

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 134—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN *NEWDOW V. EAGEN, ET AL*

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

Whereas, S. Res. 343, 107th Congress, authorizes the Senate Legal Counsel to represent the Secretary of the Senate and the Senate Financial Clerk in the case of *Newdow v. Eagen, et al.*, Case No. 1:02CV01704, pending in the United States District Court for the District of Columbia;

Whereas, additional defendants have been named in that case; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent officers and employees of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it *Resolved* That the Senate Legal Counsel is authorized to represent all Senate defendants in the case of *Newdow v. Eagen, et al.*

SENATE RESOLUTION 135—EX-PRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD PROVIDE ADEQUATE FUNDING TO PROTECT THE INTEGRITY OF THE FREDERICK DOUGLASS NATIONAL HISTORIC SITE

Mr. FRIST (for himself and Mr. BROWNBACK, and Mr. TALENT) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 135

Whereas Frederick Douglass freed himself from slavery and, through decades of tireless efforts, helped to free millions more;

Whereas as a major stationmaster on the Underground Railroad, Frederick Douglass directly helped hundreds on their way to freedom through his adopted home city of Rochester, New York;

Whereas Frederick Douglass learned to write and do arithmetic on his own initiative;

Whereas as a publisher of the North Star and Frederick Douglass' Paper, Frederick Douglass brought news of the antislavery movement to thousands of people;

Whereas Frederick Douglass helped recruit African-American troops for the Union Army and his personal relationship with Abraham Lincoln helped to persuade the President to make emancipation a cause of the Civil War;

Whereas in 1872, Frederick Douglass moved to Washington, D.C., where he initially served as publisher of the New National Era, intending to carry forward the work of elevating the position of African Americans in the post-emancipation period; and

Whereas Frederick Douglass also served briefly as President of the Freedmen's National Bank and subsequently in various national service positions, including United States Marshal for the District of Columbia and diplomatic positions in Haiti and the Dominican Republic: Now, therefore, be it

Resolved, That it is the sense of the Senate that Congress should provide adequate funding to protect the integrity of the Frederick Douglass National Historic Site.

SENATE RESOLUTION 136—RECOGNIZING THE 140TH ANNIVERSARY OF THE FOUNDING OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, AND CONGRATULATING MEMBERS AND OFFICERS OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS FOR THE UNION'S MANY ACHIEVEMENTS

Mr. DASCHLE (for Mr. KENNEDY (for himself and Mr. VOINOVICH)) submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas the Brotherhood of Locomotive Engineers was founded on May 8, 1863, as a secret, fraternal labor organization and its first meetings were held clandestinely for fear of reprisals from railroad management;

Whereas the climate toward labor organizations at that time was extraordinarily hostile, and many of the other newly founded labor organizations failed to withstand the negative pressures placed upon them and disbanded in their infancies;

Whereas the Brotherhood of Locomotive Engineers began to thrive despite the climate into which it was born;

Whereas the Brotherhood of Locomotive Engineers has grown from its original 13 members, all from the Michigan Central Railroad, to 59,000 active and retired members employed throughout the United States and Canada;

Whereas the Brotherhood of Locomotive Engineers is North America's oldest rail labor union;

Whereas the Brotherhood of Locomotive Engineers' members have contributed, both directly through their railroad activity and in private capacities, to the war effort in all of the battles of the United States dating back to the Civil War;

Whereas their efforts to improve rail safety for both their members and the public have resulted in a dramatic decrease in the number of railroad accidents in the years since their inception;

Whereas in 1964, the Brotherhood of Locomotive Engineers launched an apprentice engineer program to assure the Nation of a stable supply of well-trained locomotive engineers, and to assure stable employment and earnings to apprentices;

Whereas after accepting only promoted locomotive engineers in its early years, the Brotherhood of Locomotive Engineers enlarged its membership goals to include other rail employees;

Whereas in 1993, the 2,500 member American Train Dispatchers Association officially affiliated with the Brotherhood of Locomotive Engineers in order to unite the two key railway professions that facilitate the efficient and safe movement of passengers and freight;

Whereas in 1995, the Rail Canada Traffic Controllers union also chose to merge into the Brotherhood of Locomotive Engineers, adding another 700 members;

Whereas in addition to providing representation for its members, the Brotherhood of Locomotive Engineers aggressively participates in the labor movement with other unions and organizations in promoting the interests of working men and women and their families;

Whereas the Brotherhood of Locomotive Engineers is an extraordinary union whose leadership still works hard every day—just as it did in 1863—to protect members' health and safety, to guard their financial interests, to give them an effective voice on the job, and to ensure dignity, respect, and security for railway workers in the workplace; and

Whereas the efforts of the Brotherhood of Locomotive Engineers are deserving of our attention and admiration: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the union which has made a tremendous contribution to the structural development and building of the United States, and to the well-being of tens of thousands of workers;

(2) congratulates the union for its many achievements and the strength of its members; and

(3) expects that the union will continue its dedicated work and will have an even greater impact in the 21st century and beyond, and will enhance the standard of living and working environment for rail workers and other laborers in generations to come.

SENATE RESOLUTION 137—HONORING JAMES A JOHNSON, CHAIRMAN OF THE BOARD OF TRUSTEES OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Mr. FRIST (for himself, Mr. DASCHLE, Mr. STEVENS, Mr. KENNEDY, Mr. JEFFORDS, Mr. INHOFE, Mrs. HUTCHISON, and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

Whereas James A. Johnson has served with distinction since 1996 as the Chairman of the Board of Trustees of the John F. Kennedy Center for the Performing Arts, which is the national center for the performing arts;

Whereas under the leadership of Jim Johnson, the Kennedy Center has earned impressive renown, and become one of the finest performing arts institutions in the Nation and around the world;

Whereas Jim Johnson initiated free public performances each evening on the Millennium Stage at the Kennedy Center, and these performances have now included a total of 25,000 performers and reached an audience of 1,500,000 persons since 1997;

Whereas the arts education programs of the Kennedy Center have been significantly expanded under the inspired leadership of Jim Johnson;

Whereas Jim Johnson has launched a major renovation and construction project to improve the physical structure of the Kennedy Center and enrich the experience of all who visit and attend performances; and

Whereas Jim Johnson deserves the thanks of a grateful Nation for his leadership at the Kennedy Center, and in bringing new vitality to the cultural heritage of our Nation: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its appreciation for all that Jim Johnson has accomplished; and

(2) commends Jim Johnson for his extraordinary achievements as Chairman of the John F. Kennedy Center for the Performing Arts.

AMENDMENTS SUBMITTED & PROPOSED

SA 536. Mr. FEINGOLD proposed an amendment to the bill S. 113, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group.

SA 537. Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. EDWARDS, Mr. FEINGOLD, Mr. DODD, Mr. WYDEN, and Mrs. BOXER) proposed an amendment to the bill S. 113, *supra*.

SA 538. Mrs. HUTCHISON (for Mr. MCCAIN (for herself, Mr. HOLLINGS, Mrs. HUTCHISON, and Mrs. BOXER)) proposed an amendment to the bill S. 165, to improve air cargo security.

TEXT OF AMENDMENTS

SA 536. Mr. FEINGOLD proposed an amendment to the bill S. 113, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group; as follows:

At the end, add the following:

SEC. 2. ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) **ADDITIONAL REPORTING REQUIREMENTS.**—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating—

(A) title VI as title VII; and

(B) section 601 as section 701; and

(2) by inserting after title V the following new title VI:

“**TITLE VI—REPORTING REQUIREMENT**

“**ANNUAL REPORT OF THE ATTORNEY GENERAL**

“**SEC. 601.** (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

“(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

“(A) electronic surveillance under section 105;

“(B) physical searches under section 304;

“(C) pen registers under section 402; and

“(D) access to records under section 501;

“(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

“(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

“(4) in a manner consistent with the protection of the national security of the United States—

“(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

“(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

“(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

“(c) In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

“(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.”.

(b) **CLERICAL AMENDMENT.**—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

“**TITLE VI—REPORTING REQUIREMENT**

“**Sec. 601.** Annual report of the Attorney General.

“**TITLE VII—EFFECTIVE DATE**

“**Sec. 701.** Effective date.”.

SA 537. Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. EDWARDS, Mr. FEINGOLD, Mr. DODD, Mr. WYDEN, and Mrs. BOXER) proposed an amendment to the bill S. 113, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PRESUMPTION THAT CERTAIN NON-UNITED STATES PERSONS ENGAGED IN INTERNATIONAL TERRORISM ARE AGENTS OF FOREIGN POWERS FOR PURPOSES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) **PRESUMPTION.**—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 101 the following new section:

“**PRESUMPTION OF TREATMENT OF CERTAIN NON-UNITED STATES PERSONS ENGAGED IN INTERNATIONAL TERRORISM AS AGENTS OF FOREIGN POWERS**

“**SEC. 101A.** Upon application by the Federal official applying for an order under this Act, the court may presume that a non-United States person who is knowingly engaged in sabotage or international terrorism, or activities that are in preparation therefor, is an agent of a foreign power under section 101(b)(2)(C).”.

(2) The table of contents for that Act is amended by inserting after the item relating to section 101 the following new item:

“**Sec. 101A.** Presumption of treatment of certain non-United States persons engaged in international terrorism as agents of foreign powers.”.

(b) **SUNSET.**—The amendments made by subsection (a) shall be subject to the sunset provision in section 224 of the USA PATRIOT Act of 2001 (Public Law 107-56; 115 Stat. 295), including the exception provided in subsection (b) of such section 224.

SA 538. Mrs. HUTCHISON (for Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. HUTCHISON, and Mrs. BOXER)) proposed an amendment to the bill S. 165, to improve air cargo security; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Air Cargo Security Improvement Act”.

SEC. 2. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

“(f) **CARGO.**—

“(1) **IN GENERAL.**—The Under Secretary of Transportation for Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

“(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

(B) all-cargo aircraft in air transportation and intrastate air transportation.

“(2) **STRATEGIC PLAN.**—The Under Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

“(3) **PILOT PROGRAM.**—The Under Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Under Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.”.

SEC. 3. AIR CARGO SHIPPING.

(a) **IN GENERAL.**—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“**§ 44922. Regular inspections of air cargo shipping facilities**

“The Under Secretary of Transportation for Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.”.

(b) **ADDITIONAL INSPECTIONS.**—The Under Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“44922. Regular inspections of air cargo shipping facilities”.

SEC. 4. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) **IN GENERAL.**—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

“**§ 44923. Air cargo security**

“(a) **DATABASE.**—The Under Secretary of Transportation for Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Under Secretary shall use the results of the pilot program to improve the known shipper program.

“(b) **INDIRECT AIR CARRIERS.**—

“(1) **RANDOM INSPECTIONS.**—The Under Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

“(2) **ENSURING COMPLIANCE.**—The Under Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

“(3) **NOTICE OF FAILURES.**—The Under Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

“(4) **WITHDRAWAL OF SECURITY PROGRAM APPROVAL.**—The Under Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Under Secretary is such failure threatens the security of air transportation or commerce. The affected indirect air carriers shall be given notice and the opportunity to correct its