

IMPEACHING JUDGE SAMUEL B.  
KENT

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 1 hour.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. I yield 30 minutes to the distinguished ranking member of the Judiciary Committee, LAMAR SMITH of Texas, and ask unanimous consent that he be allowed to control the time on his side for purposes of debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. I yield myself as much time as I may consume.

Mr. Speaker and my colleagues, we are here today to perform one of the most solemn duties under the Constitution, which is to consider the impeachment of a sitting member of the judiciary, a Federal judge, who, but for the congressional power of impeachment, holds a life tenure on his office.

The judge in question, Samuel B. Kent of the United States District Court for the Southern District of Texas, has already pled guilty to obstruction of justice and has entered into and is residing in a Federal prison at this moment.

The Judiciary Committee's independent investigation, conducted admirably by a special task force established for that purpose and led by the gentleman from California (Mr. SCHIFF), has concluded that the charge underlying that guilty plea is overwhelmingly borne out by the evidence, as are the related charges of repeated sexual assault against various court employees under his supervision.

Judge Kent's conduct is described in greater detail in the report filed by our committee, which voted unanimously 29-0 to recommend four articles of impeachment to the House. The court documents and other materials are available on the committee's Web site.

Of the three branches of government devised by the framers of our Constitution, only the judicial branch is insulated from the accountability of standing for election. This is by design. The other two branches, the legislative and the executive, are designed to be democratically responsible to the people, but the judicial branch is designed to be independent, to interpret the laws passed by the Congress without favor and without fear of political reprisal.

And so, article III, section 1 provides that Federal judges hold their offices during "good behavior." And when a

judge abuses his power, when by his conduct he proves himself unfit to hold his office, he cannot be turned out by the voters; instead, it falls to the Congress to ensure that the public trust of that office is protected through the power of impeachment.

Congress has used this power sparingly. In our Nation's history, only 13 Federal judges have been impeached, and even fewer convicted. Needless to say, the conduct at issue here is both shocking and shameful. In due course, many of the disturbing details of Judge Kent's appalling conduct will more than likely be revealed, but now I want to emphasize for the Members the following points:

The committee is recommending impeachment not merely on the fact that the judge has pleaded guilty and has been sentenced to prison; rather, it is his conduct—making false statements to his fellow judges in an official inquiry and sexually assaulting courthouse personnel—that the committee has independently determined to constitute high crimes and misdemeanors warranting his impeachment and removal from office.

The Judiciary Committee has determined overwhelmingly and unanimously, after most careful examination, that the judge's conduct plainly renders him unfit to remain a Federal judge.

Entrusted to use the power of his office to dispatch justice impartially, this judge abused his power blatantly, with partiality and favor, for his own personal gain. Entrusted to render justice, he has instead sought to evade it. Only Congress can remove Judge Kent from office. Until we do so, he will continue to draw a salary as a sitting Federal judge, even from his prison cell.

While the executive can prosecute him and the judiciary can impose punishment for his criminal conviction, only the Congress of the United States has the power to remove him from office, and that is our constitutional duty here today.

I bring this resolution to the floor with heavy regret that we are even called upon to take such action. But let it be clear, I have no doubt that this member of the judiciary must be removed from the office that he has so blatantly abused. The evidence is overwhelming and the grounds for impeachment perfectly clear. I therefore urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today to consider and vote on Articles of Impeachment following U.S. District Judge Samuel Kent's guilty plea and sentencing.

Judge Kent is a convicted felon who pleaded guilty to obstruction of justice and lying to a panel of his Federal judges who were investigating allega-

tions that he sexually assaulted two women on his staff.

Following Judge Kent's guilty plea and sentencing, the House authorized the Judiciary Committee to undertake an inquiry into whether the House should impeach Judge Kent. Recently, the Impeachment Task Force of the Judiciary Committee heard testimony from two women whom Judge Kent sexually assaulted. Their testimony about Judge Kent's conduct was troubling, especially because Judge Kent abused his authority as a Federal judge to intimidate his staff into silence. Judge Kent has refused to appear before the committee. Judge Kent continues to abuse his position of authority by refusing to resign immediately. Instead, he sent a letter to President Obama tendering his resignation effective June 1, 2010.

Last Monday, Judge Kent reported to Federal prison to serve a 33-month prison sentence. By resigning effective June 1, 2010, Judge Kent is attempting to collect his full judicial salary for another year, even while he sits in prison. That's why we are here today, to take the next step to putting an end to Judge Kent's abusive authority and exploitation of American taxpayers.

On Wednesday, June 10, the Judiciary Committee unanimously approved four Articles of Impeachment against Judge Kent. Two of the articles relate to his sexual misconduct, and two of the articles relate to Judge Kent's lying about his conduct.

I am not unsympathetic to the claims that Judge Kent endured difficult personal tragedies and may suffer from mental illness; however, he does not have the right to continue to serve as a Federal judge and collect a taxpayer-funded salary while sitting in prison for felony obstruction of justice.

Judge Kent has remained on the bench long after he sexually assaulted two women and lied to law enforcement officials. It is now time for justice; justice for the American people who have been exploited by a judge who violated his oath of office and obstructed justice by lying, and justice for the victims who were subjected to abuse and humiliation.

Although his attorney claims that Congress has "better things to do," ensuring that a Federal judge convicted of a felony does not receive a taxpayer-funded salary while sitting in jail is important to our system of justice and a priority of this Congress. Every day that Judge Kent remains on the bench is one day too long.

I urge my colleagues to vote in favor of these Articles of Impeachment to restore integrity to the Federal bench. And I hope the Senate will act quickly to ensure swift justice for Judge Kent, his victims, and the American people.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am pleased now to recognize one of our most distinguished members of the Judiciary Committee who headed the

task force for impeachment in our committee. ADAM SCHIFF has performed remarkably well. It is a bipartisan committee. And his former experience himself as an assistant U.S. attorney held him in very good stead.

I recognize the distinguished gentleman from California for 10 minutes.

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Mr. SCHIFF. I thank the gentleman and appreciate the great leadership of the chairman of the Judiciary Committee.

Today we find ourselves in the regrettable circumstance where we must act to remove a Federal judge from the bench. The task before us is not one we welcome, but it is an important responsibility that has been entrusted to us by the Founders and one which we must not shrink from.

Throughout our Nation's history, we have been fortunate to have a distinguished judiciary that has served as an essential and coequal branch of our government. We owe a great deal to the success of our representative democracy to the positive, thoughtful, and vital role played by the Nation's judges. To insulate members of the bench from political and other pressures, to ensure that judges are free to determine the justice of the cases before them on the basis of the law alone and no outside influence, Federal judges are appointed for life.

Unlike elected officials, who may be removed periodically by the voters or serve a term that comes to an end, the Founding Fathers provided only one extraordinary method of removing a Federal judge, that of impeachment. The President cannot remove a judge he has appointed or any other, and the courts cannot. Conviction of a Federal or State offense is also powerless to remove a judge from office. Only the Congress may remove a judge and only then upon impeachment of the House under article I, section 2 of the Constitution and conviction in the Senate for treason, bribery, or other high crimes and misdemeanors justifying their removal.

Because we have been blessed by an extraordinarily professional judiciary and because the bar for removal is high, the extraordinary remedy of impeachment of a Federal judge has been used only 13 times in the Nation's history. But the matter before us today warrants its use once again.

Last month, the House Judiciary Task Force on Judicial Impeachment was directed to inquire whether Judge Kent should be impeached. As the chairman of the task force, I would like to report on our work and provide the Members of the House with a procedural history of the matter as well as an overview of the relevant facts. As a task force, we were extremely well-served by the very capable ranking member from Virginia, BOB GOODLATTE, and have worked to proceed in a fair, open, and deliberate manner, and we have done so on a bipartisan, really nonpartisan, basis.

Samuel Kent was appointed to the Federal bench in 1990 and served in the Galveston courthouse in the Southern District of Texas. During that time, he was generally the sole judicial officer in the courthouse, an imposing figure who exercised a substantial degree of influence and control both inside and outside of the courtroom.

At some point in 2001, Judge Kent began sexually assaulting at least two women employees who served in the courthouse. These repeated assaults occurred through at least May of 2007, when one of the victims, Cathy McBroom, filed a judicial misconduct complaint with the U.S. Court of Appeals for the Fifth Circuit alleging sexual misconduct on the part of Judge Kent. In response, the Judicial Council of that circuit appointed a Special Investigative Committee to investigate the complaint.

On June 8, 2007, Judge Kent, pursuant to his own request, was interviewed by the Special Investigative Committee of that circuit. They sought to learn from Judge Kent whether he had engaged in unwanted sexual contact with Ms. McBroom or others. During the interview, Judge Kent made material false statements about the extent of his nonconsensual contact with Ms. McBroom. He was also questioned about another female employee in the courthouse, his secretary Donna Wilkerson, and told the investigative committee that once Ms. Wilkerson informed him that his advances were unwelcome, no further sexual contact had occurred, when, in fact, he continued his nonconsensual sexual contacts with both Ms. McBroom and Ms. Wilkerson.

The Department of Justice commenced a criminal investigation relating to Judge Kent's conduct as well. In November 2007, Judge Kent asked for and was granted an interview with the FBI. During the voluntary interview that he had requested, he was asked about his alleged conduct and repeated the same material false statements he had made to the Fifth Circuit.

In August of 2008, Judge Kent, through his attorney, asked for a meeting at the Department of Justice. And at this meeting he sat down with his attorney, an FBI agent, and representatives of the Department of Justice, and again Judge Kent made material false statements about the nature and extent of his nonconsensual sexual contact with Ms. McBroom and Ms. Wilkerson.

Intimidated by Judge Kent and worried about losing her job, Ms. Wilkerson was not initially candid with investigators and law enforcement when questioned about Judge Kent's conduct towards her. In fact, it was not until her third grand jury appearance that Ms. Wilkerson was willing to reveal the full extent of sexual assault she endured from Judge Kent.

On August 28, a Federal grand jury returned a multi-count indictment against Judge Kent, and on January 6 the grand jury issued a superseding in-

dictment against Judge Kent alleging counts of aggravated sexual abuse as well as obstruction of justice and abusive sexual contact.

On February 23, the day his criminal trial was set to begin, Judge Kent pled guilty to obstruction of justice. Pursuant to the plea agreement, Judge Kent knowingly, voluntarily, and truthfully admitted having nonconsensual sexual contact with both women and obstructing justice in his testimony before the Fifth Circuit investigative committee.

On May 11, Judge Kent was sentenced to a term of 33 months in prison and ordered to pay fines and restitution. Judge Kent began his term of incarceration on June 15, this past Monday.

The day after sentencing, the House of Representatives directed the Judiciary Committee Impeachment Task Force to inquire whether Judge Kent should be impeached, and the task force held an evidentiary hearing on June 3, receiving testimony from Ms. McBroom and Ms. Wilkerson as well as Professor Arthur Hellman, a judicial impeachment scholar. Professor Hellman provided expert testimony that concluded that making false statements to fellow judges, as well as abusing his power as a Federal judge to sexually assault women, were independent grounds that would justify and warrant Judge Kent's impeachment and removal from office.

The task force invited Judge Kent to testify, but he declined our offer. The task force received correspondence from Judge Kent that was made available to all Members and was entered into the RECORD. The task force also invited Judge Kent's counsel to participate in the hearing and present arguments on behalf of his client as well as to provide the opportunity to question any of the witnesses, and Judge Kent's counsel also declined to appear or participate.

Subsequently, Judge Kent's counsel sent a letter to the committee questioning the veracity of the women and making an extraordinary admission that their testimony was unnecessary because, quoting from the letter: Judge Kent's guilty plea to the felony of obstruction presents sufficient grounds for impeachment.

The task force also received a letter from Judge Kent to the White House, dated June 2, stating his intention to resign June 1 a year from now. But neither his surrender to custody nor his stated intention to resign a year from now affect his current status as a Federal judge or a constitutional obligation to determine whether impeachment is warranted.

Our proceeding today does not constitute a trial, as the constitutional power to try impeachment resides in the Senate; rather, the House's role is to inquire whether Judge Kent's conduct provides a sufficient basis for impeachment. According to leading commentators and historical precedent on

the issue, there are two broad categories of conduct that have been recognized as justifying impeachment: serious abuse of power and conduct that demonstrates an official is unworthy to fill the office that he or she holds.

Earlier this month, the Judicial Conference of the United States transmitted a certificate to the House certifying its determination that consideration of impeachment of Judge Kent may be warranted. After concluding that the full record establishes Judge Kent should be impeached for high crimes and misdemeanors, the House Judiciary Task Force met on June 9 and voted unanimously in favor of recommending four Articles of Impeachment, which have been read before the House today. On June 10, the House Judiciary Committee ordered H. Res. 520 favorably reported by a rollcall of 29-0.

Judge Kent, incident to his position as a U.S. district judge, engaged in deplorable conduct with respect to employees associated with the court. Such conduct is incompatible with the trust and confidence placed in him as a judge. In particular, the record demonstrates that Judge Kent sexually assaulted two women who were both employees of the court. Furthermore, Judge Kent corruptly obstructed, influenced, or impeded an official proceeding by making false statements to the Special Investigative Committee of the Fifth Circuit and again by making false material statements to agents of the FBI and Department of Justice.

These acts of sexual assault and obstruction of justice are, as the judge who sentenced Mr. Kent to incarceration stated, "a stain on the justice system itself." Were the House of Representatives to sit idly by and allow Mr. Kent to continue to hold the office of U.S. district judge while sitting in prison, and after committing such high crimes and misdemeanors, it would be a stain on the Congress as well.

Judge Kent's conduct was a disgrace to the bench. That he would still cling to the bench from the confines of his prison cell and ask the public, whose trust he has already betrayed, to continue paying his salary demonstrates how little regard he has for the institution he was supposed to serve.

I urge the House to approve each of the four Articles of Impeachment set out in House Resolution 520.

Today, we find ourselves in the regrettable circumstance where we must act to remove a federal judge from the bench. The task before us is not one that we welcome, however, it is an important responsibility that has been entrusted to us by the Founders and one which we must not shrink from.

Throughout our nation's history, we have been fortunate to have a distinguished judiciary that has served as an essential and co-equal branch of our government. We owe a great deal of the success of our representative democracy to the positive, thoughtful and vital role played by the nation's judges. To insulate members of the bench from political and other pressures, to insure that judges are free to determine the justice of the cases before them

on the basis of the law alone and no outside influence, federal judges are appointed for life.

Unlike elected officials who may be removed periodically by the voters, or serve a term that comes to an end, the Founding Fathers provided only one extraordinary method of removing a federal judge—that of impeachment. The President cannot remove a judge he has appointed or any other, and the courts cannot—conviction of a federal or state offense is also powerless to remove a judge from his office. Only the Congress may remove a judge, and only then upon impeachment in the House under Article I, Section 2 of the Constitution, and conviction in the Senate for treason, bribery, or other high crimes and misdemeanors justifying their removal.

Because we have been blessed by an extraordinarily professional judiciary, and because the bar for removal is high, the extraordinary remedy of impeachment of a federal judge has been used only 13 times in our nation's history. But the matter before us today warrants its use once again.

Last month, the House Judiciary Committee Task Force on Judicial Impeachment was directed by the House to inquire whether Judge Kent should be impeached. As Chairman of the Task Force, I'd like to report on our work and provide the Members of the House with the procedural history of this matter as well as an overview of the relevant facts. As a Task Force, we were extremely well served by the very capable Ranking Member from Virginia, BOB GOODLATTE, and have worked to proceed in a fair, open and deliberate manner, and we have done so on a bipartisan, really, non-partisan basis.

Samuel B. Kent was appointed to the federal bench in 1990 and has served in the Galveston courthouse in the Southern District of Texas for most of his career. During that time, he was generally the sole judicial officer in the courthouse, an imposing figure who exercised a substantial degree of influence and control both inside and outside of his courtroom.

At some point in 2001, Judge Kent began sexually assaulting at least two women employees who served in his courthouse. These repeated sexual assaults occurred through at least May of 2007, when one of the victims, Cathy McBroom, filed a judicial misconduct complaint with the U.S. Court of Appeals for the Fifth Circuit, alleging sexual misconduct on the part of Judge Kent. In response, the Judicial Council of the Fifth Circuit appointed a Special Investigative Committee to investigate Ms. McBroom's complaint.

On June 8, 2007, Judge Kent, pursuant to his own request, was interviewed by the Special Investigative Committee of that Circuit. The Investigative Committee sought to learn from Judge Kent whether he had engaged in unwanted sexual contact with Ms. McBroom or with others.

During the interview, Judge Kent made material and false statements about the extent of his non-consensual contact with Ms. McBroom; in fact, he had engaged in repeated non-consensual sexual contact with her. Judge Kent was also questioned about another female employee in the courthouse, his secretary Donna Wilkerson. He told the investigative committee that once Ms. Wilkerson informed him that his advances were unwelcome, no further sexual contact with her occurred, when in fact he continued his non-consensual contacts with Ms. Wilkerson as well.

On September 28, 2007, in an "Order of Reprimand and Reasons" signed by Chief Judge Edith Jones, the Judicial Council for the Fifth Circuit suspended Judge Kent with pay for four months and transferred him to Houston. The Order did not disclose the underlying findings of fact or conclusions by the Special Investigative Committee.

The Department of Justice then commenced a criminal investigation relating to Judge Kent's conduct. In November 2007, Judge Kent asked for and was granted an interview with Federal Bureau of Investigation law enforcement agents. During the voluntary interview that he had requested, he was asked about his alleged conduct and repeated the same material false statements that he made to the Fifth Circuit.

In August 2008, Judge Kent through his attorney asked for a meeting at the Department of Justice Headquarters in Washington, D.C. At this meeting, he sat down with his attorney, an FBI agent, and representatives from the Department of Justice. Judge Kent again made material false and misleading statements about the nature and extent of his non-consensual sexual contact with Ms. McBroom and Ms. Wilkerson.

Intimidated by Judge Kent and worried about losing her job, Ms. Wilkerson was not initially candid with investigators and law enforcement when questioned about Judge Kent's conduct towards her. In fact, it was not until her third grand jury appearance, that Ms. Wilkerson was willing to reveal the full extent of sexual assaults she endured from Judge Kent.

On August 28, 2008, a federal grand jury returned a three-count indictment charging Judge Kent with two counts of abusive sexual contact against Ms. McBroom, in violation of 18 U.S.C. § 2244(b), and one count of attempted aggravated sexual abuse against Ms. McBroom, in violation of 18 U.S.C. § 2241(a)(1).

On January 6, 2009, the grand jury issued a superseding indictment that re-alleged the three counts involving Ms. McBroom and added three additional counts. Count four charged aggravated sexual abuse against Ms. Wilkerson in violation of 18 U.S.C. § 2241(a)(1), a crime punishable by up to life in prison. Count five charged abusive sexual contact against Ms. McBroom in violation of 18 U.S.C. § 2244(b).

Finally, the superseding indictment charged Judge Kent with Obstruction of Justice for corruptly obstructing, influencing, and impeding an official proceeding by making false statements to the Special Investigative Committee of the U.S. Court of Appeals for the Fifth Circuit regarding his unwanted sexual contact with Ms. Wilkerson.

On February 23, 2009, the day his criminal trial was set to begin, Judge Kent pled guilty to Obstruction of Justice. Pursuant to the plea agreement, Judge Kent knowingly, voluntarily, and truthfully admitted having nonconsensual sexual contact with both women, and obstructing justice by testifying otherwise before the Fifth Circuit Investigative Committee.

On May 11, 2009, Judge Kent was sentenced to a term of 33 months in prison and ordered to pay fines and restitution to Ms. McBroom and Ms. Wilkerson. Judge Kent began his term of incarceration on June 15th, this past Monday.

The day after his sentencing, the House of Representatives directed the House Judiciary

Committee Impeachment Task Force to inquire whether Judge Kent should be impeached. On June 3, 2009, the Task Force on Judicial Impeachment held an evidentiary hearing to determine whether Judge Kent's conduct provides a sufficient basis for impeachment and to develop a record upon which to recommend Articles of Impeachment to the House Judiciary Committee.

The Task Force received testimony from Ms. McBroom, Ms. Wilkerson, and Professor Arthur Hellman, a judicial impeachment scholar from the University of Pittsburgh School of Law. Ms. McBroom and Ms. Wilkerson both testified that they were sexually assaulted by Judge Kent on a number of occasions, and detailed several of these incidents for the Task Force.

Professor Hellman provided expert testimony that concluded that making false statements to fellow judges, as well as abusing his power as a federal judge to sexually assault women, were independent grounds that would justify and warrant Judge Kent's impeachment and removal from office.

The Task Force invited Judge Kent to testify, but he declined our offer. The Task Force received correspondence from Judge Kent that was made available to all Members and entered into the record. The Task Force also invited Judge Kent's counsel to participate in the hearing and present arguments on behalf of his client, as well as to provide the opportunity to question any of the witnesses. Judge Kent's counsel also declined to appear or participate in the hearing.

Subsequently, Judge Kent's counsel sent a letter to the Committee. The letter questioned the veracity of the two women, citing an anonymous caller at length and claiming there are other witnesses who contradict the two women. The letter also made the extraordinary admission that their testimony was unnecessary because, quoting from the letter, "Judge Kent's guilty plea to the felony of Obstruction presents sufficient grounds for impeachment."

The Task Force also received a letter from Judge Kent to the White House, dated June 2, 2009, stating his intention to resign effective June 1, 2010, a year from now. Neither his surrender to custody, nor his stated intention to resign a year from now, affect his current status as a federal judge or our constitutional obligation to determine whether impeachment is warranted.

Article III, Section 1 provides that "The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office."

Article II, Section 4 of the Constitution provides that "all civil Officers of the United States, shall be removed from Office on Impeachment for and Conviction of Treason, Bribery, or other high Crimes and Misdemeanors."

Our proceeding today does not constitute a trial, as the constitutional power to try impeachment resides in the Senate. Rather, the House's role is to inquire whether Judge Kent's conduct provides a sufficient basis for impeachment.

According to leading commentators and historical precedent on this issue, there are two broad categories of conduct that have been recognized as justifying impeachment: serious

abuse of power, and conduct that demonstrates that an official is "unworthy to fill" the office that he or she holds.

The House Report accompanying the 1989 Resolution to Impeach Judge Walter Nixon summarized historical precedents that inform the meaning of the term "high crimes and misdemeanors" stating that, "Congress has repeatedly defined 'other high crimes and misdemeanors' to be serious violations of the public trust, not necessarily indictable offenses under criminal laws. Of course, in some circumstances the conduct at issue . . . constituted conduct warranting both punishment under the criminal laws and impeachment." The Report concluded, "When a judge's conduct calls into question his or her integrity or impartiality, Congress must consider whether impeachment and removal of the judge from office is necessary to protect the integrity of the judicial branch and uphold the public trust."

Earlier this month, the Judicial Conference of the United States unanimously transmitted a Certificate to the House of Representatives, certifying to the House its determination that consideration of impeachment of Judge Kent may be warranted. The certificate concludes that "Judge Kent's conduct and felony conviction . . . have brought disrepute to the Judiciary."

After concluding that the full record establishes that Judge Kent should be impeached for high crimes and misdemeanors, the House Judiciary Impeachment Task Force met on June 9th and unanimously voted in favor of recommending four Articles of Impeachment for consideration by the House Judiciary Committee.

These four Articles were subsequently introduced in the House in the form of House Resolution 520. Article I focuses on Judge Kent's sexual assault of Ms. McBroom. Article II focuses on Judge Kent's sexual assault of Ms. Wilkerson.

Article III focuses on Judge Kent's obstruction of justice by making false statements during an official proceeding of the Fifth Circuit Court of Appeals regarding his unwanted sexual contact with Donna Wilkerson.

Article IV focuses on Judge Kent's material false and misleading statements about the nature and extent of his non-consensual sexual contact with both women to agents of the Federal Bureau of Investigation and to representatives of the Department of Justice on two separate occasions.

On June 10th, the House Judiciary Committee ordered H. Res. 520 favorably reported by a roll call vote of 29–0.

Judge Kent, incident to his position as a U.S. district court judge, engaged in deplorable conduct with respect to employees associated with the court. Such conduct is incompatible with the trust and confidence placed in him as a judge. In particular, the record demonstrates that Judge Kent sexually assaulted two women who were both employees of the court. Furthermore, Judge Kent corruptly obstructed, influenced, or impeded an official proceeding when he made false statements to the Special Investigative Committee of the U.S. Court of Appeals for the Fifth Circuit.

Finally, the record demonstrates that Judge Kent made material false and misleading statements about the nature and extent of his non-consensual sexual contact with Ms. McBroom and Ms. Wilkerson to agents of the

Federal Bureau of Investigation and to representatives of the Department of Justice.

These acts of sexual assault and obstruction of justice are, as the judge who sentenced Mr. Kent to incarceration stated, "a stain on the justice system itself." Were the House of Representatives to sit idly by and allow Mr. Kent to continue to hold the office of U.S. District Judge while sitting in prison, and after committing such high crimes and misdemeanors, it would be a stain on the Congress as well.

Judge Kent's conduct was a disgrace to the bench. That he would still cling to the bench from the confines of his prison cell, and ask the public whose trust he has already betrayed to continue paying his salary, demonstrates how little regard he has for the institution he was to supposed serve. I urge the House to approve each of the four Articles of Impeachment set out in House Resolution 520.

Mr. SMITH of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. GOODLATTE), who is the ranking member of the Impeachment Task Force.

Mr. GOODLATTE. I thank the gentleman for yielding.

Mr. Speaker, it's a rare occasion when the House of Representatives must vote on Articles of Impeachment against a Federal judge. Indeed, the last time this occurred was 20 years ago. However, when evidence emerges that an individual is abusing his judicial office for his own advantage, the integrity of the judicial system becomes compromised, and the House of Representatives has the duty to investigate the matter and take the appropriate actions to end the abuse and restore confidence in the judicial system.

It is also rare for the members of the House Judiciary Committee to agree on anything. However, the committee voted unanimously last week to report out House Resolution 520, which contains the four Articles of Impeachment against Judge Kent. This vote came after a thorough investigation and much work by the Task Force on Judicial Impeachment. Specifically, the task force conducted an investigation of Judge Kent's conduct, which included working with the FBI, the Department of Justice, and the Fifth Judicial Circuit. The task force also conducted an investigatory hearing on the matter, at which two court employees who were victimized by Judge Kent testified about the extent of his sexual abuse. At that same hearing, we heard from a constitutional scholar who testified that Judge Kent's misconduct rises to the level of impeachable offenses. It is important to note that Judge Kent was invited to testify at the hearing. His attorney was also invited to testify and participate in the hearing. Both declined to attend.

As you have already heard in statements today and as you have already seen in the Judiciary Committee report, Judge Samuel Kent's misconduct merits the serious step of issuing Articles of Impeachment. The evidence also shows that he lied to the FBI and the

Department of Justice about the nature of his sexual misconduct with court employees. In addition, he pled guilty to felony obstruction of justice and to committing repeated acts of nonconsensual sexual contact with court employees. He was sentenced to 33 months in prison for committing felony obstruction of justice, and this past Monday he reported to prison and began his prison term.

However, because the Constitution provides that Federal judges are appointed for life, Samuel Kent, despite the fact that he is sitting in prison, continues to collect his taxpayer-funded salary of approximately \$174,000 per year, continues to collect his taxpayer-funded health insurance benefits, and continues to accrue his taxpayer-funded pension.

This is the first time that a Federal judge has pled guilty to a felony, has reported to prison, and has still not resigned from his office. This shows how deep Judge Kent's audacity truly runs. In fact, Judge Kent even took the step of sending a letter to the President explaining that he intends to resign 1 year from now. However, this purported resignation is not worth the paper it is written on because nothing would prevent Judge Kent from withdrawing his resignation at any time before the expiration of the year. What it really amounts to is an attempt to extort hundreds of thousands of dollars from the American people.

It is not a pleasant task to impeach a Federal judge; yet when a judge so clearly abuses his office, it becomes necessary to take the appropriate action in order to restore the confidence of the American people in their judicial system. The Constitution gives the House of Representatives the power and responsibility to impeach Federal judges. It is my strong recommendation that the Members of the House adopt these Articles of Impeachment against Judge Kent. It is my hope that the United States Senate will then act to swiftly bring this matter to trial and quick disposition.

I would also like to take this opportunity to thank ADAM SCHIFF, the chairman of the Task Force on Judicial Impeachment, for his leadership in this effort, along with all the members of the task force on both sides of the aisle. As ranking member of the task force, I appreciate the fact that this effort has been undertaken in an extremely nonpartisan fashion. And I would also like to thank Chairman CONYERS and Ranking Member SMITH for their comprehensive yet expeditious and bipartisan consideration of these Articles of Impeachment in the full Judiciary Committee.

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Mr. CONYERS. I am pleased now to recognize for 5 minutes the distinguished member of the Judiciary Committee who served on the task force with great skill, SHEILA JACKSON-LEE from Houston, Texas, who has been an

anchor in the proceedings that have brought us to this stage. I also want to commend BOB GOODLATTE for his services during that period of time.

Ms. JACKSON-LEE of Texas. I think it is important for all of us to recognize the solemnity of this day, and I thank the managers and the task force members that I believe worked in that spirit.

As I come from Texas and Houston, I think it is important to note that the judge, as all people may have in America, has his defenders; and he will have an opportunity for those defenders to continue to raise their voice and to continue to emphasize their beliefs. As my colleague from Texas indicated, he had debilitating conditions, and he had faced tragedy. And so that should be recognized.

But I believe what I've come to acknowledge on the floor of the House and, in fact, I am coming to acknowledge is that there is the responsibility constitutionally to follow the law. So article II, section 4, in fact, says that we are to proceed with impeachment specifically if civil officers have engaged in partly or been convicted of treason, bribery or other high crimes and misdemeanors. Specifically in count six of the plea agreement, we find language that says that this judge willingly agreed that he had obstructed justice. He admitted to falsely stating to the Special Investigative Committee of the United States Court of Appeals for the Fifth Circuit, lying to an official judicial body that the extent of his unwanted sexual contact with person B was one kiss, and that when told by person B his advances were unwelcomed, he then further said they were consensual; and that is to block person A from coming forward or having any veracity or anyone to back up what that person has said. I use A and B because I want to, again, respect that these are more than troubling comments and actions against two women who deserve to have a safe and secure workplace.

Then article III indicates that judges must hold their position and they must, in essence, be persons of good behavior. To create a workplace that does not allow the safety and security of your employee and, in particular, witness A and B, that poses a serious problem. So I am interested in making sure that we track the constitutional roadmap that we are now in and that we are aware of the fact that we can track the constitutional provisions and, in essence, say that this judge is not of good behavior. He now sits incarcerated. He has been convicted of a felony. The felony is obstruction of justice, and he did it knowingly.

I would like a moment to just say that in the proceedings where he had to proceed with his plea, the court specifically said, "You have the right to persist in the prior plea of not guilty that you have entered in this case. And in that event, the burden is entirely upon this government to prove your guilt"—

you don't have to go forward with this—"to a jury's satisfaction with proof beyond a reasonable doubt, which is a very high standard of proof.

"And under the law and the Constitution"—to the judge who was standing there—"you are presumed innocent," which means you do not have to prove your innocence or prove anything at all, meaning that the judge was questioned on his plea that involved the obstruction of justice, misrepresenting and denying witness A, who has alleged of his activities with her and person B, that everything was consensual and that person A is not telling the truth. He did not have to proceed.

And so the court says, "However, if I accept your guilty plea this morning, each of those rights will be denied."

And after the defendant said, "Yes, sir," the court proceeded and said, "And knowing that, is it your intent to enter a plea of guilty this morning to this charge?" The defendant answered, "Yes, sir." That was, in essence, a plea to the felony of obstructing justice.

Sad as it may be, as we proceed to the constitutional procedure of the voting here and then a trial in the Senate, it lays down the framework that we must act. We have no inability to ignore it. We must act. High crimes and misdemeanors, worthy behavior, all of them have been counted by a willing expression of this individual, this judge, that he has committed this offense.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Ms. JACKSON-LEE of Texas. It is crucial that we proceed in moving on the articles of impeachment.

Mr. Speaker, as a Member of the Impeachment Task Force of the House Judiciary Committee, I rise today in support of a recommendation for impeachment of Judge Samuel B. Kent. First and foremost it is necessary to establish the legal authority of Congress to make impeachment determinations. The Constitution clearly places many of the operations of the Judiciary under the oversight of Congress—a power not granted reciprocally to the Judiciary. This is made clear in the Federalist Papers (described by James Madison as "the most authentic exposition of the heart of the federal Constitution"), which confirm that subjugating the Judiciary to Congress was deliberate and intentional. Federalist #51 declares: "the legislative authority necessarily predominates."

Furthermore, Federalist #49 declares that Congress—not the Court—is "the confidential guardians of [the people's] rights and liberties." Why? Because the Legislature—not the unelected judiciary—is closest to the people and most responsive to them. When the Court did claim that it is the only body capable of interpreting the Constitution—that Congress is incapable of determining constitutionality, the Founding Fathers vehemently disagreed. For example, James Madison declared: "[T]he meaning of the Constitution may as well be ascertained by the Legislative as by the Judicial authority."

After establishing that the Congress has jurisdiction to preside over impeachment proceedings, it is imperative to outline the legal

standard for impeachment. Article II, Section 4 of the U.S. Constitution delineates the standard for removal from office of all civil officers by stating that: "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

The Constitutional Standard is further buttressed by the intent behind Article II, Section 4. The Founders' intent for impeachment was to protect the fundamental principle of "the consent of the governed." The Constitution carries no title but "We the People," and impeachment removes from office those officials who ignore that standard of adhering to the values of the people—that sexual abuse and pleading to a felony is not good behavior. It is important to note that the Constitution does not guarantee a federal judge his position for life, but only for the duration of "good behavior" (Art. III, Sec. 1).

For this reason impeachment was used whenever judges disregarded public interests, affronted the will of the people, or introduced arbitrary power by seizing the role of policymaker. Previous generations used this tool far more frequently than today's generation; and because the grounds for impeachment were deliberately kept broad, articles of impeachment have described everything from drunkenness and profanity to judicial high-handedness and bribery as reasons for removal from the bench. Historically speaking, sixty-one federal judges or Supreme Court Justices have been investigated for impeachment; of whom thirteen have been impeached and seven convicted. The noted legal scholar from Yale University Professor Charles Black writes in his Impeachment Handbook that, "In the English practice from which the Framers borrowed the phrase, 'High Crimes and Misdemeanors' denoted political offenses, the critical element of which was injury to the state. Impeachment was intended to redress public offenses committed by public officials in violation of the public trust and duties, offenses against the Constitution itself. In short, only 'serious assaults on the integrity of the processes of government,' constitute impeachable offenses."

One of our Founding Fathers, Alexander Hamilton, wrote in the Federalist Papers No. 65 that, "Those [impeachable] offences which proceed from the misconduct of public men, or, [in] other words, from the abuse or violation of some public trust. They are of a nature which . . . relate chiefly to injuries done immediately to society itself."

As Hamilton makes clear, criminal conduct alone was and is not enough. The conduct also should involve public office. That should be the standard here as we proceed. Given the context of the Constitutional standard for impeachment coupled with the intent of the Framers, the issue at hand is whether Judge Kent's conduct constitutes high Crimes and Misdemeanors, within the framework of the Constitution. On review of the facts, we find that Judge Kent's obstruction of justice charge based on providing testimony to the FBI and the DOJ on the nature and extent of his relationships with his former employees while the Judge was in office, does in fact meet the standard of high Crimes and Misdemeanors.

Furthermore, Judge Kent's felony conviction for obstruction of justice raises issues of fitness to the bench. While Judge Kent's felony conviction on its face satisfies the Constitu-

tional standard of impeachment, the numerous allegations of sexual misconduct on behalf of the Judge made by former employees continue to call into question Judge Kent's fitness for Office.

Pursuant to witness testimony the Impeachment Task Force heard from Cathy McBroom, Former Case Manager for Judge Kent, Ms. McBroom recounted over ten episodes of sexual misconduct she experienced while working for Judge Kent. Ms. McBroom noted that Judge Kent's physical presence was imposing at 6'4", 260 pounds, and coupled with his frequent self-references to his power, this made it difficult for her to believe that she would be able to prove the Judge's misconduct and successfully pursue outside employment in the Galveston legal community.

Donna Wilkerson, Judge Kent's former Legal Secretary also testified before the Task Force. Wilkerson stated that during her tenure as Kent's legal secretary, she suffered seven years of psychological abuse and sexual misconduct. Wilkerson noted that each episode of sexual misconduct always took place in the office, and seemed to follow lengthy lunches where the Judge returned to work intoxicated.

While the issue of Judge Kent's possible alcohol dependency and the condition of his mental health may be mitigating factors in this Committee's impeachment determination, the real issue is whether Judge Kent is fit for the position he holds. Accordingly, the conduct of Judge Kent while in office as 5th Circuit Court Judge of Galveston, Texas yields him unfit for office under constitutional standards.

Kent did submit a letter to President Obama and to our Task Force requesting permission for withdrawal from the bench one calendar year from now. Pursuant to Judge Kent's felony charge, it would not be appropriate for him to collect a salary and pension over the course of the next year. Additionally, under the guidelines of Judge Kent's proposal, his withdrawal from office would not go into effect until the day of the withdrawal, which means that Kent's decision to remove himself from office would be revocable at any time up until the final date of withdrawal.

Mr. Speaker, it pains me to take action against a member of the bench from my own state, but the Constitution imposes upon us a duty that we must uphold. As such, on the issue of whether Judge Kent's conduct constitutes high Crimes and Misdemeanors, I believe that all of us should agree that he has. Given our Constitutional duty, I urge my colleagues to support this extremely important and difficult decision of impeachment.

Mr. SMITH of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), a member of the Impeachment Task Force and also a former chairman of the Judiciary Committee.

Mr. SENSENBRENNER. Mr. Speaker, first I would like to demand a division of the question so as to result in a separate vote on each of the four articles of impeachment.

The SPEAKER pro tempore. The question is divisible and will be divided for the vote by article.

Mr. SENSENBRENNER. Thank you.

Mr. Speaker, both the Impeachment Task Force and the Judiciary Committee unanimously adopted and reported out House Resolution 520. The

overwhelming support for this resolution is indicative of the weight of the evidence supporting the four articles of impeachment against Judge Samuel B. Kent. A Federal grand jury indicted Judge Kent on five counts of sexual assault involving two of his female court employees and one count of obstruction of justice.

In February of this year Judge Kent pleaded guilty to count six of the superseding indictment, obstruction of justice, pursuant to a plea agreement. As a part of the plea agreement, the government agreed to dismiss the remaining five counts at sentencing. At that time I called on Judge Kent to resign and stated that I would introduce articles of impeachment upon his sentencing in May if he did not resign. On May 11, 2009, Judge Kent was sentenced to 33 months in prison. On May 12 I introduced the first resolution calling for Judge Kent's impeachment.

Judge Kent tried to use his knowledge to work the system by requesting a waiver for disability retirement. In February I wrote the court, asking it to carefully consider all of the particulars concerning Judge Kent's request. On May 27, Fifth Circuit Chief Judge Edith Hollan Jones denied Judge Kent's request. The Impeachment Task Force held an evidentiary hearing where both victims of Judge Kent testified as witnesses. In addition to the two victims, Alan Baron, the lead task force attorney, provided an overview of the investigation. As a part of his statement, he identified and introduced into the record a number of documents. University of Pittsburgh Professor Arthur Hellman provided expert testimony that concluded that Judge Kent's conduct in making false statements to fellow judges, and thereby obstructing justice, as well as abusing his power as a Federal judge to sexually assault women employees, constituted independent grounds to justify his impeachment and removal from office. The task force afforded Judge Kent and his counsel unlimited opportunity to participate exhaustively in the hearing. However, both Judge Kent and his counsel declined our invitation. After this objective and definitive review of the facts, the weight of the evidence against Judge Kent was substantial enough that it became quite obvious that he should not remain a Federal judge.

Articles I and II of the articles of impeachment reflect the improper conduct made by Judge Kent toward two of his court employees. On numerous occasions he sexually assaulted the two female court employees by touching their private areas and attempting to engage each woman in a sexual act with him. Article III is an article that incorporates some of the false or misleading statements made by Judge Kent to investigators and the grand jury. It notes that he corruptly obstructed, influenced, or impeded an official proceeding. Our hearing and the record we have compiled produces clear

and convincing evidence that Judge Kent lied to law enforcement authorities during the investigation as well as to the Federal grand jury. Article IV alleges that Judge Kent made material false and misleading statements about the nature and extent of his non-consensual sexual contact with the victims to FBI agents and representatives of the Department of Justice.

Our purpose for being here today is not to punish Judge Kent. Our purpose is to ensure the integrity of the Federal judiciary. Impeachment is invoked only when the conduct erodes the public's confidence in government. Judge Kent has clearly violated the public's trust and dishonored his role. Judge Samuel B. Kent, who by his own admission obstructed justice to cover his own misdeeds, cannot remain a Federal judge. He is the first judge in the history of our Republic to plead guilty to a felony and refuse to promptly resign his seat on the bench. Other judges have been convicted of crimes and refused to resign, but never has one pled guilty and attempted to stay on the bench. To permit him to retain his position would inflict grievous and, indeed, irreparable damage to the Federal judiciary and, I submit, to the Congress as well.

There are two basic questions in connection with this impeachment. First, does the conduct alleged in the four articles of impeachment state an impeachable offense? Absolutely and without question, it does. The articles allege misconduct that is criminal and wholly inconsistent with judicial integrity and the judicial oath. Clearly, everyone would agree that a judge who lies to a judicial body investigating his conduct or who deceives Federal investigators by lying in an interview is not fit to remain on the bench.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Texas. I yield the gentleman 30 additional 30 seconds.

Mr. SENSENBRENNER. The second question is, did the conduct occur? The simple fact that Judge Kent pled guilty confirms that the conduct did, in fact, occur. Today he is sitting in Federal prison, collecting a paycheck from the taxpayers. He is not fit to sit upon the Federal judiciary, and we must perform our constitutional duty to impeach him.

Support House Resolution 520. Send the judge to the Senate for a trial.

Mr. CONYERS. Mr. Speaker, I am pleased now to recognize for 3 minutes a former magistrate himself, HANK JOHNSON of Georgia, who is Chair of the Courts Subcommittee and an important member of the task force that was headed by Chairman ADAM SCHIFF.

Mr. JOHNSON of Georgia. Thank you, Mr. Chairman. This is not a happy day anytime we have to take this type of solemn action.

I first want to thank my chairman, the Honorable JOHN CONYERS from Michigan, who is the Chair of the Judiciary Committee, for his promptness

and his diligence in bringing this matter to us as soon as humanly possible. And we're at this point now because of the chairman. I also want to recognize our colleague Mr. ADAM SCHIFF who, having been entrusted by the leadership to bring this to the floor, has performed admirably. And I lastly want to thank Ms. Cathy McBroom and Ms. Donna Wilkerson. These are the two ladies that took the covers off of this egregious behavior by Judge Kent. The integrity of our judiciary is fundamental to the functioning of our legal system. Judge Samuel Kent's egregious behavior leaves no doubt that he is not fit to remain a judge.

□ 1415

Can you imagine having to go to work every day, having to go back to your job after a weekend, and you know that at any time or any day that you could be subjected to sexual misconduct by your boss? And you have a great Federal job, you need your job for your family, so you just endure it for year after year after year, until it gets to a point where you have to file a complaint and subject all of your personal affairs to the Nation. It took a lot of courage for them to do that, and I appreciate that. I want to apologize on behalf of all males for them having to go through that.

Mr. Speaker, what we have here is a situation where the judge has committed sexual abuse repeatedly. He has lied about it. He has pleaded guilty to the felony charge of obstruction.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONYERS. I yield the gentleman an additional 30 seconds.

Mr. JOHNSON of Georgia. He lied about it, and he admitted that he was in fact guilty of the sexual abuse.

So this is what we call a slam dunk. There is no reason for this judge to remain on the bench. He should have resigned, but he didn't have the decency to do that, so now we must do what we must do.

I urge all Members to vote "yes" on the impeachment.

Mr. SMITH of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN), a member of the Impeachment Task Force and a former attorney general of the State of California.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for yielding.

Mr. Speaker, article III, section 1 of the Constitution, in describing lifetime tenure of Federal judges, uses these words: "The judges shall hold their offices during good behavior." That is the starting point of our inquiry here in this impeachment.

When you look at article II, section 4, talking about impeachment, it says, "The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

Some people mistakenly believe that you need a criminal conviction as a condition precedent to us acting. That is not true and has never been true. In this particular case we do have a criminal conviction. But the Articles of Impeachment go beyond that to some of the underlying facts, specifically with respect to the sexual assault performed by this judge, Judge Kent.

The question before us is whether or not he is fit for office. The answer seems to be obvious. One who would use their office in this way to commit sexual assault is unfit for any office, but particularly that of a Federal judge. Why do I say that? Because they are given lifetime tenure, and in this circumstance he was the sole judicial officer in this courthouse.

Interestingly, now he says to us we should have some sympathy for him and extend him some mercy because he had no peers to speak with, anybody he could talk with about the serious problems in his life.

The very fact that he was the only judicial officer in that courthouse gave him enormous power, which he repeated to his victims on more than one occasion, saying he was the law, he was the judge. In other words, he had what I refer to as a reign of judicial terror or tyranny over these individuals, utilizing his power as a Federal judge to misuse that power in such a way to put these women in a situation where they thought they had nowhere to turn. Just based on that, he ought to be removed from office.

I should say to our colleagues who are watching in their offices right now, a simple review of the report presented by this committee will show sufficient evidence to justify every single article. We will vote on every single article in this House, as we have always done, and it is important for us to do that so that when we go to the Senate, they have the opportunity to review each single article of impeachment.

This is extremely important, not just for Judge Kent, not just for his employees, who have suffered unnecessarily, but for the entire judicial system.

For us to tarry a single day is to do injustice. This judge is now receiving, as has been said, his salary as a sitting judge while he sits incarcerated in a Federal institution of confinement. What arrogance. And if we do not act, we are letting the word go out that we, the only branch of government that is enabled by the Constitution to act in these circumstances, do not take our constitutional obligation seriously.

We cannot resist acting here and we cannot resist asking the Senate to act as expeditiously as possible. This Federal judge has demeaned his office, has demeaned this country, has demeaned his oath of office and the Constitution itself, and we need now to act. We have sufficient evidence presented on this record for all Members to vote in favor of each and every article of impeachment.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Tennessee (Mr. COHEN), a member of the task force and also the Chair of the Commercial and Administrative Law Subcommittee.

Mr. COHEN. Mr. Speaker, I want to thank the chairman, the chairman of the task force, the ranking member of the committee, and Mr. SENSENBRENNER.

This unquestionably has the facts that are obvious for this House to vote for impeachment. This judge has abused his office and justice by pleading guilty to obstruction of justice, committing obstruction of justice and lying to an official panel, and has taken an action upon his employees and his position, women, that is an affront to all women in this country. And these are actions that are high crimes and misdemeanors worthy of the vote of impeachment. That is unquestioned.

But what is particularly impressive to me is the procedure that this House has acted in and the speed to make sure that the public Treasury and the public trust are protected.

This man does not deserve his pay. He does not deserve his position. He does not deserve his pension. For he has shamed the country, the Judiciary, and been offensive toward people and good conduct, and for those reasons it is important that this House act, that the Senate have the opportunity to try this man, and to protect the public Treasury and the public good.

Mr. SMITH of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. GOHMERT), a member of the Impeachment Task Force and a former district judge from Texas.

Mr. GOHMERT. Mr. Speaker, I also want to thank the leadership and the very responsible conduct of the chairman of the task force, ADAM SCHIFF, for having done an exemplary job in moving this along and bringing it to a head as quickly as could have humanly been done, and to Chairman CONYERS and Ranking Member SMITH. We have worked together on this because it is a very serious matter when our Federal courts are held in less than high esteem.

We have a Federal judge, as has already been mentioned, who pled guilty to obstruction of justice. He admitted to nonconsensual sexual acts. We have the transcript from the Federal court hearings in which there is actual specificity of misrepresentations. We also can take judicial notice of his orders and opinions that he wrote himself.

It is very clear that, as some of the witnesses testified, he was arrogant, he was a bully. That is not enough to impeach someone or remove them from office, but certainly obstruction of justice would be under the circumstances here.

What I found particularly offensive beyond the obstruction were the games that were played by this judge with this body. Here the day before we were having our hearing of the task force,

we get a resignation letter dated June 2, 2009, addressed to the President, saying, "I hereby resign from my position as United States district judge for the Southern District of Texas effective June 1, 2010," a year away, a resignation that could be withdrawn at any time before it became effective.

Now, we heard testimony from the witnesses that this judge was particularly manipulative, and that is how he was able to continue the nonconsensual sexual assaults over and over, because he was so manipulative. They were afraid of losing their jobs, and it was clear that he had said, I am the king, and it is good to be king.

It is good to be king, unless you are committing crimes and misusing the office to which you were entrusted.

But the resignation letter would just be a resignation, if it were sincere. But then we got another letter before our final hearing before the committee asking that it be taken into consideration that he had these problems and he needed his salary and his medical and he was trying to pay medical bills of his late wife. Ironically, he wasn't quite as concerned for his late wife when he was groping and manipulating and bullying people within his trust and care as a Federal judge.

We heard testimony that if someone had come before his court and used the same reasons that he gave as to why he ought to keep getting his salary, that he would not only have not been moved to sympathy, he would have been moved to anger and would have taken it out on the defendant.

So even at this late date, there is no evidence of contriteness. There is no evidence of remorse, other than being caught. There is more manipulation, which makes clear all the more that he should not have his request granted that he be paid as a Federal judge while he is sitting in prison for committing crimes while he was getting paid to be a Federal judge.

Let's bring this to an end and vote for the impeachment.

Mr. CONYERS. Mr. Speaker, I reserve my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. POE), the deputy ranking member of the Crime Subcommittee of the Judiciary Committee and also a former district judge from Texas.

Mr. POE of Texas. Mr. Speaker, I think a little history is in order here, because only Congress can remove a Federal judge. It is part of the checks and balances in our Constitution. It prevents the executive who doesn't like what a judge is doing from taking that person out of office. It prevents other judges in the United States in the judicial branch from removing a judge when they don't like that judge's opinion. That is our duty today, to resolve this issue.

Over my career, I have been somewhat critical of Federal judges, but the reason is because of a philosophical difference sometimes with interpretation

of the Constitution and constitutional law.

□ 1430

For the most part, most of our judges, the hundreds that serve all over the United States in the third branch of government, have the utmost integrity and demeanor. In our judicial branch, I would hope we would always have the best legal minds on the bench, not the best legal minds that appear before the bench as attorneys. Unfortunately, that's not universally true, because our Federal judges are underpaid. The lawyers that appear before them, for the most part, make more than the Federal judges. But they serve, not because of money. They serve because of their pride and belief in our Constitution and public service.

Judge Kent is the exception to this rule. We are past the stage of allegations because he made admissions against his own interest in a court of law sufficient to convict him of a felony to the degree it is an abuse of office, abuse of duty, while serving on the bench in a courtroom. That basically is the end of the story. It is a felony. It is a high crime and misdemeanor. He's in prison, and his actions since his conviction show a haughty spirit and a total disregard for his conduct.

Mr. Speaker, in the United States, we don't pay Federal judges to go to the penitentiary. He should be impeached today by this body.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING), who is also a member of the Judiciary Committee.

Mr. KING of Iowa. Mr. Speaker, first I want to thank all of those who volunteered on this task force for impeachment. And I especially want to thank Chairman CONYERS and Ranking Member SMITH for pulling this together in their professional fashion and the people on our side of the aisle and Mr. SCHIFF from California who has taken to conduct himself, I think, with a solid degree of professionalism throughout these proceedings.

And I'm very well aware, Mr. Speaker, that this is a rare and extraordinary step that this Congress is taking, and that this is a serious moment. And when I read through this report that's been produced by the task force that pulled together the data in a compressed fashion, it is appalling to me that this could have gone on as long as it did.

But I will say, when the conviction came down and the sentence was made, the 33 months in the Federal penitentiary to Judge Kent, this Congress acted immediately and quickly and did so in a bipartisan fashion to do our constitutional duty, and brought this through the hearing and committee action to this floor and, with urgency, is ready to send it over to the United States Senate, whom I believe will act also immediately with dispatch.

And as I look at this, I see this as an abuse, as arbitrary power. The high



crime and misdemeanor that we're talking about is sexual abuse of subordinates, and the arbitrary power of using the official oppression of the power of his office and the threat of removing them from their jobs if they raised a voice, and also the threat that no one would believe them because he had manipulated the others around him and, to some degree, I believe that is true.

So it's essential that we take this extraordinary step, Mr. Speaker, and I am gratified that this Congress has acted immediately, pulled themselves together to take this action in a bipartisan fashion in a solidly constitutional fashion. We have, I think, added to today and will continue to add to the definition of high crimes and misdemeanors, and further put into the RECORD a solid foundation, and send a warning out to other judges that might think they could abuse this power.

So I urge adoption of this language that's here, and I commend my colleagues.

Mr. SMITH of Texas. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia, Dr. BROUN, who is also a member of the Homeland Security Committee.

(Mr. BROUN of Georgia asked and was given permission to revise and extend his remarks.)

Mr. BROUN of Georgia. Mr. Speaker, I rise today in support of this resolution. This judge should be, and I think will be, impeached with this resolution. And it's about time for this body to do its constitutional authority, to be a check on judges. Unfortunately, this Congress has not fulfilled its constitutional authority in many instances.

Article I, section 1, sentence 1 says, all legislative powers therein granted shall be vested in the Congress of the United States, which shall consist of a Senate and House of Representatives.

We have had a perversion of the Constitution by both administrations of both parties in the Presidency, as well as by Congress. The Constitution has been perverted. We all swear to uphold the Constitution against enemies, both foreign and domestic. We've got a lot of domestic enemies of the constitution, and I think enough is enough.

Under the Constitution, in the writings of our Founding Fathers in the Federalist Papers, including the first U.S. Supreme Court Chief Justice, they very clearly delineated what they meant for the constitution to mean. And it's time that we, as Congress, took our rightful places, being the strongest power of the Federal Government, to stop this spending, to stop the destruction of our children's and grandchildren's future.

I rise in support of the resolution.

This afternoon . . . the House of Representatives will exercise one of the great checks and balances built into the United States Constitution . . . the power to impeach.

Article I, Section 2 of the Constitution gives the House of Representatives the sole power of impeachment.

Article 2, Section 4 of the Constitution lays out the criteria for who can be impeached and for what offenses . . . It specifies that—"the President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for . . . and conviction of . . . treason, bribery, or other high crimes and misdemeanors."

These "civil officers" include federal judges and cabinet members.

The serious nature of impeachment is evident as the House of Representatives has only moved to impeach 18 officials in more than two centuries . . . This includes two presidents . . . one cabinet member . . . one senator . . . and 13 judges—not including today's proceedings.

Judge Samuel B. Kent . . . of the United States District Court for the Southern District of Texas . . . has pled guilty to unwanted, non-consensual sexual contact with two employees . . . testifying falsely before a special investigative committee of the federal judiciary . . . and making false statements to the Department of Justice.

His crimes certainly fit the high standard for impeachment that our Founding Fathers intended . . . I applaud the members of the Judiciary Committee on both sides of the aisle for exercising their Constitutional duty and moving this to the full House for a vote.

When thinking about today's historic action . . . I also think about how far Congress and the Federal Government have strayed from what our Founding Fathers intended.

One only needs to read the historic Federalists Papers . . . written by three of the most prominent authors of our U.S. Constitution including the very first U.S. Supreme Court Chief Justice . . . to understand that our Founding Fathers intended Congress to be the strongest and most powerful of the three branches of government.

Yet, too often in this modern era . . . we the Congress . . . have abdicated our power to legislate . . . allowing the Judicial and Executive branches to greatly expand their roles far beyond what the framers of our Constitution ever intended . . . all while taking liberty away from the American people.

Today, the Executive and Judicial Branches are sadly doing the job of the Legislative Branch . . . regardless of which party sits in the White House or in the Speaker's chair.

President George W. Bush went forward with the auto bailout despite Congress's clear opposition . . . President Barack Obama has created numerous unconstitutional "Czars" with massive power once reserved for Senate-confirmed officials.

Executive Orders were once rarely used . . . but today they have become the norm for Presidents to bypass Congress and judicial review.

And today, our federal benches are filled with judicial activists who are hell-bent on legislating from the bench.

When is this madness going to end?

When is this body . . . the United States Congress . . . going to reclaim the power the Constitution has given this institution . . . intended to protect the liberties of the American people?

Today we are exercising our Constitutional authority to remove a judge who clearly is not fit to serve. But this should also serve as a wake-up call to this legislative body that our work should not stop with just this one vote.

We must continue to bring accountability to those who violate their constitutionally-permitted responsibilities. . . . Those who legislate from the bench . . . without regard to the will of the people . . . Those who by-pass the Congress to institute policy.

As our Nation's first President once said: "Government is not reason, nor eloquence . . . It is force . . . And like fire, it is a dangerous servant and a fearsome master."

Today, we may use force to impeach . . . But we should constantly remind ourselves that this Nation sits on the precipice . . . looking to us for direction.

I urge my colleagues to not only support this resolution to impeach Judge Kent . . . I also urge them to take this opportunity to reflect on where we are headed as a legislative body . . . to stand up and take back the authority granted by the U.S. Constitution on behalf of the American people we represent.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, never before has a Federal judge pled guilty to a felony, gone to jail, and refused to resign immediately from the bench.

In a clear attempt to get every penny possible from American taxpayers, Judge Kent, who pled guilty to obstruction of justice and is currently in prison serving a 33-month sentence, submitted a letter to the President resigning effective June 1, 2010.

The law does not require Judge Kent to step aside from the bench, even though he is a convicted felon. Every day he remains in office he receives his taxpayer-funded salary.

Congress has taken up this impeachment inquiry and moved quickly to ensure that Judge Kent is removed from the bench. His continued attempts to game the judicial system are just another example of how Judge Kent has abused his position of authority.

Earlier this month, the House Impeachment Task Force heard testimony from Judge Kent's two victims. His victims described the living nightmare they experienced while working for him. They were subjected to physical and verbal sexual abuse for years, ranging from lewd comments to forced physical sexual conduct. Neither woman felt that she could file a complaint without losing her job. Judge Kent warned all of his staff that disloyalty was grounds for removal. It was his ability to intimidate his staff into silence that perpetuated his abuse of authority.

Today's vote is necessary to ensure that justice prevails. When a judge is given a lifetime appointment, it is a tremendous honor and responsibility. But when a judge takes advantage of his authority, he must be held accountable for any violation of those principles of justice.

Congress must put an end to Judge Kent's abuse of authority and exploitation of American taxpayers.

I urge my colleagues to vote in favor of the four articles of impeachment.

I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, we would like to close on this side by calling a senior member of the Judiciary

Committee, JERRY NADLER of New York, who, in addition, is the serving member of the Chair of the Constitution Subcommittee, the remaining time on our side.

The SPEAKER pro tempore. The gentleman from New York is recognized for 3¼ minutes.

Mr. NADLER of New York. Mr. Speaker, it is always a sad day when the House has to impeach a Federal judge. Yet, today that is our constitutional duty.

Impeachment is a power that Congress rarely uses; both because it is rare that a Federal judge will so abuse his position that impeachment is required, and because it could affect the independence of the Judiciary. The Constitution reserves this extraordinary remedy for extreme cases. This, regrettably, is one of those cases.

The task force that was established by this House to inquire into whether Judge Kent should be impeached has recommended the articles of impeachment that we are considering today.

We want to commend the members of the Task Force and the Chairman, Mr. SCHIFF, for their independent, diligent and thorough investigation. The evidence they've assembled is copious and sobering. They've made a strong case that impeachment is both appropriate and necessary.

First, Judge Kent has pleaded guilty to obstruction of justice and has been sentenced on his conviction to 33 months in prison.

As part of the plea proceedings, Judge Kent signed a statement in which he admitted and described the conduct that constituted the obstructive conduct. He adopted this signed statement under oath before the court at the time of the plea.

In this signed statement, Judge Kent admitted making false statements to a Special Investigatory Committee of the Fifth Circuit about allegations of sexually assaulting court employee. In that same document, he also admitted having "nonconsensual sexual contact" with two subordinate court employees.

Two of the articles of impeachment allege that Judge Kent sexually assaulted these two women. His admissions that he had nonconsensual sexual contacts with the women is, indeed, a powerful one. Any unwanted sexual touching can be considered a sexual assault, so Judge Kent, by his own words, has come close to admitting that he assaulted the women, the only remaining question being the extent of the assault, and that question has been addressed by the sworn testimony of the women before the Task Force detailing Judge Kent's repeated abuse of his authority by coercing nonconsensual sex at the price of retaining their jobs.

In short, the executive branch may prosecute a Federal judge for violation of the criminal laws, and the judicial branch may punish that Federal judge upon his conviction, but only the Congress can remove a Federal judge if it determines that his behavior renders him unfit to hold his office.

In circumstances such as these, where Judge Kent misused the power of his office to undermine, rather than to uphold, the law, and where he abused his power as a Federal judge by sexually assaulting subordinates and lying to the Fifth Circuit Investigatory Committee about that, our duty to impeach is clear.

For these reasons, I intend to vote in favor of each of the articles of impeachment now before the House. I urge all the Members of this House to do likewise.

Ms. WATERS. Mr. Speaker, I rise in strong support of H. Res. 520, to impeach Judge Samuel B. Kent of the U.S. District Court for the Southern District of Texas. Judge Kent has disgraced the bench, the Bar, and the entire American public. Throughout his legal proceedings he behaved with hubris and gross disregard for justice. Even after his conviction for obstruction of justice, he has continued to exert a manipulative demeanor and arrogance, thinking himself to be above the law. There appears to be no end to his impudent demands, as even now, he continues to draw his judicial salary while imprisoned. This is unconscionable, and it was incumbent upon the House Judiciary Committee and the entire House of Representatives to take decisive action. Therefore, I applaud and commend Chairman CONYERS and Ranking Member SMITH for their bipartisan efforts to bring this measure before the floor so quickly.

The stability of any form of government rests on the rule of law. Accordingly, our system, though imperfect, rests on the American public's fundamental trust in our legal institutions and the rights the Constitution bestows upon all U.S. citizens. Most important to any justice system is broad legitimacy and acceptance of those who act within the legal framework. People must believe they have access to a fair trial, an impartial jury, and a neutral judge. Judges have the duty to render well-reasoned and sound legal opinions, without bias and personal prejudice. We expect individuals who hold a lifetime appointment as a federal judge to act honestly out of respect for the law.

Judge Kent's sexual assault of two female employees and his subsequent efforts to lie about his actions to other federal judges were reprehensible acts. This conduct is totally inconsistent with the dignity and respect we expect from all federal judges.

Even though Judge Kent pleaded guilty to obstruction of justice, he continues to receive a salary for a job he is no longer suitable to perform. And he will continue to collect federal wages unless we act today and pass these articles of impeachment.

Every day Kent continues to draw his judicial salary is an affront to our legal system and to the American taxpayers. This resolution signals to Kent and others that no one is above the law—not even a federal judge. That is a testament to the rule of law and goes to the very essence of our justice system. The law must be blind, and everyone must be subject to its consequences and punishments as well as to its benefits and protections.

Mr. Speaker, I am so disappointed that Judge Kent has refused to resign from office and that we are forced to take this action to remove him from office. However, impeachment is provided for in the Constitution for cir-

cumstances such as this. Therefore, I add my voice of support for H. Res. 520 to impeach the disgraced Judge Samuel Kent, and I urge my colleagues to vote yes on the resolution. I also hope our colleagues in the other body will act with all deliberate speed to remove this disgraced judge from the federal bench.

Mr. PAUL. Mr. Speaker, as the House of Representatives Member for Galveston, Texas, I have followed the case of Judge Samuel Kent with great interest. My study of the facts of this case has convinced me that the House Committee on the Judiciary made the correct decision in recommending that Judge Kent be impeached. Unfortunately, because of a commitment in my congressional district, I was only able to be on the House floor for the vote on the first count. Had I been on the House floor for the vote, I would have voted for all four counts of impeachment. I hope the Senate expeditiously acts on this matter.

The SPEAKER pro tempore. All time having been yielded back, the Chair will divide the question for voting among the four articles of impeachment.

The question is on resolving the first article of impeachment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, this 15-minute vote on resolving the first article of impeachment will be followed by 5-minute votes, if ordered, on resolving each of the three succeeding articles.

The vote was taken by electronic device, and there were—yeas 389, nays 0, not voting 44, as follows:

[Roll No. 415]

YEAS—389

Abercrombie	Bright	Conyers
Aderholt	Broun (GA)	Cooper
Adler (NJ)	Brown (SC)	Courtney
Akin	Brown, Corrine	Crowley
Alexander	Brown-Waite,	Cuellar
Altmire	Ginny	Culberson
Andrews	Buchanan	Cummings
Arcuri	Burgess	Dahlkemper
Austria	Burton (IN)	Davis (CA)
Baca	Butterfield	Davis (IL)
Bachus	Buyer	Davis (KY)
Baird	Calvert	Davis (TN)
Baldwin	Camp	DeGette
Barrow	Campbell	Delahunt
Bartlett	Cantor	DeLauro
Barton (TX)	Cao	Dent
Bean	Capito	Diaz-Balart, L.
Becerra	Capps	Diaz-Balart, M.
Berkley	Cardoza	Dicks
Berman	Carnahan	Dingell
Berry	Carney	Doggett
Biggart	Carson (IN)	Donnelly (IN)
Bilbray	Carter	Dreier
Bilirakis	Cassidy	Driehaus
Bishop (UT)	Castle	Duncan
Blackburn	Castor (FL)	Edwards (MD)
Blumenauer	Chaffetz	Edwards (TX)
Bocchieri	Chandler	Ehlers
Bonner	Childers	Ellison
Bono Mack	Clarke	Ellsworth
Boozman	Clay	Emerson
Boren	Cleaver	Engel
Boswell	Clyburn	Etheridge
Boucher	Coble	Fallin
Boustany	Coffman (CO)	Finer
Boyd	Cohen	Flake
Brady (PA)	Cole	Fleming
Brady (TX)	Conaway	Forbes
Braley (IA)	Connolly (VA)	Fortenberry

Foster Lucas  
 Foxx Luetkemeyer  
 Frank (MA) Luján  
 Franks (AZ) Lummis  
 Frelinghuysen Lungren, Daniel  
 Fudge E.  
 Gallegly Lynch  
 Garrett (NJ) Mack  
 Gerlach Maffei  
 Giffords Maloney  
 Gingrey (GA) Manzullo  
 Gohmert Marchant  
 Goodlatte Markey (CO)  
 Gordon (TN) Markey (MA)  
 Granger Marshall  
 Graves Massa  
 Grayson Matheson  
 Green, Al Matsui  
 Green, Gene McCarthy (CA)  
 Griffith McCarthy (NY)  
 Grijalva McCaul  
 Guthrie McClintock  
 Gutierrez McCollum  
 Hall (NY) McCotter  
 Hall (TX) McDermott  
 Halvorson McHenry  
 Hare McHugh  
 Harper McIntyre  
 Hastings (FL) McKeon  
 Hastings (WA) McMahan  
 Heinrich McMorris  
 Heller Rodgers  
 Hensarling McNeerney  
 Herger Meek (FL)  
 Herseth Sandlin Meeks (NY)  
 Hill Mica  
 Himes Michaud  
 Hincey Miller (FL)  
 Hinojosa Miller (MI)  
 Hirono Miller (NC)  
 Hodes Miller, Gary  
 Hoekstra Miller, George  
 Holden Minnick  
 Holt Mitchell  
 Honda Mollohan  
 Hoyer Moore (KS)  
 Hunter Moore (WI)  
 Inglis Moran (KS)  
 Inslee Moran (VA)  
 Israel Murphy (CT)  
 Issa Murphy (NY)  
 Jackson (IL) Murphy, Patrick  
 Jackson-Lee Murphy, Tim  
 (TX) Murtha  
 Jenkins Myrick  
 Johnson (GA) Nadler (NY)  
 Johnson (IL) Napolitano  
 Johnson, E. B. Neugebauer  
 Johnson, Sam Nunes  
 Jones Nye  
 Jordan (OH) Oberstar  
 Kagen Obey  
 Kaptur Olson  
 Kildee Olver  
 Kilroy Ortiz  
 Kind Pallone  
 King (IA) Pascrell  
 King (NY) Pastor (AZ)  
 Kingston Paul  
 Kirk Paulsen  
 Kirkpatrick (AZ) Payne  
 Kissell Pence  
 Klein (FL) Perlmutter  
 Kosmas Perriello  
 Kratovil Peters  
 Kucinich Peterson  
 Lamborn Petri  
 Lance Pingree (ME)  
 Langevin Pitts  
 Larsen (WA) Platts  
 Larson (CT) Poe (TX)  
 Latham Polis (CO)  
 Latta Pomeroy  
 Lee (CA) Price (GA)  
 Lee (NY) Price (NC)  
 Levin Putnam  
 Lewis (CA) Quigley  
 Linder Radanovich  
 Lipinski Rahall  
 LoBiondo Rangel  
 Loeb sack Rehberg  
 Lofgren, Zoe Reichert  
 Lowey Reyes

NOT VOTING—44

Ackerman Bishop (NY)  
 Bachmann Blunt  
 Barrett (SC) Boehner  
 Bishop (GA) Capuano

Deal (GA) Kilpatrick (MI)  
 DeFazio Kline (MN)  
 Doyle LaTourette  
 Eshoo Lewis (GA)  
 Farr McGovern  
 Fattah Melancon  
 Gonzalez Neal (MA)  
 Harman Posey  
 Higgins Sánchez, Linda  
 Kanjorski T.  
 Kennedy Sessions

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1503

So the first article of impeachment was adopted.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The question is on resolving the second article of impeachment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 385, noes 0, not voting 48, as follows:

[Roll No. 416]

AYES—385

Abercrombie Calvert  
 Aderholt Camp  
 Adler (NJ) Campbell  
 Akin Cantor  
 Alexander Cao  
 Altmire Capito  
 Andrews Capps  
 Arcuri Cardoza  
 Austria Carnahan  
 Baca Carney  
 Bachus Carson (IN)  
 Baird Carter  
 Baldwin Castle  
 Barrow Castor (FL)  
 Bartlett Chaffetz  
 Barton (TX) Chandler  
 Bean Childers  
 Becerra Clarke  
 Berkley Clay  
 Berman Cleaver  
 Berry Clyburn  
 Biggett Coble  
 Bilbray Coffman (CO)  
 Bilirakis Cohen  
 Bishop (UT) Cole  
 Blackburn Conaway  
 Blumenauer Connolly (VA)  
 Boccieri Conyers  
 Bonner Cooper  
 Bono Mack Costa  
 Boozman Courtney  
 Boren Crowley  
 Boswell Cuellar  
 Boucher Culberson  
 Boustany Cummings  
 Boyd Dahlkemper  
 Brady (PA) Davis (CA)  
 Brady (TX) Davis (IL)  
 Brady (IA) Davis (KY)  
 Bright Davis (TN)  
 Broun (GA) DeGette  
 Brown (SC) DeLauro  
 Brown, Corrine Delahunt  
 Brown-Waite, Dent  
 Ginny Diaz-Balart, L.  
 Buchanan Diaz-Balart, M.  
 Burgess Dicks  
 Burton (IN) Dingell  
 Butterfield Doggett  
 Buyer Donnelly (IN)

Herger McCaul  
 Herseth Sandlin McClintock  
 Hill McCollum  
 Himes McCotter  
 Hincey McDermott  
 Hinojosa McHenry  
 Hirono McHugh  
 Hodes McIntyre  
 Hoekstra McKeon  
 Holden McMahan  
 Holt McMorris  
 Honda Rodgers  
 Hoyer McNeerney  
 Hunter Meek (FL)  
 Inglis Meeks (NY)  
 Inslee Mica  
 Israel Michaud  
 Issa Miller (FL)  
 Jackson (IL) Miller (MI)  
 Jackson-Lee Miller (NC)  
 (TX) Miller, Gary  
 Jenkins Miller, George  
 Johnson (GA) Minnick  
 Johnson (IL) Moran (VA)  
 Johnson, E. B. Mitchell  
 Johnson, Sam Mollohan  
 Jones Moore (KS)  
 Jordan (OH) Moore (WI)  
 Kagen Moran (KS)  
 Kaptur Moran (VA)  
 Kildee Murphy (CT)  
 Kilroy Murphy (NY)  
 Kind Murphy, Patrick  
 King (IA) Murtha  
 King (NY) Myrick  
 Kingston Nadler (NY)  
 Kirk Napolitano  
 Kirkpatrick (AZ) Neugebauer  
 Kissell Nunes  
 Klein (FL) Oberstar  
 Kosmas Obey  
 Kratovil Olson  
 Kucinich Olver  
 Lamborn Ortiz  
 Lance Pallone  
 Langevin Pascrell  
 Larsen (WA) Pastor (AZ)  
 Larson (CT) Paulsen  
 Latham Payne  
 Latta Pence  
 Lee (CA) Perlmutter  
 Lee (NY) Perriello  
 Levin Titus  
 Lewis (CA) Peterson  
 Linder Petri  
 Lipinski Pingree (ME)  
 LoBiondo Pitts  
 Loeb sack Platts  
 Lofgren, Zoe Lofgren, Zoe  
 Lowey Lucas  
 Luetkemeyer  
 Luján  
 Lummis  
 Lungren, Daniel E.  
 Lynch  
 Mack  
 Maffei  
 Maloney  
 Manzullo  
 Marchant  
 Markey (CO)  
 Markey (MA)  
 Marshall  
 Massa  
 Matheson  
 Matsui  
 McCarthy (CA)  
 McCarthy (NY)

NOT VOTING—48

Ackerman Fattah  
 Bachmann Gonzalez  
 Barrett (SC) Harman  
 Bishop (GA) Higgins  
 Bishop (NY) Kanjorski  
 Blunt Kennedy  
 Boehner Kilpatrick (MI)  
 Capuano Kline (MN)  
 Cassidy LaTourette  
 Costello Lewis (GA)  
 Crenshaw McGovern  
 Davis (AL) Melancon  
 Deal (GA) Hastings (FL)  
 DeFazio DeFazio  
 Doyle  
 Eshoo  
 Farr  
 Roskam  
 Ross  
 Rothman (NJ)  
 Roybal-Allard  
 Royce  
 Ruppersberger  
 Rush  
 Ryan (OH)  
 Ryan (WI)  
 Salazar  
 Sanchez, Loretta  
 Sarbanes  
 Scalise  
 Schakowsky  
 Schauer  
 Schiff  
 Schmidt  
 Schock  
 Schrader  
 Schwartz  
 Scott (GA)  
 Sensenbrenner  
 Serrano  
 Shea-Porter  
 Sherman  
 Sherman  
 Shimkus  
 Shuler  
 Shuster  
 Simpson  
 Sires  
 Skelton  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Smith (WA)  
 Snyder  
 Souder  
 Space  
 Spratt  
 Stark  
 Stupak  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Teague  
 Terry  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Thornberry  
 Tiberi  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Upton  
 Van Hollen  
 Visclosky  
 Walden  
 Walz  
 Wamp  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Wexler  
 Whitfield  
 Wilson (OH)  
 Wilson (SC)  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (AK)  
 Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). One minute remains in this vote.

□ 1510

So the second article of impeachment was adopted.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The question is on resolving the third article of impeachment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 381, noes 0, not voting 52, as follows:

[Roll No. 417]

AYES—381

Abercrombie	Carter	Fudge
Aderholt	Castle	Galleghy
Adler (NJ)	Castor (FL)	Garrett (NJ)
Akin	Chaffetz	Gerlach
Alexander	Chandler	Giffords
Altmire	Childers	Gingrey (GA)
Andrews	Clarke	Gohmert
Arcuri	Clay	Goodlatte
Austria	Cleaver	Gordon (TN)
Baca	Clyburn	Granger
Bachus	Coble	Graves
Baird	Coffman (CO)	Grayson
Baldwin	Cohen	Green, Al
Barrow	Cole	Griffith
Bartlett	Conaway	Grijalva
Barton (TX)	Connolly (VA)	Connolly (VA)
Bean	Conyers	Gutierrez
Becerra	Cooper	Hall (NY)
Berkley	Costa	Hall (TX)
Berman	Courtney	Halvorson
Berry	Crowley	Hare
Biggert	Cuellar	Harper
Bilbray	Culberson	Hastings (FL)
Bilirakis	Cummings	Hastings (WA)
Bishop (UT)	Dahlkemper	Heinrich
Blackburn	Davis (CA)	Hensarling
Blumenauer	Davis (IL)	Herger
Boccieri	Davis (KY)	Herseth Sandlin
Bonner	Davis (TN)	Hill
Bono Mack	DeGette	Himes
Boozman	Delahunt	Hinchev
Boren	DeLauro	Hinojosa
Boswell	Dent	Hirono
Boucher	Diaz-Balart, L.	Hodes
Boustany	Diaz-Balart, M.	Hoekstra
Boyd	Dicks	Holden
Brady (PA)	Dingell	Holt
Brady (TX)	Doggett	Honda
Braley (IA)	Donnelly (IN)	Hoyer
Bright	Dreier	Hunter
Broun (GA)	Driehaus	Inglis
Brown (SC)	Duncan	Inslee
Brown, Corrine	Edwards (MD)	Israel
Brown-Waite,	Edwards (TX)	Issa
Ginny	Ehlers	Jackson (IL)
Buchanan	Ellison	Jackson-Lee
Burgess	Ellsworth	(TX)
Burton (IN)	Emerson	Jenkins
Butterfield	Engel	Johnson (GA)
Buyer	Etheridge	Johnson (IL)
Calvert	Fallin	Johnson, E. B.
Camp	Filmer	Johnson, Sam
Campbell	Flake	Jones
Cantor	Fleming	Jordan (OH)
Cao	Forbes	Kagen
Capito	Fortenberry	Kaptur
Capps	Foster	Kildee
Cardoza	Fox	Kilroy
Carnahan	Frank (MA)	Kind
Carney	Franks (AZ)	King (IA)
Carson (IN)	Frelinghuysen	King (NY)

Kingston	Mitchell	Schauer
Kirk	Mollohan	Schiff
Kirkpatrick (AZ)	Moore (KS)	Schmidt
Kissell	Moore (WI)	Schock
Klein (FL)	Moran (KS)	Schrader
Kosmas	Moran (VA)	Schwartz
Kratovil	Murphy (CT)	Scott (GA)
Kucinich	Murphy (NY)	Scott (VA)
Lamborn	Murphy, Patrick	Sensenbrenner
Lance	Murtha	Serrano
Langevin	Myrick	Shea-Porter
Larsen (WA)	Nadler (NY)	Sherman
Larson (CT)	Napolitano	Shimkus
Latham	Neugebauer	Shuler
Latta	Nunes	Shuster
Lee (CA)	Nye	Simpson
Lee (NY)	Oberstar	Sires
Levin	Obey	Skelton
Lewis (CA)	Olson	Smith (NE)
Linder	Oliver	Smith (NJ)
Lipinski	Ortiz	Smith (TX)
LoBiondo	Pallone	Smith (WA)
Loeb sack	Pascrell	Snyder
Lofgren, Zoe	Pastor (AZ)	Souder
Lowe y	Paulsen	Space
Lucas	Payne	Spratt
Luetkemeyer	Pence	Stark
Lujan	Perlmutter	Stupak
Lummis	Perriello	Sutton
Lungren, Daniel	Peters	Tanner
E.	Petri	Tauscher
Lynch	Pingree (ME)	Taylor
Mack	Pitts	Teague
Maffei	Platts	Terry
Maloney	Poe (TX)	Thompson (CA)
Manzullo	Polis (CO)	Thompson (MS)
Marchant	Pomeroy	Thompson (PA)
Markey (CO)	Price (GA)	Thornberry
Markey (MA)	Price (NC)	Tiberi
Marshall	Putnam	Titus
Massa	Quigley	Tonko
Matheson	Radanovich	Towns
Matsui	Rahall	Tsongas
McCarthy (CA)	Rangel	Turner
McCarthy (NY)	Rehberg	Upton
McCaul	Reichert	Van Hollen
McClintock	Reyes	Visclosky
McCollum	Richardson	Walden
McCotter	Roe (TN)	Walz
McDermott	Rogers (AL)	Wamp
McHenry	Rogers (KY)	Wasserman
McHugh	Rogers (MI)	Schultz
McIntyre	Rohrabacher	Berkley
McKeon	Ros-Lehtinen	Berman
McMahon	Roskam	Berry
McMorris	Ross	Biggert
Rodgers	Rothman (NJ)	Bilbray
McNerney	Roybal-Allard	Bilirakis
Meek (FL)	Royce	Weiner
Meeks (NY)	Ruppersberger	Wexler
Mica	Rush	Whitfield
Michaud	Ryan (OH)	Wilson (OH)
Miller (FL)	Ryan (WI)	Wilson (SC)
Miller (MI)	Salazar	Wittman
Miller (NC)	Sanchez, Loretta	Wolf
Miller, Gary	Sarbanes	Woolsey
Miller, George	Scalise	Wu
Minnick	Schakowsky	Young (AK)
		Young (FL)

NOT VOTING—52

Ackerman	Gonzalez	Rodriguez
Bachmann	Green, Gene	Rooney
Barrett (SC)	Harman	Sánchez, Linda
Bishop (GA)	Heller	T.
Bishop (NY)	Higgins	Sessions
Blunt	Kanjorski	Sestak
Boehner	Kennedy	Shadegg
Capuano	Kilpatrick (MI)	Slaughter
Cassidy	Kline (MN)	Speier
Costello	LaTourrette	Stearns
Crenshaw	Lewis (GA)	Sullivan
Davis (AL)	McGovern	Tiaht
Deal (GA)	Melancon	Tierney
DeFazio	Murphy, Tim	Velázquez
Doyle	Neal (MA)	Welch
Eshoo	Paul	Westmoreland
Farr	Peterson	Yarmuth
Fattah	Posey	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1516

So the third article of impeachment was adopted.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ROONEY. Mr. Speaker, on rollcall No. 417, I was unavoidably detained. Had I been present, I would have voted “aye.”

The SPEAKER pro tempore. The question is on resolving the fourth article of impeachment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 372, noes 0, answered “present” 1, not voting 60, as follows:

[Roll No. 418]

AYES—372

Abercrombie	Clay	Grayson
Aderholt	Cleaver	Green, Al
Adler (NJ)	Clyburn	Griffith
Akin	Coble	Grijalva
Alexander	Coffman (CO)	Guthrie
Altmire	Cohen	Gutierrez
Andrews	Cole	Hall (NY)
Arcuri	Conaway	Hall (TX)
Austria	Connolly (VA)	Halvorson
Bachus	Conyers	Hare
Baird	Cooper	Harper
Baldwin	Costa	Hastings (FL)
Barrow	Courtney	Hastings (WA)
Bartlett	Crowley	Heinrich
Barton (TX)	Cuellar	Hensarling
Bean	Culberson	Herger
Becerra	Cummings	Herseth Sandlin
Berkley	Dahlkemper	Hill
Berman	Davis (CA)	Himes
Berry	Davis (IL)	Hinojosa
Biggert	Davis (KY)	Hirono
Bilbray	Davis (TN)	Hodes
Bilirakis	DeGette	Hoekstra
Bishop (UT)	Delahunt	Holden
Blackburn	DeLauro	Holt
Blumenauer	Dent	Honda
Boccieri	Bocchieri	Hoyer
Bonner	Diaz-Balart, L.	Hunter
Bono Mack	Diaz-Balart, M.	Inglis
Boozman	Dicks	Inslee
Boren	Dingell	Israel
Boswell	Doggett	Issa
Boucher	Donnelly (IN)	Jackson (IL)
Boustany	Dreier	Jackson-Lee
Boyd	Driehaus	(TX)
Brady (PA)	Duncan	Jenkins
Brady (TX)	Edwards (MD)	Johnson (GA)
Braley (IA)	Edwards (TX)	Johnson (IL)
Bright	Ehlers	Johnson, E. B.
Broun (GA)	Ellison	Johnson, Sam
Brown (SC)	Ellsworth	Jordan (OH)
Brown, Corrine	Emerson	Kagen
Brown-Waite,	Engel	Kaptur
Ginny	Etheridge	Kildee
Buchanan	Fallin	Kilroy
Burgess	Filmer	Kind
Burton (IN)	Flake	King (IA)
Butterfield	Fleming	King (NY)
Buyer	Forbes	Kingston
Calvert	Fortenberry	Kirk
Camp	Foster	Kirkpatrick (AZ)
Campbell	Fox	Kissell
Cantor	Frank (MA)	Klein (FL)
Cao	Franks (AZ)	Kosmas
Capito	Franks (AZ)	Kratovil
Capps	Frelinghuysen	Kucinich
Cardoza	Fudge	Lamborn
Carnahan	Galleghy	Lance
Carney	Garrett (NJ)	Langevin
Carson (IN)	Carney	Larsen (WA)
	Giffords	Larson (CT)
	Gingrey (GA)	Latham
	Gohmert	Latta
	Goodlatte	Lee (CA)
	Gordon (TN)	Lee (NY)
	Granger	
	Graves	

Levin	Nadler (NY)	Schrader
Lewis (CA)	Napolitano	Schwartz
Linder	Neugebauer	Scott (GA)
Lipinski	Nunes	Scott (VA)
LoBiondo	Nye	Sensenbrenner
Loeb	Oberstar	Serrano
Lofgren, Zoe	Obey	Shea-Porter
Lowe	Olson	Sherman
Lucas	Olver	Shimkus
Luetkemeyer	Ortiz	Shuler
Lujan	Pallone	Shuster
Lummis	Pascrell	Simpson
Lungren, Daniel E.	Pastor (AZ)	Sires
Lynch	Paulsen	Skelton
Mack	Payne	Smith (NE)
Maffei	Pence	Smith (NJ)
Maloney	Perlmutter	Smith (TX)
Manzullo	Perriello	Smith (WA)
Marchant	Peters	Snyder
Markey (CO)	Peterson	Souder
Markey (MA)	Petri	Space
Marshall	Pingree (ME)	Spratt
Massa	Pitts	Stark
Matheson	Platts	Stupak
Matsui	Poe (TX)	Sutton
McCarthy (CA)	Polis (CO)	Tanner
McCarthy (NY)	Pomeroy	Tauscher
McCaul	Price (GA)	Taylor
McClintock	Price (NC)	Teague
McColum	Putnam	Terry
McCotter	Quigley	Thompson (MS)
McDermott	Radanovich	Thompson (PA)
McHenry	Rahall	Thornberry
McHugh	Rangel	Tiberi
McIntyre	Rehberg	Titus
McKeon	Reichert	Tonko
McMahon	Reyes	Towns
McMorris	Richardson	Tsongas
Rodgers	Roe (TN)	Turner
McNerney	Rogers (AL)	Upton
Meek (FL)	Rogers (KY)	Van Hollen
Meeks (NY)	Rohrabacher	Visclosky
Mica	Rooney	Walden
Michaud	Ros-Lehtinen	Walz
Miller (FL)	Ross	Wamp
Miller (MI)	Rothman (NJ)	Wasserman
Miller (NC)	Roybal-Allard	Schultz
Miller, Gary	Royce	Waters
Miller, George	Ruppersberger	Watson
Minnick	Rush	Waxman
Mitchell	Ryan (OH)	Weiner
Mollohan	Ryan (WI)	Wexler
Moore (KS)	Salazar	Whitfield
Moore (WI)	Sanchez, Loretta	Wilson (OH)
Moran (KS)	Sarbanes	Wilson (SC)
Moran (VA)	Scalise	Wittman
Murphy (NY)	Schakowsky	Wolf
Murphy, Patrick	Schauer	Wu
Murtha	Schiff	Young (AK)
Myrick	Schmidt	Young (FL)
	Schock	

A motion to reconsider was laid on the table.

H. RES. 565

*Resolved*, That Mr. Schiff, Ms. Zoe Lofgren of California, Mr. Johnson of Georgia, Mr. Goodlatte, and Mr. Sensenbrenner are appointed managers on the part of the House to conduct the trial of the impeachment of Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers on the part of the House may exhibit the articles of impeachment to the Senate and take all other actions necessary in connection with preparation for, and conduct of, the trial, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under House Resolution 279, One Hundred Eleventh Congress, agreed to March 31, 2009, or any other applicable expense resolution on vouchers approved by the Chairman of the Committee on the Judiciary.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they consider necessary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. I was unable to attend to several votes today. Had I been present, I would have voted "aye" on Articles I, II, III, and IV.

PERSONAL EXPLANATION

Ms. ESHOO. Mr. Speaker. I was not present during the rollcall vote Nos. 415 to 418 on June 19, 2009. Had I been present, I would have voted:

on rollcall vote No. 415 I would have voted "yea;"

on rollcall vote No. 416 I would have voted "aye;"

on rollcall vote No. 417 I would have voted "aye;"

on rollcall vote No. 418 I would have voted "aye."

PERSONAL EXPLANATION

Mr. RODRIGUEZ. Mr. Speaker, during rollcall vote No. 417 and 418 on H. Res. 520, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Speaker, during rollcall vote Nos. 417 and 418 on H. Res. 520, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. BACA. Mr. Speaker, during rollcall vote Nos. 417 and 418 on H. Res. 520, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. TIAHRT. Mr. Speaker, on rollcall vote Nos. 415, 416, 417, and 418, had I been present, I would have voted "aye" on all 4 articles of impeachment.

PERSONAL EXPLANATION

Mr. STEARNS. Mr. Speaker, on rollcall Nos. 415, 416, 417 and 418, had I been present, I would have voted "aye" on all 4 articles of impeachment.

Mr. TIM MURPHY of Pennsylvania. Mr. Speaker, on rollcall Nos. 416, 417, and 418, I was unavoidably detained. Had I been present, I would have voted "aye."

APPOINTING AND AUTHORIZING MANAGERS FOR THE IMPEACHMENT OF SAMUEL B. KENT, A JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

Mr. CONYERS. Mr. Speaker, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

ANSWERED "PRESENT"—1

Watt

NOT VOTING—60

Ackerman	Gonzalez	Rogers (MI)
Baca	Green, Gene	Roskam
Bachmann	Harman	Sánchez, Linda
Barrett (SC)	Heller	T.
Bishop (GA)	Higgins	Sessions
Bishop (NY)	Hinchev	Sestak
Blunt	Jones	Shadegg
Boehner	Kanjorski	Slaughter
Camp	Kennedy	Speier
Capuano	Kilpatrick (MI)	Stearns
Cassidy	Kline (MN)	Sullivan
Castor (FL)	LaTourette	Thompson (CA)
Costello	Lewis (GA)	Tiahrt
Crenshaw	McGovern	Tierney
Davis (AL)	Melancon	Velázquez
Deal (GA)	Murphy (CT)	Welch
DeFazio	Murphy, Tim	Westmoreland
Doyle	Neal (MA)	Woolsey
Eshoo	Paul	Yarmuth
Farr	Posey	Rodriguez
Fattah	Rodriguez	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1521

So the fourth article of impeachment was adopted.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(Mr. MCCARTHY of California asked and was given permission to address the House for 1 minute.)

Mr. MCCARTHY of California. Mr. Speaker, I yield to the gentleman from Maryland, the majority leader, for the purpose of announcing next week's schedule.

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, on Monday, the House is not in session.

On Tuesday, the House will meet at 10:30 a.m. for morning-hour debate and noon for legislative business.

On Wednesday and Thursday, the House will meet at 10 a.m. for legislative business.

On Friday, the House will meet at 9 a.m. for legislative business.

We will consider several bills under suspension of the rules. The complete list of suspension bills will be announced by the close of business today.

In addition, Mr. Speaker, we will consider H.R. 2892, the 2010 Homeland Security Appropriations Act, and the 2010 Interior and Environment Appropriations Act. We will also consider the National Defense Authorization Act for fiscal year 2010.

Mr. MCCARTHY of California. I thank the gentleman.

And I would just like to ask: he noticed two appropriations bills for next week, the Homeland Security and the