

AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JUDICIARY TO INQUIRE WHETHER THE HOUSE SHOULD IMPEACH SAMUEL B. KENT, A JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

Ms. SLAUGHTER. Madam Speaker, I ask unanimous consent that the Committee on Rules be discharged from further consideration of H. Res. 424 and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

There was no objection.

The text of the resolution is as follows:

H. RES. 424

Resolved, That the Committee on the Judiciary shall inquire whether the House should impeach Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas.

SEC. 2. The Committee on the Judiciary or any subcommittee or task force designated by the Committee may, in connection with the inquiry under this resolution, take affidavits and depositions by a member, counsel, or consultant of the Committee, pursuant to notice or subpoena.

SEC. 3. (a) For the purpose of the inquiry under this resolution, the Committee on the Judiciary is authorized to require by subpoena or otherwise—

(1) the attendance and testimony of any person (including at a taking of a deposition by counsel or consultant of the Committee); and

(2) the production of such things; as it deems necessary to such inquiry.

(b) The Chairman of the Committee on the Judiciary, after consultation with the Ranking Member, may exercise the authority of the Committee under subsection (a).

(c) The Committee on the Judiciary may adopt a rule regulating the taking of depositions by a member, counsel, or consultant of the Committee, including pursuant to subpoena.

Mr. DREIER. Madam Speaker, as you know this resolution authorizes the Committee on the Judiciary to undertake an investigation to determine whether Samuel Kent should be impeached. I know that we are all appalled by the behavior that led to Judge Kent's guilty plea, and can agree that moving forward with an eye to removing him from the bench is the right thing to do.

While we have no objection to most of the resolution, I note that section 3(c) authorizes staff deposition authority, something we have been consistently concerned about due to the potential for abuse. My understanding is that the Judiciary Committee intends tomorrow to adopt a resolution putting in place the same safeguards on staff deposition authority that they currently have in place for their investigation into Judge Porteous. Those rules follow the model rules suggested by the Rules Committee and contain adequate protections for the Minority.

I am inserting the text of the relevant resolutions for the RECORD.

Our agreement to this unanimous consent request is dependent on the commitment from the Judiciary Committee that they will extend

their existing rules on staff deposition authority to this investigation before engaging in staff depositions. Without similar assurances in the future, we will oppose efforts to grant unelected staff unfettered deposition authority.

RESOLUTION

Resolved,

SECTION 1. ESTABLISHMENT OF TASK FORCE.

There is hereby established in the House Committee on the Judiciary (hereinafter referred to as the "Committee") a task force (hereinafter referred to as the "Task Force") to conduct an inquiry into whether United States District Judge G. Thomas Porteous should be impeached.

SEC. 2. FUNCTIONS.

The Task Force shall conduct such hearings and investigations relating to the inquiry described in section 1 as the Chairman of the Committee, in consultation with the Ranking Minority Member of the Committee, determines to be warranted.

SEC. 3. MEMBERSHIP.

The members of the Task Force shall be chosen from among the members of the Committee as follows:

(1) 7 members shall be chosen by the Chairman of the Committee.

(2) 5 members shall be chosen by the Ranking Minority Member of the Committee.

SEC. 4. CHAIRMAN; RANKING MINORITY MEMBER.

The Chairman of the Committee shall designate one member of the Task Force to be the Chair of the Task Force. The Ranking Minority Member of the Committee shall designate one member of the Task Force to be the Ranking Minority Member of the Task Force.

SEC. 5. AUTHORITY AND PROCEDURES.

(a) **IN GENERAL.**—Except as otherwise provided in this resolution, the Rules of the House of Representatives applicable to standing committees and the rules of the Committee shall govern the Task Force.

(b) **DEPOSITION AUTHORITY.**—

(1) **CHAIRMAN MAY ORDER.**—The Chairman of the Committee, upon consultation with the Ranking Minority Member of the Committee, may order the taking of depositions, under oath and pursuant to notice or subpoena. Consultation with the Ranking Minority Member shall include three business days written notice before any deposition is taken. All members of the Task Force shall also receive three business days written notice that a deposition has been scheduled.

(2) **MODE FOR TAKING.**—Notices for the taking of depositions shall specify the date, time, and place of examination. Depositions shall be taken under oath administered by a member of the Task Force or a person otherwise authorized to administer oaths. The individual administering the oath, if other than a member, shall certify that the witness was duly sworn. Witnesses may be accompanied at a deposition by counsel to advise them of their rights. No one may be present at depositions except members of the Task Force, Committee staff or consultants designated by the Chairman or Ranking Minority Member of the Committee, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons may not attend.

(3) **CONDUCT OF DEPOSITION.**—A deposition shall be conducted by a member of the Task Force or by Committee staff or consultants designated by the Chairman or Ranking Minority Member of the Committee. Questions in the deposition shall be propounded in rounds, unless the Chairman and Ranking Minority Member of the Committee otherwise agree. A single round shall not exceed 60 minutes per side, unless the persons conducting the deposition agree to a different

length of questioning. When depositions are conducted by staff or consultants, there shall be no more than two persons permitted to question a witness per round, one to be designated by the Chairman of the Committee and the other by the Ranking Minority Member of the Committee. Other Committee staff or consultants designated by the Chairman or Ranking Minority Member of the Committee may attend, but may not pose questions to the witness during that round. In each round, the person designated by the Chairman of the Committee shall ask questions first, and the person designated by the Ranking Minority Member shall ask questions second.

(4) **OBJECTIONS.**—The Chairman of the Committee may rule on any objections raised during a deposition, either during the deposition or after the deposition has been concluded. If a member of the Task Force appeals in writing the ruling of the Chairman, the appeal shall be preserved for Committee consideration. A witness that refuses to answer a question after being directed to answer by the Chairman may be subject to sanction, except that no sanctions may be imposed if the ruling of the Chairman is reversed on appeal.

(5) **TRANSCRIPTION OF TESTIMONY.**—Committee staff and designated consultants shall ensure that the testimony is either transcribed or electronically recorded or both. If a witness's testimony is transcribed, the witness or the witness's counsel shall be afforded an opportunity to review a copy. No later than five days thereafter, the witness may submit suggested changes to the Chairman of the Committee. Committee staff or designated consultants may make any typographical and technical changes requested by the witness. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter signed by the witness requesting the changes and a statement of the witness's reasons for each proposed change. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript. The transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the Committee in Washington, DC. The Chairman and the Ranking Minority Member of the Committee shall be provided with a copy of the transcripts of the deposition at the same time. The Chairman and Ranking Minority Member shall consult regarding the release of depositions. If either objects in writing to a proposed release of a deposition or a portion thereof, the matter shall be promptly referred to the Committee for resolution.

(6) **DEEMED PLACE OF TAKING.**—Depositions shall be considered to have been taken in Washington, DC, as well as the location in which actually taken, once filed there with the clerk of the Committee for the Committee's use.

(7) **REQUIREMENT TO PROVIDE COPY OF RESOLUTION TO WITNESS.**—A witness shall not be required to testify unless the witness has been provided with a copy of this resolution and the resolution of the House of Representatives authorizing and directing the Committee to make the inquiry described in section 1.

SEC. 6. EXPIRATION.

The Task Force shall expire at the end of the 111th Congress.

SEC. 7. EFFECTIVE DATE.

This resolution shall take effect on January 22, 2009.

RESOLUTION

Resolved, That the resolution adopted in the Committee January 22, 2009, establishing the task force to conduct an inquiry regarding the impeachment of Judge Porteous, is amended as follows:

(1) Section 1 is amended to read as follows: **“SECTION 1. ESTABLISHMENT OF TASK FORCE**

“There is hereby established in the House Committee on the Judiciary (hereinafter referred to as the “Committee”) a task force (hereby referred to as the “Task Force”) to conduct—

“(1) an inquiry into whether United States District Judge G. Thomas Porteous should be impeached; and

“(2) an inquiry into whether United States District Judge Samuel B. Kent should be impeached.”

(1) Section 5(a) is amended to read as follows:

“(a) IN GENERAL.—Except as otherwise provided in this resolution, the Rules of the House of Representatives applicable to the Committee on the Judiciary, the rules of the Committee, and the authorities provided in House Resolution 15 and House Resolution _____, shall govern the inquiries conducted by the Task Force.”

The resolution was agreed to.

A motion to reconsider was laid on the table.

RAISING A QUESTION OF THE PRIVILEGES OF THE HOUSE

Mr. FLAKE. Madam Speaker, I rise to a question of the privileges of the House and offer the resolution previously noticed.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 425

Whereas, The Hill reported that a prominent lobbying firm, founded by Mr. Paul Magliocchetti and the subject of a “federal investigation into potentially corrupt political contributions,” has give \$3.4 million in political donations to no less than 284 members of Congress.

Whereas, the New York Times noted that Mr. Magliocchetti “set up shop at the busy intersection between political fund-raising and taxpayer spending, directing tens of millions of dollars in contributions to lawmakers while steering hundreds of millions of dollars in earmarks back to his clients.”

Whereas, a guest columnist recently highlighted in Roll Call that “. . . what the firm’s example reveals most clearly is the potentially corrupting link between campaign contributions and earmarks. Even the most ardent earmarkers should want to avoid the appearance of such a pay-to-play system.”

Whereas, multiple press reports have noted questions related to campaign contributions made by or on behalf of the firm; including questions related to “straw man” contributions, the reimbursement of employees for political giving, pressure on clients to give, a suspicious pattern of giving, and the timing of donations relative to legislative activity.

Whereas, Roll Call has taken note of the timing of contributions from employees, the firm and its clients when it reported that they “have provided thousands of dollars worth of campaign contributions to key Members in close proximity to legislative activity, such as the deadline for earmark request letters and passage of a spending bill.”

Whereas, the Associated Press highlighted the “huge amounts of political donations” from the firm and its clients to select mem-

bers and noted that “those political donations have followed a distinct pattern: The giving is especially heavy in March, which is prime time for submitting written earmark requests.”

Whereas, clients of the firm received at least three hundred million dollars worth of earmarks in fiscal year 2009 appropriations legislation, including several that were approved even after news of the FBI raid of the firm’s offices and Justice Department investigation into the firm was well known.

Whereas, the Associated Press reported that “the FBI says the investigation is continuing, highlighting the close ties between special-interest spending provisions known as earmarks and the raising of campaign cash.”

Whereas, the persistent media attention focused on questions about the nature and timing of campaign contributions related to the firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of congressional proceedings and the dignity of this institution. Now, therefore, be it:

Resolved, that

(a) the Committee on Standards of Official Conduct, or a subcommittee of the committee designated by the committee and its members appointed by the chairman and ranking member, shall immediately begin investigation into the relationship between the source and timing of past campaign contributions to Members of the House related to the raided firm and earmark requests made by Members of the House on behalf of clients of the raided firm.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of the resolution.

The SPEAKER pro tempore. The resolution qualifies.

MOTION TO TABLE

Ms. SLAUGHTER. Madam Speaker, I move to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, the ayes have it.

Mr. FLAKE. Madam Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on tabling the resolution will be followed by 5-minute votes on motions to suspend the rules and agree to House Resolution 413 and House Resolution 378.

The vote was taken by electronic device, and there were—yeas 215, nays 182, answered “present” 15, not voting 21, as follows:

[Roll No. 243]
YEAS—215

Abercrombie	Baldwin	Bishop (GA)
Ackerman	Barrow	Bishop (NY)
Adler (NJ)	Bean	Blumenauer
Altmire	Becerra	Boren
Andrews	Berkley	Boswell
Arcuri	Berman	Boucher
Baca	Berry	Boyd

Brady (PA)	Honda	Peterson
Braley (IA)	Hoyer	Pingree (ME)
Brown, Corrine	Inslee	Polis (CO)
Capps	Jackson (IL)	Pomeroy
Capuano	Jackson-Lee	Price (NC)
Cardoza	(TX)	Rahall
Carnahan	Johnson, E. B.	Rangel
Carney	Jones	Reyes
Carson (IN)	Kagen	Richardson
Clarke	Kanjorski	Rodriguez
Clay	Kaptur	Ross
Cleaver	Kennedy	Rothman (NJ)
Clyburn	Kildee	Roybal-Allard
Coble	Kilroy	Ruppersberger
Cohen	Kissell	Rush
Connolly (VA)	Klein (FL)	Ryan (OH)
Conyers	Kratovil	Salazar
Cooper	Kucinich	Sánchez, Linda
Costa	Langevin	T.
Costello	Larsen (WA)	Sanchez, Loretta
Courtney	Larson (CT)	Sarbanes
Crowley	Lee (CA)	Schakowsky
Cuellar	Levin	Schauer
Dahlkemper	Lewis (GA)	Schiff
Davis (AL)	Lipinski	Schrader
Davis (CA)	Lowey	Schwartz
Davis (IL)	Lujan	Scott (GA)
Davis (TN)	Lynch	Scott (VA)
DeFazio	Maffei	Serrano
DeGette	Maloney	Sestak
Delahunt	Markey (CO)	Shea-Porter
DeLauro	Markey (MA)	Sherman
Dicks	Marshall	Shuler
Dingell	Massa	Skelton
Doggett	Matsui	Slaughter
Doyle	McCarthy (NY)	Snyder
Driehaus	McCollum	Space
Edwards (MD)	McDermott	Speier
Edwards (TX)	McGovern	Spratt
Ellison	McMahon	Stupak
Engel	Meek (FL)	Sutton
Eshoo	Meeks (NY)	Tauscher
Etheridge	Melancon	Taylor
Farr	Michaud	Thompson (CA)
Fattah	Miller (NC)	Thompson (MS)
Filner	Miller, George	Tierney
Frank (MA)	Moore (KS)	Titus
Fudge	Moore (WI)	Tonko
Gonzalez	Murphy (CT)	Towns
Gordon (TN)	Murphy, Patrick	Tsongas
Grayson	Murphy, Tim	Van Hollen
Green, Al	Murtha	Velázquez
Green, Gene	Nadler (NY)	Wasserman
Griffith	Napolitano	Schultz
Grijalva	Neal (MA)	Waters
Gutierrez	Nye	Watson
Hall (NY)	Oberstar	Watt
Hare	Obey	Waxman
Harman	Olver	Weiner
Hastings (FL)	Ortiz	Wexler
Heinrich	Pallone	Wilson (OH)
Higgins	Pascrell	Woolsey
Himojosa	Pastor (AZ)	Yu
Hirono	Payne	Yarmuth
Holden	Perlmutter	Young (AK)
Holt	Peters	

NAYS—182

Aderholt	Cantor	Giffords
Akin	Capito	Gingrey (GA)
Alexander	Carter	Gohmert
Austria	Cassidy	Goodlatte
Bachmann	Castle	Granger
Bachus	Chaffetz	Graves
Bartlett	Childers	Guthrie
Barton (TX)	Coffman (CO)	Hall (TX)
Biggert	Cole	Halvorson
Bilbray	Crenshaw	Harper
Bilirakis	Davis (KY)	Heller
Bishop (UT)	Deal (GA)	Hensarling
Blackburn	Diaz-Balart, M.	Herger
Blunt	Donnelly (IN)	Herseth Sandlin
Boccheri	Dreier	Hill
Boehner	Duncan	Himes
Bono Mack	Ehlers	Hodes
Boozman	Ellsworth	Hunter
Boustany	Emerson	Inglis
Brady (TX)	Fallin	Issa
Bright	Flake	Jenkins
Brown (GA)	Fleming	Johnson (GA)
Brown (SC)	Forbes	Johnson, Sam
Brown-Waite,	Fortenberry	Kind
Ginny	Foster	King (IA)
Buchanan	Fox	King (NY)
Burgess	Franks (AZ)	Kingston
Burton (IN)	Frelinghuysen	Kirk
Buyer	Gallegly	Kirkpatrick (AZ)
Calvert	Garrett (NJ)	Kosmas
Camp	Gerlach	Lamborn