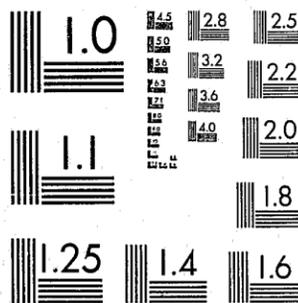


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Calendar No. 1208

94TH CONGRESS }
2d Session

SENATE

{ REPORT
No. 94-1273

IMPLEMENTING INTERNATIONAL CONVENTIONS
AGAINST TERRORISM

September 22, 1976.—Ordered to be printed

Mr. HRUSKA, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 3646]

The Committee on the Judiciary, to which was referred the bill (S. 3646), to amend title 18, United States Code, to implement the Convention To Prevent and Punish the Acts of Terrorism Taking The Form of Crimes Against Persons and Related Extortion That Are of International Significance and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, and for other purposes, having considered the same, reports favorably thereon with an amendment, and recommends that the bill as amended do pass.

AMENDMENT

The Committee proposes the following amendment:
Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons".

Sec. 2. Section 1116 of title 18, United States Code, is amended to read as follows:

"§ 1116. Murder or manslaughter of foreign official, official guests, or internationally protected persons

"(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) For the purposes of this section:

"(1) 'Family' includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official or internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

"(2) 'Foreign government' means the government of a foreign country, irrespective of recognition by the United States.

"(3) 'Foreign official' means—

"(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

"(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

"(4) 'Internationally protected person' means—

"(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

"(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

"(5) 'International organization' means a public international organization designated as such pursuant to section 1 of the International Organizations Inmunities Act (22 U.S.C. 288) or an organization of an intergovernmental character created under international law.

"(6) 'Official guest' means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

"(c) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of section 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

"(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule or regulation to the contrary notwithstanding."

Sec. 3. The analysis at the beginning of chapter 51 of title 18, United States Code, relating to section 1116 is amended as follows:

"§ 1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons."

Sec. 4. Section 1201 of title 18, United States Code, is amended as follows:

(a) by deleting subsection (a) (4) and inserting in lieu thereof the following:

"(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title,"; and

(b) by adding at the end thereof new subsections. (d), (e), and (f) as follows:

"(d) Whoever attempts to violate subsection (a) (4) shall be punished by imprisonment for not more than twenty years.

"(e) If the victim or intended victim of an offense under subsection (a) or (d) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

"(3) In the course of enforcement of subsection (a) (4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a) (4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding."

Sec. 5. Section 112 of title 18, United States Code, is amended to read as follows:

"§ 112. Protection of foreign officials, official guests, and internationally protected persons

"(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such Act uses a deadly or dangerous weapon shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"(b) Whoever willfully—

"(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

"(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

"(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

"(A) a foreign government, including such use as a mission to an international organization;

"(B) an international organization;

"(C) a foreign official; or

"(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section;

shall be fined not more than \$500 or imprisoned not more than six months, or both.

"(c) For the purpose of this section 'foreign government', 'foreign official', 'internationally protected person', 'international organization', and 'official guest' have the same meanings as those provided in section 1116(b) of this title.

"(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

"(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

"(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding."

SEC. 6. The analysis at the beginning of chapter 7 of title 18, United States Code, relating to section 112 is amended to read as follows:

"§ 112. Protection of foreign officials, official guests, and internationally protected persons."

SEC. 7. Section 970 of title 18, United States Code, is amended: (a) by relettering subsection "(b)" as subsection "(c)" and amending the subsection to read as follows:

"(c) For the purpose of this section 'foreign government,' 'foreign official,' 'intentional organization,' and 'official guest' shall have the same meanings as those provided in section 1116(b) of this title."; and

(b) by inserting a new subsection "(b)" as follows:

"(b) Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

"(1) forces any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

"(A) a foreign government, including such use as a mission to an international organization;

"(B) an international organization;

"(C) a foreign official; or

"(D) an official guest; or

"(2) refuses to depart from such portion of such building or premises after a request—

"(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

"(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such request;

"(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

"(D) by any person present having law enforcement powers; shall be fined not more than \$500 or imprisoned not more than six months, or both."

SEC. 8. Chapter 41 of title 18, United States Code, is amended by adding a new section 878 as follows:

"§ 878. Threats and extortion against foreign officials, official guests, or internationally protected persons

"(a) Whoever knowingly and willfully threatens to engage in conduct directed against a foreign official, official guest, or internationally protected person which would be in violation of sections 112(a), 1116, or 1201 of this title shall be fined not more than \$5,000 or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112(a), 1116, or 1201 of this title directed against a foreign official, official guest, or internationally protected person makes any extortionate demand shall be fined not more than \$20,000 or imprisoned not more than twenty years, or both.

"(c) For the purpose of this section 'foreign official,' 'internationally protected person,' and 'official guest' shall have the same meanings as those provided in section 1116(b) of this title.

"(d) If the victim of an offense under subsection (a) or (b) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101 (34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 (34))."

SEC. 9. The analysis of chapter 41 of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"§ 878. Threats and extortion against foreign officials, official guests, and internationally protected persons."

SEC. 10. Nothing contained in this Act shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia, on the same subject matter, nor to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia, including the obligation of all persons having official law enforcement powers to take appropriate action, such as effecting arrests, for Federal as well as non-Federal violations.

SEC. 11. Section 11 of title 18, United States Code, is amended by inserting after the word "title" the words "except in sections 112, 878, 970, 1116, and 1201".

PURPOSE OF AMENDMENTS

In addition to several technical amendments, the proposed substitute for the body of S. 3646 as introduced makes three substantive changes. First, the amendment revises section 5 of the bill as introduced, eliminating provisions relating to parades, pickets, etc. Second, the amendment revises section 7(b)(1) of the bill as introduced by specifying only that portions of the building actually used for official business or for diplomatic, consular or residential purposes are covered by the legislation. Third, the amendment modifies section 7(b)(2) of the bill as introduced to specify that requests for intruders to depart the premises be made by individuals who have proper authority to do so.

PURPOSE

The purpose of the legislation is to implement the "Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents."

BACKGROUND

Both the Organization of American States and the United Nations have begun concerted international efforts to deal with terrorist acts directed at diplomats. The OAS has drafted the "Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance" (known as the OAS Convention), and the U.N. has drafted the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons" (known as the U.N. Convention). These Conventions are based upon a recognition that criminal acts directed at diplomatic agents seriously threaten the maintenance of normal international relations.

The United States has signed both Conventions—the OAS Convention on February 2, 1971, and the U.N. Convention on December 28, 1973. The Senate has given its advice and consent to the ratification of both Conventions—the OAS Convention on June 12, 1972, and the U.N. Convention on October 28, 1975.¹ The United States will become a party to each Convention upon deposit of an instrument of ratification with the appropriate international agency.

¹ See Senate Executive Report No. 92-93; Senate Executive Report No. 94-10.

Treaty Obligations

The OAS and U.N. Convention seeks to safeguard "internationally protected persons" from certain crimes. "Internationally protected persons" include:

(a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household.²

The crimes from which these Conventions seek to protect such persons include murder; kidnapping and assault; threats or attempts to commit murder kidnapping or assault; and extortion in connection with murder, kidnapping, or assault.

Both Conventions obligate a party to them to take certain action when it finds within its territory someone who has committed one of the enumerated offenses against an internationally protected person. The party must either extradite the offender to another party or try him under its own criminal laws. For example, country A is a party to the Conventions. A citizen of country A kills the American Ambassador to his country. The offender then flees from country A to the United States, where he is apprehended. If the United States were a party to the Conventions, it would be obligated either to extradite the offender to country A or to try him under United States law. The United States would have unrestricted discretion to decide which course of action to take.

Both Conventions, therefore, may result in the United States exercising extraterritorial criminal jurisdiction.³ This would occur in the above example if the United States were to choose to try the citizen of country A for the crime of murder, since the offense occurred within the territory of another country. Extraterritorial criminal jurisdiction was authorized last Congress in Public Law 93-366, which deals with aircraft hijacking.⁴

Need for Legislation

Even though the Senate has given its advice and consent to ratify both Conventions, the instruments of ratification have not been deposited and the United States is not yet a party to either. It is the policy of the State Department not to deposit an instrument of ratification unless it is assured that federal law will permit the United

² U.N. Convention Art. 1, in Executive Document L, 93d Cong., 2d Session, at 1 (1974).

³ See S. Swigert, "Extraterritorial Jurisdiction—Criminal Law," *Harvard International Law Journal* 346 (1972).

⁴ The Legal Adviser of the Department of State, in a statement presented to the Committee, concluded that "there is clear Constitutional authority for the State to exercise, in certain circumstances, extraterritorial jurisdiction over the offenses designated under these Conventions."

States fully to discharge its treaty obligations.⁵ Unless this legislation is enacted, the United States would not be able fully to discharge its obligations under the Conventions.

The OAS Convention is presently in force, and the State Department expects the U.N. Convention to enter into force very shortly (only 6 more ratifications are needed). It is in the best interests of the United States to become a party to both. This legislation, if enacted, will permit the United States to deposit the instruments of ratification for both treaties and become a party to them.

SECTION 1

Section 1 of the bill provides that the short title of the legislation is the "Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons."

SECTION 2

Section 2 of the bill amends section 1116(a) of title 18, United States Code, which presently provides criminal penalties for the murder of foreign officials and official guests. The legislation amends that section to include "internationally protected persons" and to provide criminal penalties for attempted murder. The legislation amends section 1116(b) of title 18, United States Code, to define "internationally protected persons" in accordance with the Conventions.

The legislation also amends section 1116 of title 18, United States Code, to authorize the United States to exercise extraterritorial jurisdiction over the offenses defined in section 1116 if the alleged offender is present within the United States.⁶ Finally, the legislation amends section 1116 of title 18, United States Code, to authorize the Attorney General to request assistance from any federal, state or local agency in the course of enforcing the provisions of section 1116.⁷ This parallels similar provisions relating to attacks upon Members of Congress (section 351(g) of title 18, United States Code) and the President and Vice-President (section 1751(i) of title 18, United States Code).

SECTION 3

Section 3 of the bill amends the analysis at the beginning of chapter 51 of title 18, United States Code, to reflect a change in the title of section 1116.

SECTION 4

Section 4 of the bill amends the federal kidnapping statute (section 1201 of title 18, United States Code) to provide criminal penalties if the victim is an internationally protected person. It also amends the

⁵ Statement of Monroe Leigh, Legal Adviser, Department of State.

⁶ See U.N. Convention Art. 1 (2), in Executive Document L, 93d Cong., 2d Session, at 1, which defines "alleged offender" to mean "a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes" specified in the Convention.

⁷ There may be circumstances—such as the takeover of an embassy—when the Justice Department will need assistance from other federal, state or local agencies. It is intended that requests by the Attorney General for assistance from federal, state or local agencies be limited to requests for assistance within the territory of the United States.

statute to provide criminal punishment for attempted kidnapping of internationally protected persons, foreign officials, or official guests of the United States.⁸

The legislation also authorizes the United States to exercise extraterritorial jurisdiction if the alleged offender is present within the United States. Further, the legislation authorizes the Attorney General, in the course of enforcing the provisions of the statute relating to internationally protected persons, to request assistance from any federal, state or local agency.

SECTION 5

Section 5 of the bill amends section 112 of title 18, United States Code, which deals with assaults against foreign officials and official guests. The present statute (section 112(a) of title 18, United States Code) makes it unlawful to assault, strike, wound, imprison or offer violence to a foreign official or official guest. The legislation amends this provision to make it unlawful to commit such acts against an internationally protected person.

Present federal law (section 112(b) of title 18, United States Code) makes it unlawful willfully to intimidate, coerce, threaten or harass a foreign official or official guest. The legislation makes it unlawful to commit such acts against internationally protected persons.

Federal law (section 112(c) of title 18, United States Code) presently prohibits certain types of conduct and speech carried out in close proximity (within 100 feet) of a building owned, used or occupied by a foreign government, a foreign official, or an international organization. It provides criminal penalties for someone who—

- (1) parades, pickets, displays any flag, banner, sign, placard, or device, or utters any word, phrase, sound or noise, for the purpose of intimidating, coercing, threatening, or harassing any foreign official or obstructing him in the performance of his duties, or
- (2) congregates with two or more persons with the intent to perform any of the aforesaid acts * * *

The legislation changes this language to make it unlawful for someone willfully to congregate with 2 or more people with the intent to intimidate, threaten, coerce or harass a foreign official or official guest.¹⁰

⁸ Earlier versions of this legislation, H.R. 12942 and H.R. 13709, contained provisions creating a general attempted kidnapping statute. The provision in this legislation is more limited because insufficient data was received to enable a proper assessment of the need for, and impact of, a general attempted kidnapping statute.

⁹ This language raises serious Constitutional questions because it appears to include within its purview conduct and speech protected by the First Amendment. The Committee is of the opinion that its new language is not Constitutionally objectionable on First Amendment grounds. To make it clear that this legislation is not intended in any way to inhibit the exercise of First Amendment rights, the legislation continues this language presently in the statute: "Nothing contained in this section [112] shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States."

¹⁰ The term "willfully," it has been noted, may have different meanings in different statutes. L. Weinreb, "Comment on Basis of Criminal Liability: Culpability: Causation; Chapter 3: Section 610," in *Working Papers of the National Commission on Reform of Federal Criminal Laws* 105, 148-51 (1970). In amending section 112 and other sections of title 18, United States Code, the Committee in this legislation intends that "willfully" have the following meaning: "An act is done 'willfully' if done voluntarily and intentionally, and with the specific intent to do something the law forbids; that is to say, with bad purpose either to disobey or to disregard the law." E. Devitt & C. Blackmar, *Federal Jury Practice and Instructions* § 18.13 (1970). See *Screws v. United States*, 325

The legislation authorizes the United States to exercise extraterritorial jurisdiction if the alleged offender is present in the United States and if the offense involves a violation of section 112(a) of title 18, United States Code, where the victim or intended victim is an internationally protected person. The Attorney General is authorized to request the assistance of any Federal, State or local agency in the course of enforcing the provisions relating to internationally protected persons.

SECTION 6

Section 6 of the bill intends to amend the analysis at the beginning of chapter 7 of title 18, United States Code, to reflect a change in the title of section 112.

SECTION 7

Section 7 amends section 970 of title 18, United States Code. Section 970 of title 18 makes it unlawful for someone willfully to injure, damage or destroy real or personal property belonging to or used by a foreign government, an international organization, a foreign official or an official guest.

The legislation adds a new provision prescribing criminal penalties for someone who willfully and with an intent to intimidate, coerce, threaten or harass, trespasses upon that portion of any building occupied or used by a foreign government, an international organization, a foreign official, or an official guest. The trespass can occur in two ways. First, it occurs when someone "forcibly thrusts any part of himself or any object within or upon" that portion of the building so occupied or used. It also occurs when someone refuses to depart from that portion of the building so occupied or used after requested to do so by an authorized employee of a foreign government or international organization, by a foreign official or authorized member of his staff, by an official guest or authorized member of his staff, or by any person present having law enforcement powers. The term "forcibly thrust" contemplates an entering of a person or object against the will, expressly or reasonably implied from the circumstances, of the occupant.

SECTION 8

Section 8 of the legislation amends chapter 40 of title 18, United States Code, by adding a new section (875) prohibiting threats and extortion against foreign officials, official guests, or internationally protected persons. The new section will provide criminal penalties when someone knowingly and willfully threatens to kill, kidnap or assault a foreign official, official guest, or internationally protected person. It also makes criminally punishable extortionate demands made in connection with the killing, kidnapping or assaulting of a foreign official, official guest, or internationally protected person.

U.S. 91 (1945); *Hartzel v. United States*, 322 U.S. 680, 686 (1944); *United States v. Murdock*, 290 U.S. 359, 394 (1933); *Felton v. United States*, 96 U.S. 699, 702 (1877).

Thus, for example, an internationally protected person who is lawfully arrested (by a police officer or someone making a citizen's arrest, may have been obstructed in carrying out official duties. However, the obstruction would not have been willful within the meaning of the legislation, since the arrest would not have been made for a bad purpose but rather for the good purpose of enforcing the law.

The legislation provides for extraterritorial jurisdiction over the above offenses if the victim is an internationally protected person.

SECTION 9

Section 9 of the bill amends the analysis of chapter 41 of title 18, United States Code, by inserting a reference to the new section.

SECTION 10

Section 10 of the bill provides that the legislation is not intended to preempt, "to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia," the field in which its provisions operate. It further provides that the legislation does not "relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession or the District of Columbia. * * *"

SECTION 11

Section 11 of the bill amends section 11 of title 18, United States Code. That section of title 18 defines "foreign government" for the purposes of title 18. The amendment makes it clear that the term "foreign government" has a special meaning in sections 112, 878, 970, 1116 and 1201 of title 18.

COST

The Committee estimates that no new cost to the United States is entailed by S. 3646.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law is shown in roman, matter repealed enclosed in black brackets, and new matter is printed in italic):

TITLE 18, UNITED STATES CODE

CHAPTER 1.—GENERAL PROVISIONS

* * * * *

§ 11. Foreign government defined.

The term "foreign government", as used in this title *except in section 112, 878, 970, 1116, and 1201*, includes any government, faction, or body of insurgents within a country with which the United States is at peace, irrespective of recognition by the United States.

* * * * *

CHAPTER 7.—ASSAULT

- Sec. 111. Assaulting, resisting, or impeding certain officers or employees.
- 112. Protection of foreign officials [and] official guests; and internationally protected persons.
- 113. Assaults within maritime and territorial jurisdiction.
- 114. Maiming within maritime and territorial jurisdiction.

* * * * *

§ 112. Protection of foreign officials [and], official guests, and internationally protected persons.

(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official [or], official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

[(b) Whoever willfully intimidates, coerces, threatens, or harasses a foreign official or an official guest, or willfully obstructs a foreign official in the performance of his duties, shall be fined not more than \$500, or imprisoned not more than six months, or both.]

(b) Whoever willfully—

(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

- (A) a foreign government, including such use as a mission to an international organization;
- (B) an international organization;
- (C) a foreign official; or
- (D) an official guest;

congregates with two or more other persons with intent to violate any other provisions of this section; shall be fined not more than \$500 or imprisoned not more than six months, or both.

[(c) Whoever within the United States but outside the District of Columbia and within one hundred feet of any building or premises belonging to or used or occupied by a foreign government or by a foreign official for diplomatic or consular purposes, or as a mission to an international organization, or as a residence of a foreign official, or belonging to or used or occupied by an international organization for official business or residential purposes, publicly—

[(1) parades, pickets, displays any flag, banner, sign, placard, or device, or utters any word, phrase, sound, or noise for the purpose of intimidating, coercing, threatening, or harassing any foreign official or obstructing him in the performance of his duties, or

[(2) congregates with two or more other persons with the intent to perform any of the aforesaid acts or to violate subsection (a) or (b) of this section,

shall be fined not more than \$500, or imprisoned not more than six months, or both.]

[(d)] (c) For the purpose of this section ["foreign official", "foreign government"], "foreign government", "foreign official", "internationally protected person", "international organization", and "official guest" shall have the same meanings as those provided in sections 116(b) [and (c)] of this title.

[(e)] (d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.

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CHAPTER 41.—EXTORTION AND THREATS

Sec.

- 871. Threats against President and successors to the Presidency.
- 872. Extortion by officers or employees of the United States.
- 873. Blackmail.
- 874. Kickbacks from public works employees.
- 875. Interstate communications.
- 876. Mailing threatening communications.
- 877. Mailing threatening communications from foreign country.
- 878. Threat and extortion against foreign officials, official guests, and internationally protected persons.

* * * * *

"§ 878. Threats and extortion against foreign officials, official guests, or internationally protected persons

"(a) Whoever knowingly and willfully threatens to engage in conduct directed against a foreign official, official guest, or internationally protected person which would be in violation of sections 112(a), 1116, or 1201 of this title shall be fined not more than \$5,000 or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112(a), 1116, or 1201 of this title directed against a foreign official, official guest, or internationally protected person makes any extortionate demand shall be fined not more than \$20,000 or imprisoned not more than twenty years, or both.

"(c) For the purpose of this section 'foreign official', 'internationally protected person', and 'official guest' shall have the same meanings as those provided in section 1116(b) of this title.

"(d) If the victim of an offense under subsection (a) or (b) is an internationally protected person, the United States may exercise jur-

isdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34))."

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CHAPTER 45.—FOREIGN RELATIONS

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§ 970. Protection of property occupied by foreign governments.

(a) Whoever willfully injures, damages, or destroys, or attempts to injure, damage, or destroy any property, real or personal, located within the United States and belonging to or utilized or occupied by any foreign government or international organization, by a foreign official or official guest, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(b) Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest; or

(2) refuses to depart from such portion of such building or premises after a request—

(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such request;

(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

(D) by any person present having law enforcement powers; shall be fined not more than \$500 or imprisoned not more than six months, or both.

[(b)] (c) For the purpose of this section ["foreign official", "foreign government"], "foreign government", "foreign official", "international organization", and "official guest" shall have the same meanings as those provided in sections 1116 (b) [and (c)] of this title.

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CHAPTER 51.—HOMICIDE

Sec.

1111. Murder.
 1112. Manslaughter.
 1113. Attempt to commit murder or manslaughter.
 1114. Protection of officers and employees of the United States.
 1115. Misconduct or neglect of ship officers.
 1116. Murder or manslaughter of foreign officers [or], official guests, or internationally protected persons.
 1117. Conspiracy to murder.

* * * * *
 § 1116. Murder or manslaughter of foreign officials [or], official guests, or internationally protected persons

(a) Whoever kills [a foreign official or official guest] or attempts to kill a foreign official, official guard, or internationally protected person shall be punished as provided under sections 1111 [and], 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

[(b) For the purpose of this section "foreign official" means—

[(1) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

[(2) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.]

[(c) (b) for the [purpose] purposes of this section:

[(3) (1) "Family includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official or internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

[(1) (2) "Foreign government" means the government of a foreign country, irrespective of recognition by the United States.

(3) "Foreign official" means—

(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

(4) "Internationally protected person" means—

(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

[(2) (5) "International organization" means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or an organization of an inter-governmental character created under international law.

[(4) (6) "Official guest" means a citizen or national of a foreign country present in the United States as an official guest of the [government] Government of the United States pursuant to designation as such by the Secretary of State.

(c) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

CHAPTER 55.—KIDNAPING

* * * * *
 § 1201. Kidnaping.

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when:

(1) the person is willfully transported in interstate or foreign commerce;

(2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States;

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 101(32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(32)); or

(4) the person is a foreign official [as defined in section 1116(b) or an official guest as], an internationally protected person, or an

official guest as those terms are defined in section 1116 [(c) (4)] (b) of this title.

shall be punished by imprisonment for any term of years or for life. (b) With respect to subsection (a) (1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away shall create a rebuttable presumption that such person has been transported to interstate or foreign commerce.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any terms of years or for life.

(d) *Whoever attempts to violate subsection (a) (4) shall be punished by imprisonment for not more than twenty years.*

(e) *If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).*

(f) *In the course of enforcement of subsection (a) (4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a) (4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.*

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RECOMMENDATION

The Committee believes that S. 3646 as amended is meritorious and therefore recommends that the bill do pass.

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