

defense systems. But the same Leahy report mentioned earlier identified five cases in which ineffective counsel had led innocent people to be sentenced to death. But as the dissenting Republican report pointed out, the five cases Leahy discussed established no such thing. In one of the cases, the defendant was never actually sentenced to death. In three of the cases, it is not at all clear that the defendant was innocent. (Prosecutors declined to retry them because evidence had deteriorated. In one case, for example, the building in which the murder took place had been demolished.) The cases are marked more, in any case, by prosecutorial misconduct than by sloppy defenses.

That's true, by the way, of cases in which actually innocent people have been put on death row. It has generally been because prosecutors relied too much on unreliable evidence, such as the testimony of jailhouse informants, or because police and prosecutors acted in grossly improper ways. (Say hello to our friends in Cook County.) When prosecutors suppress evidence, the most competent defense attorneys will be at a disadvantage. The Innocence Protection Act's capital-defense provisions will not ameliorate that problem. But then, it's more about funneling tax money to opponents of the death penalty than springing truly innocent people from death row.

"What's disgusting is we're actually wasting time fighting this in a Republican Congress," says one Republican Senate staffer.

By Mr. CORNYN:

S.J. Res. 23. A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on the Judiciary

S.J. RES. 23

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE—

"The Congress may by law provide for the case of death or inability of members of the House of Representatives, and the case of inability of members of the Senate, in the event that one-fourth of either House are killed or incapacitated, declaring who shall serve until the disability is removed, or a new member is elected. Any procedures established pursuant to such a law shall expire not later than 120 days after the death or inability of one-fourth of the House of Representatives or the Senate, but may be extended for additional 120-day periods if one-fourth of either the House of Representatives or the Senate remains vacant or occupied by members unable to serve."

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 259—TO AUTHORIZE LEGAL REPRESENTATION IN BELL AVIATION, INC., ET AL. V. SINO SWEARINGEN AIRCRAFT CO., L.P., ET AL

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

S. RES. 259

Whereas, in the case of Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft, Co., L.P., et al., Cause No. 03-02532, pending in the District Court of Dallas County, Texas, the plaintiffs have obtained from the Superior Court of the District of Columbia subpoenas for deposition testimony and document production by Senator John D. Rockefeller IV and Terri Giles, a staff member in the office of Senator Rockefeller;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

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; and

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

*Resolved,* That the Senate Legal Counsel is authorized to represent Senator Rockefeller and Terri Giles in connection with the subpoenas issued at this action.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2072. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 2073. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2074. Mr. DASCHLE (for himself and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2075. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2076. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2077. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2078. Mr. DASCHLE (for himself, Mr. ENZI, Mr. THOMAS, Mr. JOHNSON, Mr. HARKIN, Mr. GRASSLEY, Mr. BURNS, Mr. BINGAMAN, Mr. BAUCUS, Mr. DORGAN, Mr. CONRAD, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2079. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2080. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra.

SA 2081. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2082. Mr. NELSON, of Florida (for himself and Mr. GRAHAM, of Florida) submitted

an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2083. Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. LEVIN, Mr. HARKIN, Ms. CANTWELL, Mrs. BOXER, Mr. LEAHY, Mr. WYDEN, Mr. DURBIN, and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2673, supra.

SA 2084. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2085. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2086. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2087. Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. DORGAN, and Mr. FEINGOLD) proposed an amendment to the bill H.R. 2673, supra.

SA 2088. Mr. AKAKA (for himself, Mr. LEVIN, Mr. LIEBERMAN, and Ms. CANTWELL) proposed an amendment to the bill H.R. 2673, supra.

SA 2089. Mr. DAYTON proposed an amendment to the bill H.R. 2673, supra.

SA 2090. Mr. HATCH (for himself, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra.

SA 2091. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2092. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, supra.

SA 2093. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2094. Mr. BENNETT (for Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. INOUE, and Mr. AKAKA)) proposed an amendment to the bill H.R. 2673, supra.

SA 2095. Mr. BENNETT (for Ms. SNOWE (for herself, Mr. DORGAN, and Ms. COLLINS)) proposed an amendment to the bill H.R. 2673, supra.

SA 2096. Mr. BENNETT (for Mr. LEVIN (for himself and Ms. STABENOW)) proposed an amendment to the bill H.R. 2673, supra.

SA 2097. Mr. BENNETT (for Mr. INHOFE) proposed an amendment to the bill H.R. 2673, supra.

SA 2098. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2099. Mr. BENNETT (for Mr. INOUE) proposed an amendment to the bill H.R. 2673, supra.

SA 2100. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2101. Mr. BENNETT (for Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2102. Mr. BENNETT (for Mr. BROWNBACK) proposed an amendment to the bill H.R. 2673, supra.

SA 2103. Mr. BENNETT proposed an amendment to the bill H.R. 2673, supra.

SA 2104. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2105. Mr. BENNETT (for Mr. GRASSLEY (for himself and Mr. DORGAN)) proposed an amendment to the bill H.R. 2673, supra.

SA 2106. Mr. BENNETT (for Mr. CRAIG) proposed an amendment to the bill H.R. 2673, supra.

SA 2107. Mr. BENNETT (for Mr. GRAHAM, OF FLORIDA (for himself and Mr. NELSON, of Florida)) proposed an amendment to the bill H.R. 2673, supra.

SA 2108. Mr. BENNETT (for Mr. BURNS (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673, supra.