

(B) unavailable through facilities of the Indian Health Service on the Lower Brule Indian Reservation in existence at the time of the determination.

(3) WATER SYSTEM.—The plan shall provide for the construction, operation, and maintenance of a municipal, rural, and industrial water system for the Lower Brule Indian Reservation.

(4) RECREATIONAL FACILITIES.—The plan shall provide for recreational facilities suitable for high-density recreation at Lake Sharpe at Big Bend Dam and at other locations on the Lower Brule Indian Reservation in South Dakota.

(5) OTHER PROJECTS AND PROGRAMS.—The plan shall provide for such other projects and programs for the educational, social welfare, economic development, and cultural preservation of the Tribe as the Tribe considers to be appropriate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Fund.

SEC. 7. EFFECT OF PAYMENTS TO TRIBE.

(a) IN GENERAL.—No payment made to the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

(b) EXEMPTIONS; STATUTORY CONSTRUCTION.—

(1) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed as diminishing or affecting—

(A) any right of the Tribe that is not otherwise addressed in this Act; or

(B) any treaty obligation of the United States.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee amendments be agreed to.

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

The committee amendments were agreed to.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 156), as amended, was read a third time and passed.

FEDERAL JUDICIARY PROTECTION ACT OF 1997

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 203, S. 1189.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1189) to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

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

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

AMENDMENT NO. 1624

(Purpose: To increase the maximum term of imprisonment for assaulting, resisting, or impeding certain officers or employees)

Mr. SESSIONS. There is an amendment at the desk submitted by Senator FEINSTEIN, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for Mrs. FEINSTEIN, proposes an amendment numbered 1624.

Mr. SESSIONS. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, line 6, strike "8" and insert "12".

Mr. SESSIONS. I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 1624) was agreed to.

Mr. LEAHY. Mr. President, I delighted that the Senate is about to pass the Federal Judiciary Protection Act of 1997, S. 1189. I am a proud cosponsor of this legislation.

This legislation would provide greater protection to Federal judges, law enforcement officers and their families. Specifically, our legislation would: increase the maximum prison term for forcible assaults, resistance, opposition, intimidation or interference with a Federal judge or law enforcement officer from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge or law enforcement officer from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnapping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years. It has the support of the Department of Justice, the United States Judicial Conference, the United States Sentencing Commission and the United States Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal judiciary and other law enforcement agencies. But, unfortunately, we are seeing more violence and threats of violence against officials of our Federal government.

Earlier this year, for example, a courtroom in Urbana, Illinois was firebombed, apparently by a disgruntled litigant. This follows the horrible tragedy of the bombing of the federal office building in Oklahoma City two

years ago. More recently in my home state, a Vermont border patrol officer, John Pfeiffer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day, Drega shot and killed two state troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute.

I had a chance to visit John Pfeiffer in the hospital and met his wife and young daughter. Thankfully, Agent Pfeiffer has returned to work along the Vermont border. As a federal law enforcement officer, Agent Pfeiffer and his family will receive greater protection under our bill.

There is, of course, no excuse or justification for someone taking the law into their own hands and attacking or threatening a judge or law enforcement officer. Still, the U.S. Marshal Service is concerned with more and more threats of harm to our judges and law enforcement officers.

The extreme rhetoric that some are using to attack the judiciary only feeds into this hysteria. For example, one of the Republican leaders in the House of Representatives was recently quoted as saying: "The judges need to be intimidated," and if they do not behave, "we're going to go after them in a big way." I know that House Republican Whip TOM DELAY was not intending to encourage violence against any Federal official, but this extreme rhetoric only serves to degrade Federal judges in the eyes of the public.

Let none of us in the Congress contribute to the atmosphere of hate and violence. Let us treat the judicial branch and those who serve within it with the respect that is essential to its preserving its public standing.

We have the greatest judicial system in the world, the envy of people and countries around the world that are struggling for freedom. It is the independence of our third, co-equal branch of government that gives it the ability to act fairly and impartially. It is our judiciary that has for so long protected our fundamental rights and freedoms and served as a necessary check on overreaching by the other two branches, those more susceptible to the gusts of the political winds of the moment.

We are fortunate to have dedicated women and men throughout the Federal Judiciary and law enforcement in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the federal government, who are too often maligned and unfairly disparaged. It is unfortunate that it takes acts or threats of violence to put a human face on the Federal Judiciary and other law enforcement officials, to remind everyone that these are people with children and parents and cousins and friends. They deserve our respect and our protection.

Mr. SESSIONS. I ask unanimous consent that the bill, as amended, be deemed read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The bill (S. 1189), as amended, was deemed read the third time and passed, as follows:

S. 1189

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Judiciary Protection Act of 1997".

SEC. 2. ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.

Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "three" and inserting "12"; and

(2) in subsection (b), by striking "ten" and inserting "20".

SEC. 3. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.

Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "three" and inserting "6".

SEC. 4. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as so designated, by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both."; and

(3) in subsection (d), as so designated, by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 5. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) any expression of congressional intent regarding the appropriate penalties for the offense;

(2) the range of conduct covered by the offense;

(3) the existing sentences for the offense;

(4) the extent to which sentencing enhancements within the Federal sentencing

guidelines and the court's authority to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(5) the extent to which Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(7) the relationship of Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(8) any other factors that the Commission considers to be appropriate.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. SESSIONS. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 145 and the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 145) designating the month of November 1997 as "National American Indian Heritage Month."

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

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

Mr. SESSIONS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The preamble was agreed to.

The resolution (S. Res. 145) was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 145

Whereas American Indians and Alaska Natives were the original inhabitants of the land that now constitutes the United States;

Whereas American Indian tribal governments developed the fundamental principles of freedom of speech and separation of powers that form the foundation of the United States Government;

Whereas American Indians and Alaska Natives have traditionally exhibited a respect for the finiteness of natural resources through a reverence for the earth;

Whereas American Indians and Alaska Natives have served with valor in all of America's wars beginning with the Revolutionary War through the conflict in the Persian Gulf, and often the percentage of American Indians who served exceeded significantly the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians and Alaska Natives have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians and Alaska Natives deserve to be recognized for their individual contributions to the United States as

local and national leaders, artists, athletes, and scholars;

Whereas this recognition will encourage self-esteem, pride, and self-awareness in American Indians and Alaska Natives of all ages; and

Whereas November is a time when many Americans commemorate a special time in the history of the United States when American Indians and English settlers celebrated the bounty of their harvest and the promise of new kinships: Now, therefore, be it

Resolved, That the Senate designates November 1997 as "National American Indian Heritage Month" and requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

SENATE LEGAL COUNSEL REPRESENTATION

Mr. SESSIONS. I ask unanimous consent the Senate proceed en bloc to the immediate consideration of three Senate resolutions, S. Res. 152, S. Res. 153, and S. Res. 154, which were submitted earlier today by Senators LOTT and DASCHLE. I further ask consent that the resolutions be agreed to, the preambles be agreed to, and statements relating to these resolutions be printed in the RECORD.

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

The resolutions (S. Res. 152, S. Res. 153, and S. Res. 154), en bloc, were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 152

Whereas, in the cases of *City of New York, et al. v. William Clinton, et al.*, Civ. No. 97-2393, *National Treasury Employees Union, et al. v. United States, et al.*, Civ. No. 97-2399, and *Snake River Potato Growers, Inc., et al. v. Robert Rubin*, Civ. No. 97-2463, all pending in the United States District Court for the District of Columbia, the constitutionality of the Line Item Veto Act, Pub. L. No. 104-130, 110 Stat. 1200 (1996), has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288j(a), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the cases of *City of New York, et al. v. William Clinton, et al.*; *National Treasury Employees Union, et al. v. United States, et al.*; and *Snake River Potato Growers, Inc., et al. v. Robert Rubin*, to defend the constitutionality of the Line Item Veto Act.

SEC. 2. That while the Senate is adjourned the Senate Legal Counsel is authorized to appear as amicus curiae on behalf of the Senate in other cases in which the constitutionality of the Line Item Veto Act is placed in issue: *Provided*, That the Joint Leadership Group authorizes the Senate Legal Counsel to appear as amicus curiae on behalf of the Senate in such other cases.

Mr. LOTT. Mr. President, last year, after years of legislative consideration and debate, Congress enacted into law