

H. R. 5612

To permit the payment of rewards for information concerning terrorist acts.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 1984

Mr. FASCELL (for himself and Mr. BROOMFIELD) (by request) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs and the Judiciary

A BILL

To permit the payment of rewards for information concerning terrorist acts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. This Act may be cited as the "Act for
4 Rewards for Information Concerning Terrorist Acts".

5 SEC. 2. (a) Title 18 of the United States Code is amend-
6 ed by adding the following new chapter:

7 "CHAPTER 204—REWARDS FOR INFORMATION

8 CONCERNING TERRORIST ACTS

"Sec. 3071. Information for which rewards authorized; maximum amount.

"Sec. 3072. Determination of entitlement; consultation; Presidential approval; conclusiveness.

"Sec. 3073. Aliens; waiver of admission requirements.

"Sec. 3074. Hearings; rules and regulations.

"Sec. 3075. Protection of identity.

"Sec. 3076. Exception of governmental officials.

"Sec. 3077. Authorization for appropriations.

"Sec. 3078. Eligibility for witness security program.

"Sec. 3079. Definitions.

1 **"§ 3071. Information for which rewards authorized; maxi-**

2 **mum amount**

3 "Any individual who furnishes information—

4 "(a) leading to the arrest or conviction, in any
5 country, of any individual or individuals for the com-
6 mission of an act of terrorism against a United States
7 person or United States property; or

8 "(b) leading to the arrest or conviction, in any
9 country, of any individual or individuals for conspiring
10 or attempting to commit an act of terrorism against a
11 United States person or property; or

12 "(c) leading to the prevention, frustration or fa-
13 vorable resolution of an act of terrorism against a
14 United States person or property

15 may be rewarded in an amount not to exceed \$500,000.

16 **"§ 3072. Determination of entitlement; consultation; Presi-**

17 **dential approval; conclusiveness**

18 "The Attorney General shall with respect to acts of ter-
19 rorism primarily within the territorial jurisdiction of the
20 United States, and the Secretary of State shall with respect
21 to acts of terrorism primarily outside the territorial jurisdic-
22 tion of the United States, determine whether an individual
23 furnishing information pursuant to section 3071 is entitled to

1 a reward and the amount to be paid. Before making a reward
2 under this chapter in a matter over which there is Federal
3 criminal jurisdiction, the Secretary of State shall advise and
4 consult with the Attorney General. A reward of \$100,000 or
5 more may not be made without the approval of the President
6 or his designee. A determination made by the Attorney Gen-
7 eral, the Secretary of State, or the President under this chap-
8 ter shall be final and conclusive and no court shall have
9 power or jurisdiction to review it.

10 **"§ 3073. Aliens; waiver of admission requirements**

11 "If the information which would justify a reward under
12 this chapter is furnished by an alien, the Attorney General,
13 after consulting with the Secretary of State, may determine
14 that the entry of such alien into the United States is in the
15 public interest and, in that event, such alien and the members
16 of his immediate family may receive immigrant visas and may
17 be admitted to the United States for permanent residence,
18 notwithstanding the requirements of the Immigration and
19 Nationality Act (8 U.S.C. 1101 et seq.).

20 **"§ 3074. Hearings; rules and regulations**

21 "The Attorney General and the Secretary of State, re-
22 spectively, are authorized to hold such hearings and make,
23 promulgate, issue, rescind, and amend such rules and regula-
24 tions as may be necessary to carry out the purposes of this

1 chapter. The provisions of subchapter II, chapter 5 of title 5,
2 United States Code, do not apply to this chapter.

3 "§ 3075. Protection of identity

4 "Any reward granted under this chapter shall be certi-
5 fied by the Attorney General or the Secretary of State, re-
6 spectively. If it is determined that the identity of the recipient
7 of a reward or of the members of the recipient's immediate
8 family must be protected, the Attorney General or the Secre-
9 tary of State, respectively, may take such measures in con-
10 nection with the payment of the reward as deemed necessary
11 to effect such protection.

12 "§ 3076. Authorization for appropriations

13 "Such sums as necessary are authorized to be appropri-
14 ated for the purpose of this chapter.

15 "§ 3077. Exception of governmental officials

16 "No officer or employee of any governmental entity
17 who, while in the performance of his official duties, furnishes
18 the information described in section 3071 shall be eligible for
19 any monetary reward under this chapter.

20 "§ 3078. Eligibility for witness security program

21 "Any individual who furnishes information which would
22 justify a reward under this chapter and his immediate family
23 may, in the discretion of the Attorney General, participate in
24 the Attorney General's witness security program authorized
25 under title V of the Organized Crime Control Act of 1970.

1 "§ 3079. Definitions

2 "As used in this chapter the term—

3 "(a) 'Act of terrorism' means an activity that—

4 "(1) involves a violent act or an act danger-
5 ous to human life that is a violation of the crimi-
6 nal laws of the United States or of any State, or
7 that would be a criminal violation if committed
8 within the jurisdiction of the United States or of
9 any State; and

10 "(2) appears to be intended—

11 "(A) to intimidate or coerce a civilian
12 population;

13 "(B) to influence the policy of a govern-
14 ment by intimidation or coercion; or

15 "(C) to affect the conduct of a govern-
16 ment by assassination or kidnaping.

17 "(b) 'United States person' means—

18 "(1) a national of the United States as de-
19 fined in section 101(a)(22) of the Immigration and
20 Nationality Act (8 U.S.C. 1101(a)(22));

21 "(2) an alien lawfully admitted for permanent
22 residence in the United States as defined in sec-
23 tion 101(a)(20) of the Immigration and Nationality
24 Act (8 U.S.C. 1101(a)(20));

25 "(3) any person within the United States;

1 “(4) any employee or contractor of the
2 United States Government, regardless of national-
3 ity, who is the victim or intended victim of an act
4 of terrorism by virtue of that employment;

5 “(5) a sole proprietorship, partnership, com-
6 pany, or association composed principally of na-
7 tionals or permanent resident aliens of the United
8 States; and

9 “(6) a corporation organized under the laws
10 of the United States, any State, the District of
11 Columbia, or any territory or possession of the
12 United States and a foreign subsidiary of such
13 corporation.

14 “(c) ‘United States property’ means any real or
15 personal property which is within the United States or,
16 if outside the United States, the actual or beneficial
17 ownership of which rests in a United States person or
18 any Federal or State governmental entity of the United
19 States.

20 “(d) ‘United States’—

21 “(1) when used in a geographical sense, in-
22 cludes Puerto Rico and all territories and posses-
23 sions of the United States; and

24 “(2) when used in the context of section
25 3073 shall have the meaning given to it in the

1 Immigration and Nationality Act (8 U.S.C. 1101
2 et seq.).

3 “(e) ‘State’ includes any State of the United
4 States, the District of Columbia, the Commonwealth of
5 Puerto Rico, and any other possession or territory of
6 the United States.

7 “(f) ‘government entity’ includes the Government
8 of the United States, any State or political subdivision
9 thereof, any foreign country, and any state, provincial,
10 municipal or other political subdivision of a foreign
11 country.

12 “(g) ‘Attorney General’ means the Attorney Gen-
13 eral of the United States or that official designated by
14 the Attorney General to perform his responsibilities
15 under this chapter.

16 “(h) ‘Secretary of State’ means the Secretary of
17 State or that official designated by the Secretary of
18 State to perform his responsibilities under this
19 chapter.”.

20 (b) The chapter analysis of part II of title 18, United
21 States Code, is amended by adding after the item relating to
22 chapter 203 the following new item:

 “204. Rewards for information concerning terrorist acts 3071 ”.

98TH CONGRESS
2D SESSION

H. R. 5689

This Act may be cited as the "Act for the Prevention and Punishment of the Crime of Hostage-Taking".

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1984

Mr. RODINO (by request) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

This Act may be cited as the "Act for the Prevention and Punishment of the Crime of Hostage-Taking".

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Act for the Prevention and Punishment of the Crime of Hostage-Taking".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. The Congress hereby finds that:

(a) the International Convention Against the Taking of Hostages (adopted by the United Nations, December 17, 1979) requires all States parties to it to

2

1 prohibit the offense of hostage-taking as defined in the
2 Convention;

3 (b) hostage-taking affects domestic tranquility,
4 interstate and foreign commerce, and foreign relations,
5 endangers national security, and is an offense against
6 the law of nations;

7 (c) the purpose of this title is to fully implement
8 the International Convention Against the Taking of
9 Hostages.

10 SEC. 3. (a) Section 1201 of title 18, United States
11 Code, is amended—

12 (1) by deleting in subsection (a)(3) the words "sec-
13 tion 101(36) of the Federal Aviation Act of 1958, as
14 amended (49 U.S.C. 1301(36))" and inserting in lieu
15 thereof "section 101(38) of the Federal Aviation Act of
16 1958, as amended (49 U.S.C. 1301(38))";

17 (2) by deleting "or" at the end of subsection
18 (a)(3);

19 (3) by deleting the comma at the end of subsec-
20 tion (a)(4) and inserting "; or" in lieu thereof;

21 (4) by adding a new subsection (a)(5) after subsec-
22 tion (a)(4) as follows:

23 "(5) a threat is made to kill, injure or to con-
24 tinue to detain the person in order to compel a
25 third party to do or abstain from doing any act as

1 an explicit or implicit condition for the release of
2 the person,";

3 (5) by amending subsection (d) to read as follows:

4 "(d) Whoever attempts to violate subsection
5 (a)(4) or subsection (a)(5) shall be punished by im-
6 prisonment for not more than twenty years.";

7 (6) by amending subsection (e) to read as follows:

8 "(e) If the victim of an offense under subsec-
9 tion (a) is an internationally protected person, or if
10 a threat is made to kill, injure, or to continue to
11 detain the victim in order to compel a third party
12 to do or abstain from doing any act as an explicit
13 or implicit condition for the release of the victim,
14 the United States may exercise jurisdiction over
15 the offense if the offense was committed within
16 the United States; the alleged offender is a na-
17 tional of the United States; the victim or purport-
18 ed victim was a national of the United States; or
19 the offender is present within the United States,
20 irrespective of the place where the offense was
21 committed or the nationality of the victim or the
22 alleged offender. As used in this subsection, the
23 term 'United States' includes all areas under the
24 jurisdiction of the United States including any of
25 the places within the provisions of sections 5 and

1 7 of this title and section 101(38) of the Federal
2 Aviation Act of 1958, as amended (49 U.S.C.
3 1301(38)) and the term 'national of the United
4 States' has the meaning given to it in section
5 101(a)(22) of the Immigration and Nationality Act
6 (8 U.S.C. 1101(a)(22)).";

7 (7) by amending subsection (f) to read as follows:

8 "(f) In the course of enforcement of subsec-
9 tion (a)(4) or subsection (a)(5), and any other sec-
10 tions prohibiting a conspiracy or attempt to vio-
11 late subsection (a)(4) or subsection (a)(5), the At-
12 torney General may request assistance from any
13 Federal, State, or local agency, including the
14 Army, Navy, Marine Corps, and Air Force, any
15 statute, rule or regulation to the contrary notwith-
16 standing."; and

17 (8) by inserting a new subsection (g) to read as
18 follows:

19 "(g) Nothing in this section shall be con-
20 strued as indicating an intent on the part of Con-
21 gress to prevent any State, commonwealth, terri-
22 tory or possession of the United States, or the
23 District of Columbia, from exercising jurisdiction
24 over any offense over which it would have juris-
25 diction in the absence of this section, nor shall

1 anything in this section be construed as depriving
 2 State and local law enforcement authorities of re-
 3 sponsibility for prosecuting acts that may be viola-
 4 tions of this section and that are violations of
 5 State and local law, nor shall anything in subsec-
 6 tion (a)(5) of this section be construed as authoriz-
 7 ing the United States to exercise jurisdiction over
 8 an offense occurring in the United States in which
 9 the alleged offender is the parent, child, spouse,
 10 brother or sister of any victim or in which the al-
 11 leged offender and any victim live in the same
 12 household and are related by blood or marriage.”.

13 (b)(1) The heading of section 1201 of title 18, United
 14 States Code, is amended to read as follows:

15 “§ 1201. Kidnapping and hostage-taking”.

16 (2) The analysis for chapter 55 of title 18, United States
 17 Code, is amended by deleting the item relating to section
 18 1201 and inserting in lieu thereof the following new item:

“1201. Kidnapping and hostage-taking.”

19 EFFECTIVE DATE

20 SEC. 4. Sections 2 and 3 of this Act shall become effec-
 21 tive only when the International Convention Against the
 22 Taking of Hostages has come into force and the United
 23 States has become a party to it.

98TH CONGRESS
 2D SESSION

H. R. 5690

Entitled the “Aircraft Sabotage Act”.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1984

Mr. RODINO (by request) introduced the following bill; which was referred jointly
 to the Committees on the Judiciary and Public Works and Transportation

A BILL

Entitled the “Aircraft Sabotage Act”.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the “Aircraft Sab-
 5 otage Act”.

6 STATEMENT OF FINDINGS AND PURPOSE

7 SEC. 2. The Congress hereby finds that—

8 (a) the Convention for the Suppression of Unlaw-
 9 ful Acts Against the Safety of Civil Aviation (ratified
 10 by the United States on November 1, 1972) requires
 11 each contracting State to establish its jurisdiction over
 12 certain offenses affecting the safety of civil aviation;

1 (b) such offenses place innocent lives in jeopardy,
2 endanger national security, affect domestic tranquility,
3 gravely affect interstate and foreign commerce, and are
4 offenses against the law of nations; and

5 (c) the purpose of this Act is to implement fully
6 the Convention for the Suppression of Unlawful Acts
7 Against the Safety of Civil Aviation and to expand the
8 protection accorded to aircraft and related facilities.

9 SEC. 3. (a) Section 31 of title 18, United States Code, is
10 amended—

11 (1) in the first paragraph by—

12 (A) striking out “and” before the term
13 “spare part” and inserting “and ‘special aircraft
14 jurisdiction of the United States’ ” after the term
15 “spare part”; and

16 (B) striking out “Civil Aeronautics Act of
17 1938” and inserting in lieu thereof “Federal
18 Aviation Act of 1958”;

19 (2) by striking out “and” at the end of the third
20 undesignated paragraph thereof;

21 (3) by striking the period at the end thereof and
22 inserting in lieu thereof “;” ; and

23 (4) by adding at the end thereof the following new
24 paragraphs:

1 “ ‘In flight’ means any time from the moment all the
2 external doors of an aircraft are closed following embarkation
3 until the moment when any such door is opened for disembar-
4 kation. In the case of a forced landing the flight shall be
5 deemed to continue until competent authorities take over the
6 responsibility for the aircraft and the persons and property on
7 board; and

8 “ ‘In service’ means any time from the beginning of pre-
9 flight preparation of the aircraft by ground personnel or by
10 the crew for a specific flight until twenty-four hours after any
11 landing; the period of service shall, in any event, extend for
12 the entire period during which the aircraft is in flight.”.

13 (b) Section 32 of title 18, United States Code, is amend-
14 ed to read as follows:

15 **“§ 32. Destruction of aircraft or aircraft facilities**

16 “(a) Whoever willfully—

17 “(1) sets fire to, damages, destroys, disables, or
18 interferes with the operation of or makes unsuitable for
19 use any aircraft in the special aircraft jurisdiction of
20 the United States or any civil aircraft used, operated,
21 or employed in interstate, overseas, or foreign air
22 commerce;

23 “(2) places or causes to be placed a destructive
24 device or substance in, upon, or in proximity to, or
25 otherwise makes or causes to be made unworkable or

1 unusable or hazardous to work or use, any such air-
 2 craft, or any part or other materials used or intended
 3 to be used in connection with the operation of such
 4 aircraft;

5 "(3) sets fire to, damages, destroys, or disables
 6 any air navigation facility, or interferes with the oper-
 7 ation of such facility, if such fire, damaging, destroy-
 8 ing, disabling, or interfering is likely to endanger the
 9 safety of any such aircraft in flight;

10 "(4) with the intent to damage, destroy, or disable
 11 any such aircraft, sets fire to, damages, destroys, or
 12 disables or places a destructive device or substance in,
 13 upon, or in proximity to, any appliance or structure,
 14 ramp, landing area, property, machine, or apparatus,
 15 or any facility or other material used, or intended to be
 16 used, in connection with the operation, maintenance,
 17 loading, unloading or storage of any such aircraft or
 18 any cargo carried or intended to be carried on any
 19 such aircraft;

20 "(5) performs an act of violence against or inca-
 21 pacitates any individual on any such aircraft, if such
 22 act of violence or incapacitation is likely to endanger
 23 the safety of such aircraft;

1 "(6) communicates information, knowing the infor-
 2 mation to be false, thereby endangering the safety of
 3 any such aircraft in flight; or

4 "(7) attempts to do anything prohibited under
 5 paragraphs (1) through (6) of this subsection;
 6 shall be fined not more than \$100,000 or imprisoned not
 7 more than twenty years or both.

8 "(b) Whoever willfully—

9 "(1) performs an act of violence against any indi-
 10 vidual on board any civil aircraft registered in a coun-
 11 try other than the United States while such aircraft is
 12 in flight, if such act is likely to endanger the safety of
 13 that aircraft;

14 "(2) destroys a civil aircraft registered in a coun-
 15 try other than the United States while such aircraft is
 16 in service or causes damage to such an aircraft which
 17 renders that aircraft incapable of flight or which is
 18 likely to endanger that aircraft's safety in flight;

19 "(3) places or causes to be placed on a civil air-
 20 craft registered in a country other than the United
 21 States while such aircraft is in service, a device or sub-
 22 stance which is likely to destroy that aircraft, or to
 23 cause damage to that aircraft which renders that air-
 24 craft incapable of flight or which is likely to endanger
 25 that aircraft's safety in flight; or

1 “(4) attempts to commit an offense described in
2 paragraphs (1) through (3) of this subsection;
3 shall, if the offender is later found in the United States, be
4 fined not more than \$100,000 or imprisoned not more than
5 twenty years, or both.”.

6 (c) Section 101(38)(d) of the Federal Aviation Act of
7 1958 (49 U.S.C. 1301(38)(d)), relating to the definition of the
8 term “special aircraft jurisdiction of the United States”, is
9 amended—

10 (1) in clause (i), by striking out “; or” and insert-
11 ing in lieu thereof a semicolon;

12 (2) at the end of clause (ii), by striking out “and”
13 and inserting in lieu thereor “or;” and

14 (3) by adding at the end thereof the following new
15 clause:

16 “(iii) regarding which an offense as defined in
17 subsection (d) or (e) of article I, section I of the
18 Convention for the Suppression of Unlawful Acts
19 against the Safety of Civil Aviation (Montreal,
20 September 23, 1971) is committed if the aircraft
21 lands in the United States with an alleged offend-
22 er still on board; and”.

23 (d)(1) Chapter 2 of title 18, United States Code, is
24 amended by adding at the end thereof the following new
25 section:

1 **“§ 36. Imparting or conveying threats**

2 “Whoever imparts or conveys any threat to do an act
3 which would be a felony prohibited by section 32 or 33 of this
4 chapter or section 1992 of chapter 97 or section 2275 of
5 chapter 111 of this title with an apparent determination and
6 will to carry the threat into execution shall be fined not more
7 \$25,000 or imprisoned not more than five years, or both.”.

8 (2) The analysis of chapter 2 of title 18 of the United
9 States Code is amended by adding at the end thereof the
10 following new item:

 “36. Imparting or conveying threats.”.

11 SEC. 4. (a)(1) Section 901 of the Federal Aviation Act
12 of 1958 (49 U.S.C. 1471) is amended by adding at the end
13 thereof the following new subsections:

14 “(c) Whoever imparts or conveys or causes to be im-
15 parted or conveyed false information, knowing the informa-
16 tion to be false, concerning an attempt or alleged attempt
17 being made or to be made, to do any act which would be a
18 crime prohibited by subsection (i), (j), (k), or (l) of section 902
19 of this Act, shall be subject to a civil penalty of not more
20 than \$10,000 which shall be recoverable in a civil action
21 brought in the name of the United States.

22 “(d) Except for law enforcement officers of any municipi-
23 pal or State government or officers or employees of the Fed-
24 eral Government, who are authorized or required within their
25 official capacities, to carry arms, or other persons who may be

1 so authorized under regulations issued by the Administrator,
 2 whoever while aboard, or while attempting to board, any air-
 3 craft in, or intended for operation in, air transportation or
 4 intrastate air transportation, has on or about his person or his
 5 property a concealed deadly or dangerous weapon, which is,
 6 or would be, accessible to such person in flight shall be sub-
 7 ject to a civil penalty of not more than \$10,000 which shall
 8 be recoverable in a civil action brought in the name of the
 9 United States."

10 (2) That portion of the table of contents contained in the
 1 first section of the Federal Aviation Act of 1958 which ap-
 2 pears under the side heading

"Sec 901. Civil penalties."

3 is amended by inserting at the end thereof:

"(c) Conveying false information.

"(d) Concealed weapons."

(b) Section 901(a)(2) of the Federal Aviation Act of
 1958 (49 U.S.C. 1471(a)(2)) is amended by inserting the
 words: "penalties provided for in subsections (c) and (d) of
 this section or" after the words "Secretary of Transportation
 in the case of".

(c)(1) Section 902(l)(1) of the Federal Aviation Act of
 1958 (49 U.S.C. 1472(l)(1)) is amended by striking the term
 "\$1,000" and inserting in lieu thereof the term "\$10,000".

1 (2) Section 902(l)(2) of the Federal Aviation Act of
 2 1958 (49 U.S.C. 1472(l)(2)) is amended by striking the term
 3 "\$5,000" and inserting in lieu thereof "\$25,000".

4 (d)(1) Section 902(m) of the Federal Aviation Act of
 5 1958 (49 U.S.C. 1472(m)) is amended to read as follows:

6 "FALSE INFORMATION AND THREATS

7 "(m)(1) Whoever willfully and maliciously, or with reck-
 8 less disregard for the safety of human life, imparts or conveys
 9 or causes to be imparted or conveyed false information,
 10 knowing the information to be false, concerning an attempt
 11 or alleged attempt being made or to be made, to do any act
 12 which would be a felony prohibited by subsection (i), (j), (k),
 13 or (l) of this section, shall be fined not more than \$25,000 or
 14 imprisoned not more than five years, or both.

15 "(2) Whoever imparts or conveys or causes to be im-
 16 parted or conveyed any threat to do an act which would be a
 17 felony prohibited by section (i), (j), (k), or (l) of this section
 18 with an apparent determination and will to carry the threat
 19 into execution shall be fined not more than \$25,000 or im-
 20 prisoned not more than five years, or both."

21 (2) That portion of the table of contents contained in the
 22 first section of the Federal Aviation Act of 1958 which ap-
 23 pears under the side heading

"Sec. 903. Criminal penalties."

24 is amended by striking out

"(m) False information."

1 and inserting in lieu thereof

"(m) False information and threats."

2 (e) Subsection (a) of section 1395 of title 28, United
3 States Code, is amended by striking the period at the end of
4 such subsection and adding the following at the end thereof:
5 ", and in any proceeding to recover a civil penalty under
6 section 35(a) of title 18 of the United States Code or section
7 901(c) or 901(d) of the Federal Aviation Act of 1958, all
8 process against any defendant or witness may be served, re-
9 gardless whether authorized under the Federal Rules of Civil
10 Procedure, in any judicial district of the United States upon
11 an ex parte order for good cause shown."

12 (f) The second sentence of section 903(b)(1) of the Fed-
13 eral Aviation Act of 1958 (49 U.S.C. 1473(b)(1)) is amended
14 by striking out "Such" and inserting in lieu thereof "Except
15 with respect to civil penalties under sections 901 (c) and (d)
16 of this Act, such".

17 SEC. 5. This Act shall become effective on enactment.

Mr. SENSENBRENNER. Mr. Chairman?

Mr. HUGHES. The gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I welcome the hearings on these three bills today, but I only regret that the subcommittee has delayed in scheduling these bills for action until we only have 5 effective session days left. Each one of the three bills that are up for hearing this morning was introduced in May 1984, and 4 months have elapsed before first subcommittee consideration of them. I regret that it probably took another despicable terrorist act overseas in order to put terrorist legislation up on the front burner before the Committee on the Judiciary and its relevant subcommittees of jurisdiction.

I support the legislation and will do everything that I can to see that this legislation is passed and put on the President's desk before our adjournment. But as we know, the clock is ticking and it is about the 11th hour and 55th minute of the 98th Congress.

I thank the gentleman.

Mr. HUGHES. I thank the gentleman. First of all, the subcommittee did not receive the bills right away. And second of all, they came in during the summer when we were recessed, and the Senate was not moving forward with the legislation. And it wasn't until recently that we saw any activity in the other body. Those are the reasons.

As the gentleman well knows, we are trying to work on about seven other different bills right now, including some that the gentleman has been very actively involved with and which have taken a great deal of staff time—trademark counterfeiting, and diversion, and justice assistance, and credit card computer crime legislation. I could go on ad nauseam—we are just spread awfully thin.

The gentleman from Florida?

Mr. SHAW. Mr. Chairman, I have a statement that I would ask unanimous consent be placed in the record.

Mr. HUGHES. Without objection.

Mr. SHAW. I would like to just mention one thing, and I would like to compliment you for bringing this before us. I do hope there's time for us to have it come before the full committee and get to the floor by the end of next week before we adjourn.

Terrorism is something that is quite new to this country. We seem to be thankfully lagging behind parts of the world with this activity. I hope that this legislation will do something to curb its rise as a serious threat to the security of the people of the United States and the U.S. Government itself.

Again, I am looking forward to this hearing, and looking forward to this markup.

Mr. HUGHES. Thank you.

I might say to my colleague that if we can keep the rhetoric down and work together in a good bipartisan fashion, we can move the legislation. I have already talked to the chairman of the full committee to see if we couldn't move it directly to the suspension calendar on Monday, and I am prepared to do that if we can work it out in a rational fashion. There are important constitutional and other issues involved. We don't want to do anything hasty, but I would like to do something if we can, all working together.

I intend, after the hearing today, to set a markup session for this afternoon, working on the assumption that we can get through this this morning before we go on this morning with the cop killer-bullet issue, and hopefully schedule a markup this afternoon. If we work together, I have a feeling that perhaps we can get something accomplished in this session of Congress.

Our first witness is Mark Richard, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice. Since graduating from Brooklyn Law School in 1967, Mr. Richard has been continuously employed by the Criminal Division of the Justice Department in a succession of increasingly responsible positions. Just to name a few, he served as Deputy Assistant Attorney General for International Litigation, as Deputy Assistant Attorney General for Policy and Management, as Chief of the Fraud Section, and as Executive Director of the Attorney General's white-collar crime committee.

He has received numerous awards in his field and as a member of the New York State Bar and the District of Columbia Bar. He has, indeed, had a most distinguished record at the bar, and we welcome you this morning.

We have your statement which, without objection, will be made a part of the record in full, Mr. Richard, and you may proceed as you see fit.

Mr. SPIERS. Mr. Chairman, I am Ronald Spiers, Under Secretary of State for Management, and it is agreed that I will make a brief opening statement.

I would like at the outset to express my profound gratitude to you and to your fellow members of the committee for agreeing at this late stage in this session to proceed with this legislation. We recognize, I think, the preoccupations and pressures under which you are operating, and it is our strong interest in proceeding to do something on the terrorism front that has impelled us to urge forward movement.

Mr. HUGHES. Welcome, and you may proceed. I gather that you have agreed that you will proceed first?

Mr. SPIERS. Yes.

Mr. HUGHES. Welcome.

TESTIMONY OF RONALD I. SPIERS, UNDER SECRETARY FOR MANAGEMENT, U.S. DEPARTMENT OF STATE, ACCOMPANIED BY DANIEL W. McGOVERN, PRINCIPAL DEPUTY LEGAL ADVISER, U.S. DEPARTMENT OF STATE

Mr. SPIERS. As we approach the end of the legislative session, I want at first to reiterate the importance that the administration places on passage by the Congress of the anti-terrorism legislative package before adjournment.

In doing so, I want also to offer any possible assistance the Department might provide to facilitate consideration and final passage of the bills now before you.

I don't think that we can send a stronger signal to other governments of our national will to deal with the serious problem of terrorism, and the signal you, the Congress, can send by assuring final passage of this legislation.

In the weeks since the administration sent its antiterrorism legislative package to Congress, we have witnessed some positive achievements. With a combination of careful preparation, continued vigilance and good fortune, we have put behind us the highly successful summer Olympics and the two party conventions without incident.

The President and the Secretary of State have had constructive discussions with leaders of other governments on means to cope with international terrorism, resulting in the London Declaration on Terrorism at the end of the economic summit meeting in June.

Meetings of summit seven experts on this subject were held on September 19 in London, and discussions at the foreign ministers level are scheduled at the end of September in New York. We see such discussions as a key focus of our continuing efforts to enhance international cooperation.

As last Thursday's bombing incident in Beirut, which you have already referred, Mr. Chairman, all too tragically shows the frequency of resort to international terrorism and the seriousness of terrorist incidents unfortunately have not moderated.

Persistent threats against our diplomatic personnel and missions in several different countries remain a source of great concern, particularly in Latin America and the Middle East. Protective actions are being taken, but the threat is serious and continuing.

Bombings and threats of bombings in several different countries within the past few weeks are a continuing reminder of the dangers posed by terrorism to our people and facilities abroad.

During recent months we have witnessed a disturbing upsurge in aircraft hijackings by Sikh separatists in India, by supporters and opponents of the Ayatollah Khomeini in Western Europe and the Middle East, and by others. This pattern poses an increased threat to U.S. citizens and aircraft flying international routes.

The administration remains deeply concerned about these trends in terrorism and is fully committed to finding workable legislative and other national policy remedies for combating them.

We believe that an essential contribution to this effort will be the moral and legal authority our Government will derive from congressional action on the bills now being considered in both Houses of the Congress and specifically by this subcommittee.

I refer to the three separate bills—to implement the Montreal Convention Against Aircraft Sabotage (H.R. 5690), and the United Nations Convention Against Hostage Taking (H.R. 5689), and to provide authority to pay rewards for information in international terrorism cases (H.R. 5612).

We have found broad agreement on the purposes of these bills in both Houses of Congress and on both sides of the aisle. The three bills will improve our domestic legislation regarding terrorism, and two of them will fulfill our obligation for implementing widely accepted international conventions.

It is increasingly difficult to explain to other governments why the United States has thus far been unable to give full effect to the Montreal and United Nations Conventions. The administration has devoted a great deal of attention to these three bills as part of a comprehensive effort to develop an adequate set of approaches to combat international terrorism. Enhanced security measures and

cooperation with friendly governments are prominent among these approaches.

The problem of gaps in national legislation which might be exploited by terrorists is one that has also been recognized by our allies, and the London summit declaration specifically mentions this problem.

The governments of the summit seven felt that action to correct for gaps in national laws would send a clear message that they are serious in developing the necessary tools to fight international terrorism.

In short, these bills are in our interest because they enhance our own legal capabilities to combat terrorism while greatly improving our credibility in international forums, and it is time to act on them. I, therefore, urge their earliest approval and thank you for the opportunity to appear before you.

With me today are Daniel McGovern, on my right, the Acting Legal Adviser of the Department of State; Ambassador Robert Oakley, Director of the Office for Counter Terrorism and Emergency Planning, and David Fields, Deputy Assistant Secretary for Security.

Perhaps you would like Mr. Richard to proceed with his remarks and then we are prepared to take any questions.

[The statement of Mr. Spiers follows:]

PREPARED STATEMENT OF RONALD I. SPIERS, UNDER SECRETARY FOR MANAGEMENT

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to appear today before your subcommittee to speak on three of the important legislative initiatives the Administration has developed to help combat the threat of international terrorism.

As we rapidly approach the end of this legislative session, I want first to reiterate the importance the Administration places on passage by the Congress of the anti-terrorism legislative package before adjournment. In so doing, I want also to offer any possible assistance the Department might provide to facilitate consideration and final passage of the bills now before you. I do not think we can send a stronger signal to other governments about our national will to deal with the serious problem of terrorism than the signal you, the Congress, can send by assuring final passage of this legislation.

In the weeks since the Administration sent its anti-terrorism legislative package to the Congress. We have witnessed some positive achievements. With a combination of the careful preparation, continuing vigilance and good fortune we have put the highly successful Summer Olympics and the two party conventions behind us without incident. The President and the Secretary of State have had constructive discussions with leaders of other Governments on means to cope with international terrorism, resulting in the London Declaration on terrorism at the end of the Economic Summit meetings in June. Meetings of Summit Seven experts on this subject were held on September 19 in London, and discussion at the foreign ministers level are scheduled for the end of September in New York. We see such discussions as a key focus of our continuing efforts to enhance international cooperation.

As last Thursday's bombing in Beirut all too tragically shows, the frequency of resort to international terrorism and the seriousness of terrorist incidents unfortunately have not moderated. Persistent threats against our diplomatic personnel and missions in several different countries remain a source of great concern. Particularly in Latin America and the Middle East. Protective actions are being taken, but the threat is serious. Bombings and threats of bombings in several different countries within the past few weeks are a continuing reminder of the dangers posed by terrorism to our people and facilities abroad. During recent months we have witnessed a disturbing upsurge in aircraft hijackings by Sikh separatists in India. By supporters and opponents of Ayatollah Khomeini in Western Europe and the Middle East, and by others. This pattern poses an increased threat to US citizens and aircraft flying international routes.

The Administration remains deeply concerned about these terrorism trends and is fully committed to finding workable legislative and other national policy remedies for combatting them. We believe that an essential contribution to this effort will be the moral and legal authority our government will derive from Congressional action on the bills now being considered in both houses of the Congress and specifically by this Subcommittee. I refer to three separate bills, to implement the Montreal Convention against aircraft sabotage (H.R. 5690) and the United Nations Convention against hostage taking (H.R. 5689), and to provide authority to pay rewards for information in international terrorism cases (H.R. 5612).

I want to go into each of these bills a bit to discuss the specific efforts to combat terrorism that are embodied in these proposals.

I turn first to the long overdue "Aircraft Sabotage Act" (HR-5690) which provides implementing authority for the "Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation," adopted at Montreal in 1971 and ratified by the United States in 1972. Implementing legislation for this Convention has been before the Congress previously, but was not enacted. This legislation would extend federal criminal jurisdiction extraterritorially in accordance with the Convention's requirements, over certain acts dangerous to civil aviation, such as setting fire to, damaging or destroying an aircraft or air navigation facility; placing a destructive device on an aircraft or related structures; performing an act of violence against or incapacitating an individual on board an aircraft, if such an act is likely to endanger the safety of the aircraft; and knowingly communicating false information that endangers the safety of an aircraft in flight. The enactment of this legislation will provide a significant demonstration of the commitment of the United States to the International community's struggle against the threat of aircraft sabotage in particular and International terrorism in general, and will fulfill U.S. obligations under the Aircraft Sabotage Convention. The measure enjoys the support of the Air Transport Association and the Airline Pilots Association.

The second bill before you, the "Act for the Prevention and Punishment of the Crime of Hostage-Taking" (HR 5689), provides implementing authority for the "International Convention Against the Taking of Hostages," which was adopted at the United Nations in 1979. The Senate gave its advice and consent to ratification in July 1981 and the President signed the instrument of ratification in September 1981. Deposit of the instrument with the United Nations, which will bring the Convention into force for the United States, has been delayed pending the passage of this implementing legislation that is necessary to fulfill United States obligations under the Convention.

This bill amends the federal kidnapping statute by extending federal jurisdiction to any kidnapping in which a threat is made to kill, injure, or continue to detain the kidnapped person in order to compel a third party to do or abstain from doing any act as an explicit or implicit condition for the release of the person. Enactment of this bill will permit the United States to become a full party to an important international convention aimed at combatting a particularly heinous form of international terrorism, and, as with the Aircraft Sabotage Act, will show the seriousness of the United States in fulfilling its responsibilities under the Convention and in combatting terrorism.

The third bill, the "Act for Rewards for Information Concerning Terrorist Acts" (HR 5612), authorizes payment of rewards for information on international terrorist incidents. It provides authority to the Secretary of State in cases of terrorism abroad, and to the Attorney General in cases of domestic terrorism, to pay rewards of up to \$500,000 to any individual who furnishes information leading to the arrest or conviction of terrorists who act against U.S. persons or property, or to the prevention or favorable resolution of such an act of terrorism. Rewards of over \$100,000 cannot be made, however, without the approval of the President or his designee, under this authority. In addition, this existing authority of the Attorney General is limited in amount to only \$25,000.

The Administration believes that the proposed new authority can be of real help in some cases, possibly by being the key to resolving an incident, freeing hostages, or bringing the perpetrators of terrorist acts to justice. Knowledge that such a rewards authority exists could have prompted some knowledgeable party to provide us enough information to prevent last week's Beirut tragedy. We cannot say in advance which types of cases, or how many, might be prevented or resolved through use of this authority, but clearly it would be another helpful instrument in the fight against terrorism.

We have found broad agreement on the purposes of these bills in both Houses of Congress and on both sides of the aisle. The three bills will improve our domestic legislation regarding terrorism and two of them will fulfill our obligation for imple-

menting widely accepted international conventions. It is increasingly difficult to explain to other governments why the United States thus far has been unable to give full effect to the Montreal and United Nations conventions.

The Administration has devoted a great deal of attention to these three bills as part of a comprehensive effort to develop an adequate set of approaches to combat international terrorism. Enhanced security measures and cooperation with friendly governments are prominent among these approaches. The problem of gaps in national legislation which might be exploited by terrorists is one that has also been recognized by our allies, and the London Summit declaration specifically mentioned this problem. The governments of the Summit Seven felt that action to correct for gaps in national laws would send a clear message that they are serious in developing the necessary tools to fight international terrorism.

In short, these bills are in our interest because they enhance our own legal capabilities to combat terrorism while greatly improving our credibility in international forums, and it is time to act on them. I urge their earliest approval and I thank you for the opportunity to appear before you.

Here with me today are Daniel W. McGovern, Acting Legal Adviser, Ambassador Robert B. Oakley, Director of the Office for Counter-terrorism and Emergency Planning, and Robert E. Lamb, Assistant Secretary for Administration. At this time we are pleased to take your questions.

Mr. HUGHES. Thank you, Mr. Secretary. I think that is the way we will proceed, and your statement will be admitted, without objection, in full.

Mr. Richard?

TESTIMONY OF MARK RICHARD, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY LARRY LIPPE, CHIEF, GENERAL LITIGATION AND LEGAL ADVICE SECTION, CRIMINAL DIVISION

Mr. RICHARD. Thank you, Mr. Chairman.

With your permission, I will merely summarize my remarks and, with your permission, insert the full statement in the record.

Mr. HUGHES. Without objection, it has already been inserted.

Mr. RICHARD. Thank you. Accompanying me is, Mr. Larry Lippe, who is the Chief of our General Litigation and Legal Advice Section. This is the section that has primary responsibility in the field of terrorism enforcement.

It is a pleasure for us to testify today on three of the President's antiterrorism legislative measures. In our view, these bills will close several loopholes in existing law and give us additional tools to combat international terrorism. We look forward, Mr. Chairman, to working with your subcommittee to bring these bills to passage.

As you know, our respective staffs have been working on some possible alternative language to address some specific concerns the committee may have with certain portions of these bills. I think we have reached accommodation on many of these concerns, and I am confident that, with respect to any outstanding issues, we can address them in like fashion.

When the President transmitted his legislative package on terrorism to the Congress, he included a section-by-section analysis of each bill and, therefore, I will not describe them in specific detail, but will merely highlight their principal objectives and provisions.

I turn first to H.R. 5690, the Aircraft Sabotage Act. With respect to this bill, the primary purpose is to implement fully the international obligations we assumed when we ratified the so-called Montreal Convention on Safety of Civil Aviation.

A major obligation of the convention is the requirement that parties to the convention assume criminal jurisdiction over persons who are found within their territory after having destroyed civil aircraft. Jurisdiction would attach even when the act was committed elsewhere and not against that country's aircraft. Current U.S. law does not permit such a prosecution.

In addition to plugging the gaps in existing laws relating to our treaty responsibilities, the bill also makes several minor, but desirable, changes in the statutes relating to aircraft piracy and the destruction of aircraft offenses.

I will now discuss H.R. 5689, which is directed against hostage taking. Hostage taking is defined as kidnaping coupled with a "threat to kill, injure, or continue to detain the person in order to compel a third party" to act or refrain from action. As defined in the bill, the term covers hostage taking whether or not perpetrated by terrorists.

H.R. 5689 is the necessary legislation designed to implement the International Convention Against the Taking of Hostages which the United States has signed and the Senate has given it advice and consent. It amends the current Federal kidnaping statute, 18 U.S.C. 1201, to implement these treaty responsibilities.

H.R. 5189 provides broad jurisdiction over the hostage-taking offense. It is predicated on recognized principles of international law to provide for punishment of any U.S. national who takes hostages anywhere in the world as well as any perpetrator who takes the U.S. national hostage anywhere in the world.

Where the hostage taking occurs within the United States, the bill, while providing for Federal jurisdiction where appropriate, specifically states that State and local jurisdiction is not preempted.

I now turn to H.R. 5612, the bill that provides for payment of rewards for coping with terrorism.

It is essential, that law enforcement obtain intelligence information concerning terrorist operations. The possibility of a reward is another feature which will hopefully encourage persons, especially those overseas, to overcome their reluctance and fear and reveal to authorities what they know about pending, speculative, and prior terrorist acts.

The reward provisions of H.R. 5612 are broad. They apply to terrorist activity directed at the Nation's interests, people, and property anywhere in the world. The Secretary of State has primary responsibility for rewards relating to terrorist activity outside the United States; the Attorney General is responsible for that which occurs within the United States.

The bill reaches domestic terrorism which may not be of itself a Federal crime and it also covers overseas terrorism over which there might be no Federal criminal jurisdiction.

The size of the potential rewards hopefully will create a new risk to terrorist groups. Unlike some reward measures, H.R. 5612 is not limited to information leading only to the conviction or the arrest of the perpetrator, it covers all valuable information that can lead to the prevention, frustration or favorable resolution of the terrorist activities. While a reward of \$500,000 is possible, any reward of

\$100,000 or more requires the approval of the President or his designee.

The bill also permits the Attorney General, where warranted, to grant an alien permanent resident status and if necessary, to place the person in the Witness Security Program. This statute, if passed, even if seldom utilized, may be just the means to the prevention of deadly attacks upon American nationals or to their successful rescue if they have been kidnaped.

In sum, Mr. Chairman, and members of the committee, these three bills, H.R. 5689, H.R. 5690, and H.R. 5612 are all important pieces of legislation. These measures, if enacted, will not eliminate terrorism, they are not a panacea for the problem; they are steps designed, however, to enhance our legal arsenal which can be directed at the terrorism threat.

Mr. Chairman, that concludes the summary of my prepared remarks. I would be happy to answer any questions you may have at this time.

[The statement of Mr. Richard follows:]

STATEMENT OF MARK RICHARD, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

My name is Mark Richard. I am a Deputy Assistant Attorney General of the Criminal Division. Accompanying me is Mr. Larry Lippe. Mr. Lippe is the Chief of the General Litigation and Legal Advice Section of the Criminal Division.

It is a pleasure for us to testify today on three of the President's anti-terrorism legislative measures. In our view, these bills will close several loopholes in existing law and give us additional tools to combat international terrorism. We believe that enactment of H.R. 5612, H.R. 5689, and H.R. 5690 is important and that speedy action upon them should be taken by the Congress.

As you know, during the past decade terrorist acts have become an ever increasing threat. Especially alarming is the degree to which some bandit states or organizations have engaged in heinous terrorist actions aimed at innocent victims. State supported terrorism has become a low cost method of wreaking havoc upon one's opponents. The threat of terrorism is ever present, and one must ensure that our legal arsenal is sufficiently capable of responding to the problem. Our efforts must be strong, but they must also preserve the constitutional values and liberties which are so dear to our society. We look forward to working with your Subcommittee and the other interested Congressional Committees to bring these bills to passage.

When the President transmitted his legislative package to the Congress, he included a section-by-section analysis of each bill. Hence, we will not describe each bill in specific detail.

H.R. 5690

I turn first to H.R. 5690, the "Aircraft Sabotage Act." This is one piece of legislation that is long overdue. For nearly a decade it has been before the Congress in one fashion or another. The primary purpose of the bill is to implement fully the international obligations we assumed when we ratified the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation ("Montreal Convention") on November 1, 1972. A major obligation of the Convention is the requirement that Parties to the Convention assume criminal jurisdiction over persons who are found within their territory after having destroyed a civil aircraft. Jurisdiction would attach even when the act was committed elsewhere and not against that country's aircraft. Current United States law does not permit such a prosecution. For example, under this bill, if a terrorist blows up a French airliner in Tehran—as actually happened this past summer—the United States would be able to prosecute him for that offense should he ever be apprehended in the United States.

While present domestic law meets the vast majority of our obligations under the Montreal Convention (which may explain the inertia in enacting the predecessors of H.R. 5690) the time is now ripe for Congressional action on this non-controversial measure. In addition to plugging the gaps in existing laws relating to our treaty re-

sponsibilities, the bill also makes several minor, but desirable, changes in the statutes relating to aircraft piracy and the destruction of aircraft offenses.

The need for passage of this legislation goes beyond filling these gaps in our present law. Its passage will send an international message of the United States' commitment to combat terrorism. Our failure to implement the Montreal Convention has been an impediment to our diplomatic efforts to encourage further concerted international action against terrorism.

H.R. 5689

I will now discuss H.R. 5689, which is directed against hostage-taking. Hostage-taking is defined as kidnapping coupled with a "threat . . . to kill, injure or continue to detain the person in order to compel a third party" to act or refrain from action. As defined, the term covers hostage-taking whether or not perpetrated by terrorists.

The international community strongly condemned hostage-taking on December 17, 1979, when the International Convention Against the Taking of Hostages was adopted by the United Nations. The United States has signed the treaty, and the Senate has given its advice and consent. However, before the United States can file its formal adherence to the treaty, implementing legislation should be enacted. H.R. 5689 is the necessary legislation.

H.R. 5689 amends the current federal kidnapping statute, 18 U.S.C. 1201, to implement these treaty responsibilities. However, in order to ensure full compliance with the requirement of Article 5(1)(c) of the treaty that the crime of hostage-taking cover any situation where there is an intent to compel a State Party to the treaty to do or abstain from doing any act (i.e., the United States would be the "third party"), we would suggest that the phrase "the third party is the United States;" be inserted in line 15 of page 3 of H.R. 5689 before the words "the victim." Also, because the term "United States" is being used in revised subsection 1201(e) of title 18, U.S.C., in both the political and geographical senses, we would suggest in line 20 on the same page that the phrase "when used in the geographical sense," be inserted before the word "includes".

H.R. 5189 provides broad jurisdiction over the hostage-taking offense. It is predicated on recognized principles of international law to provide for punishment of any United States national who takes hostages anywhere in the world, as well as of any perpetrator who takes a United States national hostage anywhere in the world.

Of course, as you well know, before there can be any prosecution one must also obtain personal (i.e., physical) jurisdiction over the perpetrator. Most perpetrators of hostage-taking outside of the United States will and should be dealt with by the courts of the country where the crime occurred. This bill is written to create United States federal criminal jurisdiction in the event the perpetrator evades the jurisdiction of such court, or the court fails to mete out justice in vindication of our interests. Of course, we could not proceed to trial unless we obtained personal jurisdiction over the perpetrator and sufficient evidence to sustain a successful prosecution.

Where the hostage-taking occurs within the United States, the bill, while providing for federal jurisdiction where appropriate, specifically states that state and local jurisdiction is not preempted. Although the bill is not limited to hostage-taking by terrorists, in keeping with the purpose of the international Convention it is intended to implement, we do not intend to assume jurisdiction where there is no compelling federal interest.

H.R. 5689 also amends current subsection (f) of 18 U.S.C. 1201 (the kidnapping law) to allow the Attorney General to request assistance in hostage-taking situations from any Federal, State or local agency notwithstanding any statute, rule, or regulation. This authority presently exists under Section 1201 only where "internationally protected persons" are kidnapped. Like authority is also found in other federal statutes, such as 18 U.S.C. 112(f) (assaults on protected foreign officials), 351(g) (assault and kidnaping of high federal officials), and 1751(i) (assaults on or assassination of the President and his staff). The authority is intended for use in those rare situations where the law enforcement resources normally available to the Attorney General, such as the FBI and the United States Marshals Service, are not sufficient. In keeping with the historical precedent and current practice, the request for additional assistance would normally be directed first toward civilian authorities. Only when other civilian authorities are unable to provide the necessary assistance would the request be made to the military. Requests to the military would follow the procedures already established in this area between the Secretary of Defense and the Attorney General.

I would now like to turn to H.R. 5612, the bill that provides for payment of rewards in coping with terrorism.

As you well know, the clandestine nature of terrorist activity makes it difficult to prevent or suppress. It is essential that law enforcement obtain intelligence information concerning terrorist operations. The rewards and other features of this bill will encourage law-abiding persons (especially overseas) to overcome their reluctance and fear, and reveal what they know to the authorities.

Additionally, in the past, terrorist groups were composed primarily of hard-core ideological zealots who would never have informed upon their cohorts. In recent years, however, there are indications that violent criminal types have become associated with some terrorist groups. These individuals, in our judgment, are more likely to talk when caught or to provide us with information when it suits their purposes. H.R. 5612 provides the Secretary of State and the Attorney General a new tool to exploit this characteristic of some of these individuals.

The reward provisions of H.R. 5612 are broad. They apply to terrorist activity directed at the nation's interests, people, and property anywhere in the world. The Secretary of State has primary responsibility for rewards relating to such activity outside the United States; the Attorney General is responsible for that which occurs within the United States. The bill reaches domestic terrorism which may not be itself a federal crime and it also covers overseas terrorism over which there might be no federal criminal jurisdiction.

The size of the potential rewards creates a new risk to terrorist groups, especially when their activities involve individuals removed from the hard-core ideological center of the group. While, as a matter of policy this Department does not favor publicly announced rewards, the threat of terrorism warrants the use of any legal tool to combat it. Unlike some reward measures, H.R. 5612 is not limited to information leading only to the conviction or the arrest of the perpetrator. It covers all valuable information that can lead to the prevention, frustration, or favorable resolution of the terrorist's activities. For example, information on the location of an American hostage would be covered. Likewise covered is information on command centers and safe-houses of terrorist groups. While a reward of \$500,000 is possible, any reward of \$100,000 or more requires the approval of the President or his designee.

The bill also permits the Attorney General, where warranted, to grant an alien permanent resident status and if necessary to place the person in the Witness Protection Program operated by the United States Marshals Service. No domestic or foreign public official may receive a monetary reward for any information provided, but they, too, would be eligible for admission to the United States, if an alien, and to the Witness Protection Program, when appropriate. Because of the need to protect the identity and location of the recipients, the Secretary of State or the Attorney General is authorized to take the steps necessary to provide appropriate safeguards in the disbursement of such rewards to avoid harmful disclosures.

H.R. 5612 appropriates no funds, but upon its enactment both the Department of State and the Department of Justice will seek the necessary appropriation from the Congress. This statute, even if seldom utilized, may be just the means to the prevention of deadly attacks upon American nationals or to their successful rescue if they have been kidnapped.

In sum, Mr. Chairman, these three bills, H.R. 5689, H.R. 5690, and H.R. 5612 are all important pieces of legislation. The rewards bill, H.R. 5612, adds a new tool that could help in apprehending and prosecuting terrorists if they strike, and, even more important, could alert law enforcement authorities in time so that they could prevent terrorists from striking. The hostage taking and aircraft sabotage bills, while essentially a sharpening of existing tools to better deal with these crimes, make some needed substantive changes and are necessary to comply with our obligations as a signator of two important international conventions. These measures, Mr. Chairman, if enacted, will not eliminate terrorism. They are not a panacea for the problem. They are modest steps designed to enhance the legal arsenal which can be directed at the terrorism threat. We would request that the Subcommittee act favorably on all three bills.

Mr. Chairman, that concludes our prepared remarks and we would be happy to answer any questions at this time.

Mr. HUGHES. Thank you very much, Mr. Richard.

First, I have a question about rewards. How do we arrive at \$500,000 as the right amount?

Mr. RICHARD. I don't think there's any magic to the figure other than a recognition that there is a need to have it large enough to induce people, who might otherwise be hesitant to come forward, to do so. Certainly, that is the cap, I don't believe it is intended that the cap would be the baseline figure to be used in deciding how much a reward should be offered in a specific case.

Mr. HUGHES. OK. In view of the fact that it is a substantial amount, I quite agree with you. I think it is perhaps going to present some significant risk to those who would attempt acts of terrorism.

Should we not require the Attorney General or the Secretary, not a designee, to make that ultimate decision?

Mr. RICHARD. If you are talking in excess of \$100,000, it is the President or his designee.

Mr. HUGHES. The President is not going to make the decision, obviously. It is going to be either the Attorney General or the Secretary of State. And since we are talking about a most considerable sum, shouldn't we have the Secretary or the Attorney General make that decision?

Mr. MCGOVERN. I believe, Congressman, I stand ready to be corrected, but I believe that the bill now provides that for sums under \$100,000, that it is the Attorney General or the Secretary of State, depending upon whether it is domestic or international. I think the decision, if it is over \$100,000, then it must be the President or his designee.

Mr. HUGHES. I read it to indicate that the Attorney General or the Secretary could designate someone to make that decision.

Mr. MCGOVERN. I don't see the designation provision with regard to the sums less than \$100,000.

Mr. HUGHES. I have it before me now. It says a reward of \$100,000 or more may not be made without the approval of the President or his designee. It doesn't really say who would be the designee.

Mr. RICHARD. Mr. Chairman, I suspect, as currently worded under our existing regulations, it is my understanding that the Attorney General would be in a position to delegate it to a designee.

Mr. HUGHES. Well, that's the intent, to have either the Secretary or the Attorney General make that determination?

Mr. RICHARD. This bill, in part, is modeled after the similar reward provision dealing with unauthorized acquisition of nuclear materials (50 U.S.C. 47a-f). And if I recall correctly, that bill specifically calls for the Attorney General personally, or the Deputy, to make the decision on the granting of the reward.

To answer your question, at least the model bill does require the Attorney General, if my recollection is correct, to make the ultimate decision.

Mr. HUGHES. I think we are in accord on that. I don't want to belabor that point. That is not really a major point.

I do have a fundamental question about the obligation of the United States to pass criminal laws based on treaty commitments. That does give me some concern.

The hostagetaking treaty provides that each signatory state agrees to make the covered actions subject to criminal jurisdiction. We have a Federal system, as you know, under which both U.S.

and State laws exist that are directed at certain acts of criminal conduct.

Under our system, I would presume that if, in fact, acts of criminal conduct, hostagetaking or otherwise, are already covered, that would comport with our treaty responsibilities. Am I correct?

In other words, if, in fact, existing Federal or State law is adequate to deal with certain acts of criminal conduct covered by the treaty, that would comport with the treaty commitment. You wouldn't have to go back and pass additional laws if, in fact, existing law, either State or Federal, covers the relevant acts of criminal conduct. That would suffice to bring us into compliance with our treaty obligations, would it not?

Mr. MCGOVERN. That is correct, Congressman. It is with specific concern to the Montreal Convention which is the convention that was adopted some 10 years ago by the United States, but for which no implementing legislation has been passed that the concern has arisen that while we can reach many of the acts prohibited by that convention with our existing criminal legislation, we do not have the extraterritorial jurisdiction.

Mr. HUGHES. I understand.

Mr. MCGOVERN. And it is to fill a chink like that that—

Mr. HUGHES. We have got to fill the gaps, is what we have to do?

Mr. MCGOVERN. That is quite correct.

Mr. HUGHES. Yes. There is no need to go back and put additional measures in the law if they are acts of redundancy.

Mr. RICHARD. That's correct.

Mr. HUGHES. That's the point. OK.

What is the constitutional basis, Mr. Richard, if you can tell me, for this bill extending coverage to conduct which currently is made a Federal crime only upon a showing of an effect upon interstate commerce but the bill does not require such a showing? I am talking about hostagetaking now.

Mr. SPIERS. Dan?

Mr. MCGOVERN. Congressman, I have considered this issue because your staff was kind enough to point out that it was a matter of concern to you. As you point out, the findings of the proposed legislation recite a number of bases for the enactment, including the effect on interstate commerce. And insofar as that appears to you perhaps to be a shaky ground for the enactment, I would simply point out that there is little doubt article 1, section 8, clause 10, of the Constitution, independently and by itself, affords ample basis for the proposed legislation. That clause gives the Congress power to define and punish "offenses against the law of nations."

The crime of hostagetaking defined in this proposed legislation is "an offense against the law of nations under customary international law" and, of course, in addition, "under the convention."

Mr. HUGHES. Thank you.

Mr. Richard, getting back to hostagetaking again, when I first read the definition of "hostagetaking," I got the distinct impression that the definition would cover all types of kidnaping because the classic definition of "kidnaping" is "the taking of a person by force, attempting to influence a third party."

Mr. RICHARD. Where there is a demand on a third party, you are correct. It was designed to be neutral, not necessarily just limited

to terrorism per se. We realized that we would be expanding Federal jurisdiction. However, it would be used only in selected instances where there is already existing State and local jurisdiction.

This is one of the areas that has raised some concern. I think we have worked out alternative approaches to address this concern with respect to jurisdiction.

Mr. HUGHES. I don't think that it is your intent to cover all acts of kidnaping in the text of our hostagetaking legislation, is it?

Mr. RICHARD. We were attempting in drafting it as we did, to avoid the more difficult problem we envision of trying to define the terrorism that would be the component of the hostagetaking situation. That gave us our major concern. Approaching it in this manner; that is, having a neutral definition, obviated some of those anticipated constitutional problems that would be associated with defining "terrorism."

Mr. HUGHES. Why wouldn't it have been sufficient to so define the acts of terrorism or hostagetaking, if you will, so that the taking by force is for the decided purpose of attempting to influence a government or governmental policy as opposed to the demands that are made by kidnapers, for instance, for ransoms of a sum of \$1 million or other demands that are made by "traditional" kidnapers?

Mr. RICHARD. As you know, Mr. Chairman, the attempts to deal with the definition of terrorism has been accompanied by much controversy and concern about wording and draftsmanship. It was out of that concern that we took this more neutral approach.

There is another aspect, a more practical one, that also should be kept in mind, and that is frequently the motivation of the offender is not as apparent, or easily apparent, right at the outset. The way we approached it would afford us the opportunity to investigate quickly before having to worry about kinds of nationality involved of the victim, of the perpetrator, the nature of the third party, and his or her status, and so forth. These practical concerns would drop by the wayside in the approach we adopted, so we saw that as the plus.

We had envisioned dealing with the potential conflict of State and local jurisdiction in the same way we deal with other concurrent jurisdiction offenses, which seems to be an adequate solution to a problem that permeates the system.

Mr. HUGHES. If I sense it correctly, I think that that provision is probably the most difficult of any of the provisions in trying to craft a definition that makes sense and strikes the proper balance, and yet gets at what I think all of us want to get at.

Mr. RICHARD. There has been an alternative suggestion approach developed by the Senate dealing with affording us an opportunity to investigate but denying us potential jurisdiction to prosecute where all the parties, the offender, the victim, and so forth, are all U.S. nationals and the offender was still within the United States. We would have jurisdiction to investigate but the defendant could raise it as an affirmative defense if we choose to prosecute on those facts, and that might be an adequate alternative to deal with the jurisdictional concerns. I understand the National District Attorneys Association has indicated its endorsement of this approach to

take into account their concerns with the overbreadth of the jurisdiction.

Mr. HUGHES. I understand. They seem to be happier with that affirmative defense approach. I have directed the staff to try to work with you this morning and early this afternoon to see if we can't come up with a definition that makes sense and that does what we want to do, but is not so broad that we capture all kidnapping, which is not your intent or certainly would not be our intent.

I have some other questions but I have taken much more than my time. The gentleman from Florida.

Mr. SHAW. Thank you, Mr. Chairman.

Turn to page 10 of H.R. 5690; it directs itself at service of process. How does that differ from existing law?

Mr. RICHARD. This would afford some practical relief to some of the problems being encountered by the FAA enforcing various civil provisions within their jurisdiction. Right now they are posed with the practical problem of only being able to file cases in either the jurisdiction where the subject resides or where the offense occurred.

Frequently, these two jurisdictions are quite a distance from where the witnesses are, where the thrust of the offense is as a practical matter. The plane may be flying over Ohio when the offense occurs and all of a sudden Ohio is the nexus for filing of suit or else, alternatively, where the defendant resides.

What this provision is designed to do is to afford, with the approval of the court, the FAA the opportunity to come in and file in a more appropriate district and thereby, in addition, have access nationwide to witnesses. Right now their process is limited to the district in which the action was filed and a hundred miles. This provision would afford them nationwide process.

Mr. SHAW. The provision that I have pointed out to you, I read as only service of process and doesn't go to venue. This has been described as a venue statute. And what I am getting to is, would you point out to me what part of the act reflects the change in the venue law? I have been unable to find it, and that is what I am getting to. I see the service of process, but that doesn't go to venue.

I may have just passed over it and haven't picked up on it.

Mr. RICHARD. Well, certainly I can say the intent was to, in addition to the process, to reach also the issue of venue. I am advised that the intent was to amend section 1395 of title 28 to accomplish this. But I see the point you are making. It is certainly not clear on this point, but the intent was to affect venue as well as the service of process.

Mr. SHAW. Perhaps when you meet with the staff—

Mr. RICHARD. Yes.

Mr. SHAW [continuing]. Later today you can come up with some clarifying language. I am in agreement, I don't think this will get it there.

Mr. RICHARD. Your point is well taken.

Mr. SHAW. OK, I thank the gentlemen. I have no further questions.

Mr. HUGHES. The gentleman from Florida, Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

I have had the opportunity, of course, with reference to H.R. 5612 to be involved in the continuing hearings on the Foreign Affairs Committee. Although a new bill is to be drafted and considered and walked today at 11 o'clock, I think that this is something that we really need to do.

I know that the chairman has some concerns, which I reviewed, and I think the concerns are legitimate, and I think they would only strengthen the bill and be rolled into the new bill that is going to be filed today. I would urge that we do that.

With reference to H.R. 5689, I have also read the concerns on the taking of hostages, and I listened to the chairman's colloquy with the witnesses from the State Department and Justice. I think that there is something that needs to be done about the loss of that rebuttable presumption, that there is going to be now a situation where, under this bill, any taking whatsoever becomes a kidnapping.

Mr. SMITH. That needs to be defined, I think, a little bit more, whether it's along the lines of the Senate bill or some other way, and the problems relating to the changes which the District Attorneys Association had provided in H.R. 5689 and H.R. 5690.

I don't really have any concerns, frankly, with the bill other than have been raised. I am very concerned, however, that we do not allow this kind of terrorist activity, which has been now brought to the fore in the last couple of years, to go unnoticed or to go without any attempt made on the part of this Congress to do something about it. However, I don't want to go too far afield and start making everything in the name of terrorism a major crime punishable by the Secretary of State. That's not the way we have conducted our business here in the United States over the years.

I think they have found somewhat of a balance, and with a little cleaning up, as the chairman suggests, I think it is something that we can all agree on as being a legitimate response. Certainly after 10 years the Montreal Convention needs to be, I think, permanently made statutorily part of our law.

So I would urge us just to go right ahead, Mr. Chairman, and get into the process of amending these bills.

Mr. HUGHES. Thank you.

Current law (18 U.S.C. 32) prohibits willful damage or destruction of aircraft or aircraft parts and facilities with the intent to damage or destroy the aircraft and the willful incapacitation of any crew member.

The relevant provisions of the convention—the Montreal Convention, which your section-by-section says this bill is intended to implement, require that the United States enact laws that prohibit unlawful and intentional acts of violence against people on aircraft if such an act is likely to endanger the safety of the aircraft, destroying or damaging an aircraft and rendering it incapable of flight or endangering its safety in flight, placing any destructive device, et cetera.

The proposed amendment to section 32, however, at least in subsection (a)(1), as I read it, appears to go beyond current law and the dictates of the convention, if I'm correct.

It eliminates the specific intent required by current law, intent to damage or destroy the aircraft, and provides in part that the

willful interference with the operation of aircraft or making it unsuitable for use is prohibited.

This appears to make criminal certain acts that do not affect the safety of the aircraft, such as, for instance, the refusal to deliver food to the plane by striking maintenance crews.

It might also make picket lines by striking aircraft pilots illegal, because such picket lines might interfere with the operation of the aircraft by inducing other crews not to cross the picket line, and yet have no impact upon the safety of anyone or have to do with sabotage, as we are trying to define it in the bill.

I don't think that you intend that result, and I just wonder—I know you've had some discussions with staff on this subject—if we should not be clarifying the language to make it clear that we do not intend to proscribe that type of conduct.

Mr. RICHARD. That's correct, Mr. Chairman. In subsection 32(a)(1) of the bill, we would be content to go back to the language of "wrecks" rather than "interferes with the operation."

Mr. HUGHES. The language that's used presently in the law?

Mr. RICHARD. Yes.

Mr. HUGHES. I think that would be satisfactory.

Mr. RICHARD. This was certainly not our intent to reach the kind of behavior you—

Mr. HUGHES. I think that will address that particular problem; we can agree on that.

I assume that the requirement that the prohibited conduct be done willfully means what it traditionally does in Federal criminal law, and that is that the defendant is acting with a bad purpose or evil motive.

Mr. RICHARD. Mr. Chairman, I'm not sure I would go that far.

As you know, questions of intent under the criminal law are very confusing and complex. I would suggest that it doesn't necessarily reach as far as bad purpose or evil motive. It has to be willfully, intentionally, and knowingly done.

But the bottom line is that this bill is designed not to change existing law with respect to what "willful" means under existing criminal law. But what existing law is in the area of willfulness and intent is less than a clear area under the law.

Mr. HUGHES. Well, it certainly does connote bad motive, I would think. Willful—

Mr. SHAW. If the chairman would yield to me on that point—

Mr. HUGHES. The gentleman from Florida.

Mr. SHAW. I think that when we are in this particular area, someone may be thinking of acting on behalf of their country without the traditional evil type of motive, when it certainly would be evil as far as this country, and the results would be an absolute atrocity.

All throughout history, people would think they were doing things in the name of God or their country when they were doing some pretty terrible things.

Those words concern me a little, and maybe we are in an area now where we ought to take a look at. You bring up a good point, and I think that maybe we better be taking a close look at this.

Mr. HUGHES. Well, rather than me put words in your mouth, why don't you tell us what you define as "willful," because I agree

with the gentleman. I think that obviously, we don't want to exclude those who are acting in an intentional, knowing fashion, but think that they are acting pursuant to their national or organizational goals.

Certainly what we are trying to reach is conduct which is done knowingly, but "willful" connotes an intent, a knowledge, that you know what you are doing. What else does it connote to you? How would you define for purposes of this statute your intent in crafting the word "willful"?

Mr. RICHARD. Well, let me reiterate that it was not our objective in the amendments to section 32 to change the "willful" standard in any way. So existing law designed with respect to the meaning of "willfulness" would remain.

I would suggest that "willful" reaches intentional, knowing, purposeful conduct, but need not necessarily, under existing law, pick up evil purpose or evil motive.

Mr. HUGHES. I agree, because there are a lot of people who are motivated, they think, for the right purposes. We certainly see that in some of the terrorist bombings—suicide bombings—today. They think that they are acting pursuant to the national will and to the will of God.

Mr. RICHARD. That's right.

Mr. HUGHES. So, obviously, we don't intend that.

So what we are talking about—and I think the record should be clear—we are talking about a purposeful, intentional, knowing act—

Mr. RICHARD. Knowing.

Mr. HUGHES. That is what we are talking about. OK.

Mr. RICHARD. If I may, just to clarify one point, Mr. Chairman, and that refers to a statement I made concerning the phrase "interferes with the operation of."

I had indicated that, for purposes of section 32(a)(1), we would have no concerns with substituting for that phrase the existing language of section 32 dealing with "wrecks" but that phrase is also used elsewhere in the proposed bill which, I think, under the convention we would have to stay with that phrase. I am referring specifically now to subsection 32(a)(3) of the bill which also uses the phrase "interferes with the operation of such a facility."

However, with respect to that phraseology, I would suggest it doesn't reach the concerns you've articulated about the more innocuous types of behavior that might interfere with it, because it also requires "likely to endanger the safety of the aircraft in flight," I wanted to clarify that my remark with respect to substitution was limited just to the paragraph (1) and not to paragraph (3).

Mr. HUGHES. I understand. OK. Well, we will see if we can't clarify that to comport with the convention, the treaty, and at the same time make it clear we're not talking about innocuous acts, some of which I described.

I have no further questions.

The gentleman from Florida?

Mr. SMITH. No, thank you.

Mr. HUGHES. OK. What I would like to do is, I would like to recess the hearing and reset the hearing for this afternoon for purposes of markup.

We have matters on the floor this morning, and it would be my intent to reschedule a markup for 1:30 today.

The subcommittee stands recessed.

[Whereupon, at 10 a.m., the subcommittee was recessed, to reconvene at 1:30 p.m., the same day, in markup.]



END