The assistant legislative clerk read as follows:

A bill (H.R. 6620) to amend title 18, United States Code, to eliminate certain limitations on the length of Secret Service Protection for former Presidents and for the children of former Presidents.

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

Mr. LEAHY. Today the Senate is enacting provisions sent to us by Representative CONYERS, Chairman SMITH and others to repeal a shortsighted limitation passed in 1994 to limit Secret Service protection of former Presidents. The House bill reverses the 10-year limitation enacted during a time when partisans were angry at the American people's election of President Clinton. They contended they were saving taxpayers money with this change in protection, but I doubt their legislation had any such effect. Now that the limitation might limit Secret Service protection for George W. Bush, they are ready to reverse course. We live in a world of real threats and dangerous people intent on wrongdoing. I support this effort to protect former President Bush and other Presidents going forward.

I think we should take a more thorough look at this outdated statute and expressly extend protection for the minor children of former Presidents, as well. In today's world, I do not believe ending such protection at age 15 is prudent. I have raised the issue with the authors of this legislation, with the Secret Service and with the current administration. They are hesitant to improve upon the current bill. I think we are making a mistake by not taking this opportunity to extend protection to children in our first families until they reach 21 years of age. I will not hold up the beneficial change that will be made by the House bill in order to demand a more thorough overhaul of the statute at this time. I suspect Congress will need to reassess this matter because we have not done all we should now.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, and any statements related to this matter be placed in the RECORD.

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

The bill (H.R. 6620) was ordered to a third reading, was read the third time, and passed.

CORRECTING AND IMPROVING THE LEAHY-SMITH AMERICA INVENTS ACT

Mr. REID. Mr. President, I now ask unanimous consent to proceed to H.R. 6621.

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

The assistant legislative clerk read as follows:

A bill (H.R. 6621) to correct and improve certain provisions of the Leahy-Smith America Invents Act and title 35, United States Code.

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

Mr. LEAHY. Earlier this Congress, the Senate and the House of Representatives came together to pass the Leahy-Smith America Invents Act, the most comprehensive change to our Nation's patent laws in 60 years. It was the result of more than 6 years of bipartisan, bicameral work by many, including my counterpart on the House Judiciary Committee, Chairman LAMAR SMITH. Now 15 months since President Obama signed our bill into law, its reforms are already starting to take effect, benefiting inventors and businesses around the country.

I am pleased the Senate has taken action to pass Chairman SMITH's technical corrections legislation, H.R. 6621. The legislation makes a small number of changes to clarify and improve the law and to help streamline its implementation. The bill corrects several minor drafting errors and clarifies provisions concerning the inventor's oath, notice of patent term adjustments, derivation proceedings, and the terms of the Patent Public Advisory Committee. It also addresses an inadvertent ''dead zone'' by clarifying the remedies available to those wishing to challenge patent applications.

The changes are straightforward and noncontroversial. They should help reduce confusion and ease implementation of the law. I appreciate Chairman SMITH's efforts to draft this legislation and to move it through the House of Representatives so the Patent and Trademark Office, PTO, and participants in the patent system can benefit from its effects.

Regrettably, the legislation passed today does not include one technical correction that would improve the law by restoring Congress's intent for the post-grant estoppel provision of the America Invents Act. Chairman SMITH recently described certain language contained in that provision as an ''inadvertent scrivener's error.'' As written, it unintentionally creates a higher threshold of estoppel than was in the legislation that passed the Senate 95–5, or that was intended by the House, according to Chairman SMITH's statement. I hope we will soon address this issue so that the law accurately reflects Congress's intent.

We must also continue to focus on the troubling problem of several hundred ''pre-GATT'' patent applications that have now been pending before the Patent Office for over 18 years. The original version of this legislation in the House addressed that problem by providing a 1-year window for the pending applications to be processed. Unfortunately, that language was removed before final passage in the House and replaced with a provision requiring the Patent Office to prepare a report. The amended bill the Senate has passed today strikes the report, but I will work closely with the PTO to identify the cause of the delays and ensure that the PTO has the tools it needs to address any abuses by those who may be trying to game the system and use the patent laws to impede, rather than encourage innovation.

There is still more work to be done to address the problems that confront our patent system. The assertion of patents is still too often used by patent trolls to extract payment even where there is not infringement of a valid patent, and the ''tech patent wars'' among the large mobile phone companies show the perils to competition that can come when companies do not reach business-to-business resolutions of their patent disputes. But the important reforms made by the Leahy-Smith America Invents Act go a long way toward improving the patent system. This legislation will help streamline those reforms, helping inventors, businesses, and the countless American workers employed in industries that produce and rely on intellectual property.

Mr. REID. Mr. President, I ask unanimous consent that the Leahy-Grassley substitute amendment which is at the desk be agreed to; the bill, as amended, be read a third time and passed; a motion to reconsider be considered made and laid upon the table, and any statements related to this matter be printed in the RECORD.

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

The amendment (No. 3444) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. TECHNICAL CORRECTIONS.

(a) ADVICE OF COUNSEL.—Notwithstanding section 35 of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), section 298 of title 35, United States Code, shall apply to any civil action commenced on or after the date of the enactment of this Act.

(b) TRANSITIONAL PROGRAM FOR COVERED BUSINESS METHOD PATENTS.—Section 18 of the Leahy-Smith America Invents Act (35 U.S.C. 321 note) is amended—

(1) in subsection (a)(1)(C)((i), by striking ''of such title'' the second place it appears; and

(2) in subsection (d)(2), by striking ''subsection'' and inserting ''section''.

(c) JOINDER OF PARTIES.—Section 299(a) of title 35, United States Code, is amended in the matter preceding paragraph (1) by striking ''or counterclaim defendants only if'' and inserting ''only if''.

(d) DEAD ZONES.—

(1) INTER PARTES REVIEW.—Section 311(c) of title 35, United States Code, shall not apply to a petition to institute an inter partes review of a patent that is not a patent described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(2) REISSUE.—Section 311(c)(1) of title 35, United States Code, is amended by striking ''or issuance of a reissue of a patent''.

(e) CORRECT INVENTOR.—

(1) IN GENERAL.—Section 135(e) of title 35, United States Code, as amended by section 3(i) of the Leahy-Smith America Invents Act, is amended by striking ''correct inventors'' and inserting ''correct inventor''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the amendment made by section 3(i) of the Leahy-Smith America Invents Act.

(f) INVENTOR'S OATH OR DECLARATION.—Section 115 of title 35, United States Code, as amended by section 4 of the Leahy-Smith America Invents Act, is amended—

(1) by striking subsection (f) and inserting the following:

''(f) TIME FOR FILING.—The applicant for patent shall provide each required oath or declaration under subsection (a), substitute statement under subsection (d), or recorded assignment meeting the requirements of subsection (e) no later than the date on which the issue fee for the patent is paid.''; and

(2) in subsection (g)(1), by striking ''who claims'' and inserting ''that claims''.

(g) TRAVEL EXPENSES AND PAYMENT OF ADMINISTRATIVE JUDGES.—Notwithstanding section 35 of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), the amendments made by section 21 of the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 335) shall be effective as of September 16, 2011.

(h) PATENT TERM ADJUSTMENTS.—Section 154(b) of title 35, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)(i)(II), by striking ''on which an international application fulfilled the requirements of section 371 of this title'' and inserting ''of commencement of the national stage under section 371 in an international application''; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking ''the application in the United States'' and inserting ''the application under section 111(a) in the United States or, in the case of an international application, the date of commencement of the national stage under section 371 in the international application'';

(2) in paragraph (3)(B)(i), by striking ''with the written notice of allowance of the application under section 151'' and inserting ''no later than the date of issuance of the patent''; and

(3) in paragraph (4)(A)—

(A) by striking ''a determination made by the Director under paragraph (3) shall have remedy'' and inserting ''the Director's decision on the applicant's request for reconsideration under paragraph (3)(B)(ii) shall have exclusive remedy''; and

(B) by striking ''the grant of the patent'' and inserting ''the date of the Director's decision on the applicant's request for reconsideration''.

(i) IMPROPER APPLICANT.—Section 373 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 37 of such title, are repealed.

(j) FINANCIAL MANAGEMENT CLARIFICATIONS.—Section 42(c)(3) of title 35, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''sections 41, 42, and 376,'' and inserting ''this title,''; and

(B) by striking ''a share of the administrative costs of the Office relating to patents'' and inserting ''a proportionate share of the administrative costs of the Office''; and

(2) in subparagraph (B), by striking ''a share of the administrative costs of the Office relating to trademarks'' and inserting ''a proportionate share of the administrative costs of the Office''.

(k) DERIVATION PROCEEDINGS.—

(1) IN GENERAL.—Section 135(a) of title 35, United States Code, as amended by section 3(i) of the Leahy-Smith America Invents Act, is amended to read as follows:

''(a) INSTITUTION OF PROCEEDING.—

''(1) IN GENERAL.—An applicant for patent may file a petition with respect to an invention to institute a derivation proceeding in the Office. The petition shall set forth with particularity the basis for finding that an individual named in an earlier application as the inventor or a joint inventor derived such invention from an individual named in the petitioner's application as the inventor or a joint inventor and, without authorization, the earlier application claiming such invention was filed. Whenever the Director determines that a petition filed under this subsection demonstrates that the standards for instituting a derivation proceeding are met, the Director may institute a derivation proceeding.

''(2) TIME FOR FILING.—A petition under this section with respect to an invention that is the same or substantially the same invention as a claim contained in a patent issued on an earlier application, or contained in an earlier application when published or deemed published under section 122(b), may not be filed unless such petition is filed during the 1-year period following the date on which the patent containing such claim was granted or the earlier application containing such claim was published, whichever is earlier.

''(3) EARLIER APPLICATION.—For purposes of this section, an application shall not be deemed to be an earlier application with respect to an invention, relative to another application, unless a claim to the invention was or could have been made in such application having an effective filing date that is earlier than the effective filing date of any claim to the invention that was or could have been made in such other application.

''(4) NO APPEAL.—A determination by the Director whether to institute a derivation proceeding under paragraph (1) shall be final and not appealable.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the amendment made by section 3(i) of the Leahy-Smith America Invents Act.

(3) REVIEW OF INTERFERENCE DECISIONS.—The provisions of sections 6 and 141 of title 35, United States Code, and section 1295(a)(4)(A) of title 28, United States Code, as in effect on September 15, 2012, shall apply to interference proceedings that are declared after September 15, 2012, under section 135 of title 35, United States Code, as in effect before the effective date under section 3(n) of the Leahy-Smith America Invents Act. The Patent Trial and Appeal Board may be deemed to be the Board of Patent Appeals and Interferences for purposes of such interference proceedings.

(l) PATENT AND TRADEMARK PUBLIC ADVISORY COMMITTEES.—

(1) IN GENERAL.—Section 5(a) of title 35, United States Code, is amended—

(A) in paragraph (1), by striking ''Members of'' and all that follows through ''such appointments.'' and inserting the following: ''In each year, 3 members shall be appointed to each Advisory Committee for 3-year terms that shall begin on December 1 of that year. Any vacancy on an Advisory Committee shall be filled within 90 days after it occurs. A new member who is appointed to fill a vacancy shall be appointed to serve for the remainder of the predecessor's term.'';

(B) by striking paragraph (2) and inserting the following:

''(2) CHAIR.—The Secretary of Commerce, in consultation with the Director, shall designate a Chair and Vice Chair of each Advisory Committee from among the members appointed under paragraph (1). If the Chair resigns before the completion of his or her term, or is otherwise unable to exercise the functions of the Chair, the Vice Chair shall exercise the functions of the Chair.''; and

(C) by striking paragraph (3).

(2) TRANSITION.—

(A) IN GENERAL.—The Secretary of Commerce shall, in the Secretary's discretion, determine the time and manner in which the amendments made by paragraph (1) shall take effect, except that, in each year following the year in which this Act is enacted, 3 members shall be appointed to each Advisory Committee (to which such amendments apply) for 3-year terms that begin on December 1 of that year, in accordance with section 5(a) of title 35, United States Code, as amended by paragraph (1) of this subsection.

(B) DEEMED TERMINATION OF TERMS.—In order to implement the amendments made by paragraph (1), the Secretary of Commerce may determine that the term of an existing member of an Advisory Committee under section 5 of title 35, United States Code, shall be deemed to terminate on December 1 of a year beginning after the date of the enactment of this Act, regardless of whether December 1 is before or after the date on which such member's term would terminate if this Act had not been enacted.

(m) CLERICAL AMENDMENT.—Section 123(a) of title 35, United States Code, is amended in the matter preceding paragraph (1) by inserting ''of this title'' after ''For purposes''.

(n) EFFECTIVE DATE.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act, and shall apply to proceedings commenced on or after such date of enactment.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6621), as amended, was read the third time and passed.

ORDERS FOR SUNDAY, DECEMBER 30, 2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Sunday, December 30, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to executive session under the previous order; and that following disposition of the Galante nomination, the Senate recess for 1 hour to allow for caucus meetings.

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

PROGRAM

Mr. REID. Mr. President, there will be two rollcall votes at approximately 2 p.m. on Sunday.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order, following the remarks of Senator SCHUMER, for not to exceed 8 minutes.

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

The Senator from New York.