

floor consideration of H.R. 2638 that Arex Avanni, a detailee to the Committee on Appropriations, be granted the privilege of the floor.

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

#### EXECUTIVE SESSION

#### INTERNATIONAL CONVENTION ON CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS, 2001

#### CCW PROTOCOL ON EXPLOSIVE REMNANTS OF WAR

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the Calendar Nos. 24 and 30, and that the treaties be considered as having advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee understandings, declarations, and conditions, if applicable, be agreed to; that any statements be printed in the RECORD as if read; and that the Senate take one vote on the resolution of ratification; further, that when the resolutions of ratification are voted on, the motions to reconsider be considered made and laid on the table; the President be immediately notified of the Senate's action, and the Senate resume legislative session, all without intervening action or debate.

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

Mr. WHITEHOUSE. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division vote was being requested. Senators in favor of ratification of these treaties will rise and remain standing until counted.

Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

TREATY DOC. 109-10(C) CCW PROTOCOL ON EXPLOSIVE REMNANTS OF WAR (PROTOCOL V)

*Resolved (two-thirds of the Senators present concurring therein),*

Section 1. Senate Advice and Consent subject to an understanding and a declaration

The Senate advises and consents to the ratification of the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol V), adopted at Geneva on November 28, 2003 (Treaty Doc. 109-10(C)), subject to the understanding of section 2 and the declaration of section 3.

Section 2. 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:

It is the understanding of the United States of America that nothing in Protocol V would preclude future arrangements in connection with the settlement of armed conflicts, or assistance connected thereto, to allocate responsibilities under Article 3 in a manner that respects the essential spirit and purpose of Protocol V.

Section 3. Declaration.

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

With the exception of Articles 7 and 8, this Protocol is self-executing. This Protocol does not confer private rights enforceable in United States courts.

TREATY DOC. 110-13 INTERNATIONAL CONVENTION ON THE CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS

*Resolved (two-thirds of the Senators present concurring therein),*

Section 1. Senate Advice and Consent subject to two declarations.

The Senate advises and consents to the ratification of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, adopted on October 5, 2001 (Treaty Doc. 110-13), subject to the declaration of section 2 and the declaration of section 3.

Section 2. Declaration.

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

The United States of America declares that, pursuant to Article 16(2)(f)(ii)(3) of the Convention, amendments to Annex 1 of the Convention shall enter into force for the United States of America only after notification to the Secretary-General of its acceptance with respect to such amendments.

Section 3. Declaration.

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

This Convention is not self-executing.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate returns to legislative session.

#### LEGISLATIVE SESSION

#### ACTION VITIATED—H.R. 2638

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the previous action with respect to the House Message to H.R. 2638 be vitiated.

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

#### CONSOLIDATED SECURITY, DISASTER ASSISTANCE, AND CONTINUING APPROPRIATIONS ACT, 2009

Mr. WHITEHOUSE. I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to H.R. 2638.

The PRESIDING OFFICER laid before the Senate the following message:

Resolved that the House agree to the amendment of the Senate, to the bill, H.R. 2638, an act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes, do pass with a House amendment to the Senate amendment.

#### CLOTURE MOTION

Mr. WHITEHOUSE. I move to concur in the House amendment to the Senate amendment to H.R. 2638 and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to H.R. 2638, the Department of Homeland Security Appropriations Act/Continuing Resolution for fiscal year 2009.

Evan Bayh, Debbie Stabenow, Benjamin L. Cardin, Byron L. Dorgan, Barbara A. Mikulski, Jeff Bingaman, John F. Kerry, Herb Kohl, Sherrod Brown, Jon Tester, E. Benjamin Nelson, Richard Durbin, Patrick J. Leahy, Amy Klobuchar, Robert P. Casey, Jr., Claire McCaskill, Bernard Sanders.

Mr. WHITEHOUSE: I ask unanimous consent that the mandatory quorum be waived.

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

#### AMENDMENT NO. 5670

Mr. WHITEHOUSE. I now move to concur in the House amendment to the Senate amendment to H.R. 2638 with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE] moves to concur in the House amendment to the Senate amendment to H.R. 2638, with an amendment numbered 5670.

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

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

The amendment is as follows:

At the end, add the following:  
The provisions of this Act shall become effective 2 days after enactment.

Mr. WHITEHOUSE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 5671

Mr. WHITEHOUSE. I have a second-degree amendment at the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for Mr. REID, proposes an amendment numbered 5671 to amendment No. 5670.

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

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