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Senate

The Senate met at 9:55 a.m. and was called to order by the Honorable DANIEL K. INOUE, a Senator from the State of Hawaii.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Father in heaven, hallowed be Your Name. Today, give special energy, insight, and patience to the Members of this body. Strengthen them against relentless pressures from constituents, lobbyists, and special interests, as You give them wisdom to resolve their differences without rancor or bitterness. Lord, lead them in the way of compromise that doesn't sacrifice principle or self-respect and that preserves timeless values which serve the common good. Make their consistent communion with You radiate on their faces, be expressed in their character, and be exuded in positive joy. Fill this Chamber with Your spirit and our Senators with Your strength and courage.

We pray in Your gracious Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DANIEL K. INOUE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 24, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable DANIEL K. INOUE, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. INOUE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

QUORUM CALL

Mr. REID. Mr. President, I suggest the absence of a quorum.

This will be a live quorum. We will, as further stated and under the rule, meet at 10 o'clock for the swearing in of Senators to proceed with the impeachment matter.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 2 Leg.]

Akaka	Ensign	McCaskill
Alexander	Enzi	McConnell
Barrasso	Feingold	Merkley
Baucus	Feinstein	Mikulski
Bayh	Grassley	Murkowski
Begich	Gregg	Murray
Bennett, Utah	Hagan	Pryor
Bingaman	Harkin	Reid, Nevada
Bond	Hatch	Risch
Boxer	Hutchison	Rockefeller
Brownback	Inhofe	Sessions
Bunning	Inouye	Shelby
Burr	Isakson	Stabenow
Burriss	Johanns	Tester
Cantwell	Johnson	Thune
Cardin	Kaufman	Udall, Colorado
Carper	Kerry	Udall, New
Casey	Klobuchar	Mexico
Chambliss	Kohl	Vitter
Coburn	Kyl	Voynovich
Corker	Landrieu	Warner
Cornyn	Leahy	Webb
Crapo	Levin	Whitehouse
DeMint	Lugar	Wicker
Dodd	Martinez	Wyden
Dorgan	McCain	

The ACTING PRESIDENT pro tempore. A quorum is present. Would members of the staff take their seats. Senators who wish to converse will retire to the cloakroom.

I now call upon the Secretary for the majority.

EXHIBITION OF ARTICLES OF IMPEACHMENT AGAINST SAMUEL B. KENT, JUDGE OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

The SECRETARY FOR THE MAJORITY. Mr. President, I announce the presence of the managers on the part of the House of Representatives to conduct proceedings on behalf of the House concerning the impeachment of Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas.

The ACTING PRESIDENT pro tempore. The managers on the part of the House will be received and assigned to their seats.

The managers were thereupon escorted by the Sergeant at Arms of the Senate, Terrance W. Gainer, to the well of the Senate.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will make a proclamation.

The Sergeant at Arms, Terrance W. Gainer, made the proclamation, as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States, articles of impeachment against Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas.

The ACTING PRESIDENT pro tempore. The managers on the part of the House will proceed.

Mr. Manager SCHIFF. Mr. President, the managers on the part of the House of Representatives are present and

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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ready to present the Articles of Impeachment, which have been preferred by the House of Representatives against Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas.

The House adopted the following resolution which, with the permission of the President of the Senate, I will read:

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.

With the permission of the President of the Senate, I will now read the articles of impeachment.

H. RES. 520

Resolved, That Samuel B. Kent, a judge of the United States Court for the Southern District of Texas, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

Incident to his position as a United States district court judge, Samuel B. Kent has engaged in conduct with respect to employees associated with the court that is incompatible with the trust and confidence placed in him as a judge, as follows:

(1) Judge Kent is a United States District Judge in the Southern District of Texas. From 1990 to 2008, he was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.

(2) Cathy McBroom was an employee of the Office of the Clerk of Court for the Southern District of Texas, and served as a Deputy Clerk in the Galveston Division assigned to Judge Kent's courtroom.

(3) On one or more occasions between 2003 and 2007, Judge Kent sexually assaulted Cathy McBroom, by touching her private areas directly and through her clothing against her will and by attempting to cause her to engage in a sexual act with him.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE II

Incident to his position as a United States district court judge, Samuel B. Kent has engaged in conduct with respect to employees associated with the court that is incompatible with the trust and confidence placed in him as a judge, as follows:

(1) Judge Kent is a United States District Judge in the Southern District of Texas. From 1990 to 2008, he was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.

(2) Donna Wilkerson was an employee of the United States District Court for the Southern District of Texas.

(3) On one or more occasions between 2001 and 2007, Judge Kent sexually assaulted Donna Wilkerson, by touching her in her private areas against her will and by attempting to cause her to engage in a sexual act with him.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE III

Samuel B. Kent corruptly obstructed, influenced, or impeded an official proceeding as follows:

(1) On or about May 21, 2007, Cathy McBroom filed a judicial misconduct complaint with the United States Court of Appeals for the Fifth Circuit. In response, the Fifth Circuit appointed a Special Investigative Committee (hereinafter in this article referred to as "the Committee") to investigate Cathy McBroom's complaint.

(2) On or about June 8, 2007, at Judge Kent's request and upon notice from the Committee, Judge Kent appeared before the Committee.

(3) As part of its investigation, the Committee sought to learn from Judge Kent and others whether he had engaged in unwanted sexual contact with Cathy McBroom and individuals other than Cathy McBroom.

(4) On or about June 8, 2007, Judge Kent made false statements to the Committee regarding his unwanted sexual contact with Donna Wilkerson as follows:

(A) Judge Kent falsely stated to the Committee that the extent of his unwanted sexual contact with Donna Wilkerson was one kiss, when in fact and as he knew he had engaged in repeated sexual contact with Donna Wilkerson without her permission.

(B) Judge Kent falsely stated to the Committee that when told by Donna Wilkerson his advances were unwelcome no further contact occurred, when in fact and as he knew, Judge Kent continued such advances even after she asked him to stop.

(5) Judge Kent was indicted and pled guilty and was sentenced to imprisonment for the felony of obstruction of justice in violation of section 1512(c)(2) of title 18, United States Code, on the basis of false statements made to the Committee. The sentencing judge described his conduct as "a stain on the justice system itself".

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE IV

Judge Samuel B. Kent made material false and misleading statements about the nature and extent of his nonconsensual sexual contact with Cathy McBroom and Donna Wilkerson to agents of the Federal Bureau of Investigation on or about November 30, 2007, and to agents of the Federal Bureau of Investigation and representatives of the Department of Justice on or about August 11, 2008.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

Mr. President, the managers on the part of the House of Representatives, by the adoption of the Articles of Impeachment which have just been read to the Senate, do now demand that the Senate take order for the appearance of the said Samuel B. Kent, to answer said impeachment and do now demand his conviction, and appropriate judgment thereon.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, at this time, the oath should be administered in conformance with article I, section 3, clause 6 of the Constitution and the Senate's impeachment rules.

I move that the Senator from Kentucky, Mr. MCCONNELL, be designated by the Senate to administer the oath to the Acting President pro tempore, the Senator from Hawaii, Mr. INOUE.

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

Mr. MCCONNELL. Do you solemnly swear that in all things appertaining to the trial of the impeachment of Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

The ACTING PRESIDENT pro tempore. I do.

Mr. REID. Mr. President, the oath shall now be administered by the Presiding Officer to all Senators. This is an appropriate time for any Senator who has cause to be excused from service in this impeachment to make that fact known.

If there is no Senator who desires to be excused, I move that the Presiding Officer, Mr. INOUE, administer the oath to Members of the Senate.

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

Senators shall now be sworn. Will Senators all rise and raise your hand.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

SENATORS. I do.

The following named Senators are recorded as having subscribed to the oath this day:

Alexander, Barrasso, Baucus, Begich, Bennett (Utah), Bingaman, Bond, Boxer, Brown, Brownback, Bunning, Burr, Burris, Cantwell, Cardin, Carper, Casey, Chambliss, Coburn, Collins, Conrad.

Corker, Cornyn, Crapo, DeMint, Dodd, Durbin, Ensign, Enzi, Feingold, Feinstein, Gillibrand, Graham, Grassley, Gregg, Harbin, Hatch, Hutchison, Inhofe, Inouye, Isakson, Johanns, Johnson.

Kaufman, Kerry, Klobuchar, Kyl, Landrieu, Lautenberg, Leahy, Levin, Lieberman, Lincoln, Lugar, Martinez,

McCain, McCaskill, McConnell, Menendez, Merkley, Mikulski, Murkowski, Murray, Nelson (Nebraska), Nelson (Florida).

Reed (Rhode Island), Reid (Nevada), Risch, Rockefeller, Sanders, Schumer, Sessions, Shaheen, Shelby, Snowe, Specter, Stabenow, Tester, Thune, Udall (Colorado), Udall (New Mexico), Vitter, Voinovich, Warner, Webb, Whitehouse, Wicker, Wyden.

Mr. REID. Mr. President, any Senator who was not in the Senate Chamber at the time the oath was administered to the other Senators will make that fact known to the Chair so that the oath may be administered as soon as possible to that Senator. The Secretary will note the names of the Senators who have been sworn and will present to them for signing a book, which will be the Senate's permanent record of the administration of the oath. I remind all Senators who were administered this oath that they must now sign the oath book, which is at the desk, before leaving the Chamber.

PROVIDING FOR ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST JUDGE SAMUEL B. KENT

Mr. REID. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. MCCONNELL, I send to the desk a resolution that provides for the issuance of a summons to Judge Samuel B. Kent, for Judge Kent's answer to the Articles of Impeachment against him, and for a replication by the House, and ask for its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 202) to provide for issuance of a summons and for related procedures concerning the articles of impeachment against Samuel B. Kent.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 202) was agreed to, as follows:

S. RES. 202

Resolved, That a summons shall be issued which commands Samuel B. Kent to file with the Secretary of the Senate an answer to the articles of impeachment no later than July 2, 2009, and thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate shall make in the premises, according to the Constitution and laws of the United States.

SEC. 2. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or another employee of the Senate in serving the summons.

SEC. 3. The Secretary shall notify the House of Representatives of the filing of the answer and shall provide a copy of the answer to the House.

SEC. 4. The Managers on the part of the House may file with the Secretary of the Senate a replication no later than July 7, 2009.

SEC. 5. The Secretary shall notify counsel for Samuel B. Kent of the filing of a replication, and shall provide counsel with a copy.

SEC. 6. The Secretary shall provide the answer and the replication, if any, to the Presiding Officer of the Senate on the first day the Senate is in session after the Secretary receives them, and the Presiding Officer shall cause the answer and replication, if any, to be printed in the Senate Journal and in the Congressional Record. If a timely answer has not been filed, the Presiding Officer shall cause a plea of not guilty to be entered.

SEC. 7. The articles of impeachment, the answer, and the replication, if any, together with the provisions of the Constitution on impeachment, and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, shall be printed under the direction of the Secretary as a Senate document.

SEC. 8. The provisions of this resolution shall govern notwithstanding any provisions to the contrary in the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

SEC. 9. The Secretary shall notify the House of Representatives of this resolution.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. Mr. President, I move to lay the motion on the table.

Without objection, the motion to lay upon the table was agreed to.

PROVIDING FOR THE APPOINTMENT OF A COMMITTEE TO RECEIVE AND TO REPORT EVIDENCE WITH RESPECT TO ARTICLES OF IMPEACHMENT AGAINST JUDGE SAMUEL B. KENT

Mr. REID. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. MCCONNELL, I send a resolution to the desk on the appointment of an impeachment trial committee and ask for its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 203) to provide for the appointment of a committee to receive and to report evidence with respect to the articles of impeachment against Judge Samuel B. Kent.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 203) was agreed to, as follows:

S. RES. 203

Resolved, That pursuant to Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Presiding Officer shall appoint a committee of twelve senators to perform the duties and to exercise the powers provided for in the rule.

SEC. 2. The majority and minority leader shall each recommend six members and chairman and vice chairman respectively to the Presiding Officer for appointment to the committee.

SEC. 3. The committee shall be deemed to be a standing committee of the Senate for the purpose of reporting to the Senate resolutions for the criminal or civil enforcement of the committee's subpoenas or orders, and for the purpose of printing reports, hearings, and other documents for submission to the Senate under Rule XI.

SEC. 4. During proceedings conducted under Rule XI the chairman of the committee is authorized to waive the requirement under the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials that questions by a Senator to a witness, a manager, or counsel shall be reduced to writing and put by the Presiding Officer.

SEC. 5. In addition to a certified copy of the transcript of the proceedings and testimony had and given before it, the committee is authorized to report to the Senate a statement of facts that are uncontested and a summary, with appropriate references to the record, of evidence that the parties have introduced on contested issues of fact.

SEC. 6. The actual and necessary expenses of the committee, including the employment of staff at an annual rate of pay, and the employment of consultants with prior approval of the Committee on Rules and Administration at a rate not to exceed the maximum daily rate for a standing committee of the Senate, shall be paid from the contingent fund of the Senate from the appropriation account "Miscellaneous Items" upon vouchers approved by the chairman of the committee, except that no voucher shall be required to pay the salary of any employee who is compensated at an annual rate of pay.

SEC. 7. The Committee appointed pursuant to section one of this resolution shall terminate no later than 45 days after the pronouncement of judgment by the Senate on the articles of impeachment.

SEC. 8. The Secretary shall notify the House of Representatives and counsel for Judge Samuel B. Kent of this resolution.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. Mr. President, I move to lay that motion on the table.

Without objection, the motion to lay upon the table was agreed to.

APPOINTMENT OF IMPEACHMENT TRIAL COMMITTEE

Mr. REID. Mr. President, in accordance with the resolution on the appointment of an impeachment trial committee, I recommend to the Chair the appointment of Senators MCCASKILL (chairman), KLOBUCHAR, WHITEHOUSE, UDALL of New Mexico, SHAHEEN, and KAUFMAN.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, in accordance with the resolution on the appointment of an impeachment trial committee, I recommend to the Chair the appointment of Senators MARTINEZ (vice-chairman), DEMINT, BARRASSO, WICKER, JOHANNIS, and RISCH.

The ACTING PRESIDENT pro tempore. Pursuant to the resolution of an impeachment trial committee and impeachment rule XI, the Chair appoints, upon the recommendation of the two Leaders, the following Senators to be members of the committee to receive and report evidence in the impeachment of Judge Samuel B. Kent: Senators MCCASKILL (chairman), KLOBUCHAR, WHITEHOUSE, UDALL of New Mexico, SHAHEEN, KAUFMAN, MARTINEZ (vice-chairman), DEMINT, BARRASSO, WICKER, JOHANNIS, and RISCH.