

the Marine Environment of the Wider Caribbean Region, subject to Reservations, an Understanding, and a Declaration.

The Senate advises and consents to the ratification of the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, including Annexes, done at Kingston on January 18, 1990 (Treaty Doc. 103-5), subject to the reservations in section 2, the understanding in Section 3, and the declaration in Section 4.

Section 2. Reservations.

The advice and consent of the Senate under section 1 is subject to the following reservations, which shall be included in the instrument of ratification.

(1) The United States of America does not consider itself bound by Article 11(1) of the Protocol to the extent that United States law permits the limited taking of flora and fauna listed in Annexes I and II—

(A) which is incidental, or

(B) for the purpose of public display, scientific research, photography for educational or commercial purposes, or rescue and rehabilitation.

(2) The United States has long supported environmental impact assessment procedures, and has actively sought to promote the adoption of such procedures throughout the world. U.S. law and policy require environmental impact assessments for major Federal actions significantly affecting the quality of the human environment. Accordingly, although the United States expects that it will, for the most part, be in compliance with Article 13, the United States does not accept an obligation under Article 13 of the Protocol to the extent that the obligations contained therein differ from the obligations of Article 12 of the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region.

(3) The United States does not consider the Protocol to apply to six species of fauna and flora that do not require the protection provided by the Protocol in U.S. territory. These species are the Alabama, Florida and Georgia populations of least term (*Sterna antillarum*), the Audubon's shearwater (*Puffinus lherminieri*), the Mississippi, Louisiana and Texas population of the wood stork (*Mycteria americana*) and the Florida and Alabama populations of the brown pelican (*Pelicanus occidentalis*), which are listed on Annex II, as well as the fulvous whistling duck (*Dendrocygna bicolor*), and the populations of widgeon or ditch grass (*Rupia maritima*) located in the continental United States, which are listed on Annex III.

Section 3. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

The United States understands that the Protocol does not apply to non-native species, defined as species found outside of their natural geographic distribution, as a result of deliberate or incidental human intervention. Therefore, in the United States, certain exotic species, such as the muscovy duck (*Carina moschata*) and the common iguana (*Iguana iguana*), are not covered by the obligations of the Protocol.

Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

Existing federal legislation provides sufficient legal authority to implement United States obligations under the Protocol. Accordingly, no new legislation is necessary in order for the United States to implement the Protocol.

Mr. REID. Mr. President, I ask unanimous consent that any statements relating to this protocol be printed in the RECORD.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

AUTHORIZING TESTIMONY AND REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 323, submitted earlier today by the two leaders.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

To authorize testimony and representation in Senator MITCH MCCONNELL, et al. v. Federal Election Commission, et al., and consolidated cases.

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

Mr. DASCHLE. Mr. President, the U.S. District Court in the District of Columbia has consolidated for adjudication a number of challenges pending before it to the constitutionality of the Bipartisan Campaign Reform Act of 2002, which Congress enacted into law this spring.

These challenges include the lead case, which was filed by our colleague, Senator MCCONNELL. Four of our other colleagues who played major roles in the passage of this landmark law, Senators MCCAIN, FEINGOLD, SNOWE, and JEFFORDS, have intervened to join in defending the act. Recognizing the significant constitutional issues presented by the passage of this landmark legislation, the Senate acted to ensure that Senators on both sides of the constitutional questions would be able to present their views in court.

Since these lawsuits were filed shortly after the law was signed, there have been comprehensive pretrial proceedings under the supervision of the three-judge court that is handling this case. The court is aiming to decide this case as soon as possible after the law takes effect after the mid-term elections in November, and in time for the Supreme Court to hear the inevitable appeal in its forthcoming term.

As part of the proceedings in the discovery phase of the case, the Members who are participating on either side of the controversy have each been asked to give deposition testimony. Accordingly, at the Members' joint request, the enclosed resolution would authorize them to provide testimony in these cases, except, in keeping with Senate practice, when a privilege should be asserted under the speech or debate clause or when their presence is required on the Senate floor.

Finally, in order to ensure that the Senate's interests are protected in con-

nection with the discovery process in this matter, the resolution authorizes the Senate Legal Counsel to appear in this litigation as an amicus curiae in the name of the Senate to assist in the presentation of views, to the parties, and, if necessary, the court, of the applicability of the principles of legislative privilege to discovery issues arising in this litigation.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement by the majority leader be printed in the RECORD.

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

The resolution (S. Res. 323) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES 323

Whereas, in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., No. 02-CV-582, and consolidated cases, pending in the United States District Court for the District of Columbia, notices for the taking of depositions have been served on Senator Mitch McConnell, who is a plaintiff, and Senators Olympia Snowe, James Jeffords, John McCain, and Russell Feingold, who are intervenor-defendants;

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

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That, in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., and consolidated cases, Senators Mitch McConnell, Olympia Snowe, James Jeffords, John McCain, and Russell Feingold, and any other Senator who agrees to participate in this litigation, are authorized to testify, except concerning matters for which a privilege should be asserted and when their attendance at the Senate is necessary for the performance of their legislative duties.

SEC. 2. That the Senate Legal Counsel is authorized to appear as amicus curiae in the name of the Senate in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., and consolidated cases, to represent the interests of the Senate in connection with discovery sought from Senators in these cases.