

custody protection bill, immediately following morning business on Tuesday, July 25, and that it be considered under the following limitations: that the only amendments in order be the following: Feinstein, clergy and grandparent exemption, 2 hours equally divided; from the Democratic side, teen pregnancy prevention, 90 minutes equally divided; Boxer, parental incest, cannot sue, 2 hours equally divided; Ensign or designee, incest, to be voted on before the Boxer amendment, 2 hours equally divided; that there be 1 hour equally divided for general debate; and that following the disposition of the above-listed amendments and the use or yielding back of time, the bill be read a third time and the Senate proceed to passage of the bill, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that on Monday, July 24, at a time determined by the majority leader in consultation with the Democratic leader, the Senate proceed to executive session for the consideration of Executive Calendar No. 764, Jerome Holmes to be U.S. circuit judge for the Tenth Circuit. I further ask unanimous consent that there be 2 hours equally divided between the chairman and ranking member, or their designees, to be used on Monday and another 2 hours equally divided for debate to be used on Tuesday, July 25. I further ask unanimous consent that following the use or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination with no intervening action or debate; further, I ask unanimous consent that following that vote, the President be immediately notified of the Senate's action and the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 538, which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 538) to authorize representation by the Senate legal counsel in the case of *Rockefeller versus Bingaman et al.*

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

Mr. FRIST. Mr. President, this resolution concerns a pro se civil action

filed against Senator JEFF BINGAMAN, the United States Senate, Representative STEVE PEARCE, and the United States House of Representatives, in which plaintiff challenges as unconstitutional the fact that he does not have a guaranteed right to have his appeals heard by the United States Supreme Court nor a right to have a three-judge district court hear his challenges to Federal statutes at the trial court level. Plaintiff complains that permitting the Supreme Court discretion as to which appeals to hear and allowing single-judge district courts to decide cases challenging the constitutionality of Federal statutes violates the Constitution's separation of powers. Plaintiff seeks an injunction against the operation of the statutes that provide for petitioning the Supreme Court for a writ of certiorari and for convening a three-judge district court to hear a case.

This suit is subject to dismissal as defective on both threshold jurisdictional grounds and as failing to state a claim on the merits as a matter of law. This resolution authorizes the Senate Legal Counsel to represent Senator BINGAMAN and the United States Senate in this suit and to move for its dismissal.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 538) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 538

Whereas, in the case of *Rockefeller v. Bingaman, et al.*, Case No. 06-CV-0198 (D.N.M.), pending in the United States District Court of the District of New Mexico, the plaintiff has named as defendants Senator Jeff Bingaman and the United States Senate;

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 defend the Senate and Members, officers, and employees of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Jeff Bingaman and the United States Senate in the case of *Rockefeller v. Bingaman, et al.*

COMMENDING THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 448, which was received from the House.

The ACTING PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 448) commending the National Aeronautics and Space Administration on the completion of the Space Shuttle's second Return-to-Flight mission.

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

Mr. HUTCHISON. Mr. President, the House has passed and sent to the Senate, H. Con. Res. 448, which commends NASA and the crew of the Space Shuttle *Discovery* on the successful completion of the STS-121 mission earlier this week.

I support this resolution and urge my colleagues to join with me and provide the Senate concurrence to this resolution. I also note that the House passed this resolution on July 20, the 37th anniversary of the *Apollo 11* lunar landing, adding special significance to the action we are being asked to endorse.

The resolution recognizes and applauds the very successful STS-121 mission, which accomplished all of its test objectives regarding on-orbit repair procedures, as well as delivering 14 tons of equipment and supplies to the International Space Station, and a third space station crew member. This restores the space station to its full crew complement since the *Columbia* accident and allows for additional crew time to be spent doing on-orbit research.

The mission also demonstrated that changes made to the external tank, while still not fully completed, resulted in the least amount of foam shedding during lift-off and the cleanest, most undamaged underside of the shuttle yet seen.

The successful completion of this second Return-to-Flight test mission is especially significant because it means the Shuttle Program is once again on the threshold of completing the important work of assembling the International Space Station.

If all goes as expected, the next mission to the Space Station will take place in just a little over 5 weeks from now, near the end of August. That mission will deliver additional supplies and equipment to the space station, including a new structural truss element and an additional set of solar arrays. Once the solar arrays are deployed, they will not only provide additional power to the space station, which can be used for an increasing number of scientific experiments during the ongoing assembly period, but they will begin to make the space station one of the brightest objects in the night sky. By the time the space station is completed, it will be brighter than any other object in the night sky besides the Moon, an ever-present reminder that we are a species no longer confined to the Earth and able to make use of that unique environment of low-Earth orbit for research that can benefit all of humanity.

I applaud the crew of *Discovery* and the team at NASA who all worked together to restore this Nation's ability