

I am honored to offer this resolution to recognize their service and sacrifice and acknowledge today's United States Marine Corps as an excellent opportunity for advancement of persons of all races due to the service and example of the original Montford Point Marines.

SUPREME COURT RECUSAL PROCESS IN NEED OF TRANSPARENCY AND ACCOUNTABILITY

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 7, 2011

Ms. SLAUGHTER. Mr. Speaker, I rise today to express my concern that justices of the Supreme Court are not required to explain their decisions to recuse—or not recuse themselves in a particular case before the Court, and that those decisions are final and unreviewable. Recusal decisions, left to each individual justice to make on his or her own and with no opportunity for review, require that each justice be a judge in their own case.

Questions of impartiality erode the integrity of the Court and threaten to undermine public trust in our judicial system. The recusal process for Supreme Court justices must be reformed to provide an open and reviewable process.

A SUPREME COURT JUSTICE'S RECUSAL DECISIONS SHOULD BE TRANSPARENT AND REVIEWABLE

(By the Alliance for Justice)

The recusal process for Supreme Court justices needs transparency and accountability. Although there is a statute governing recusal—28 U.S.C. §455—that applies to Supreme Court justices, the statute does not require individual justices to explain their recusal decisions, and those decisions are final and unreviewable. This system violates the basic maxim that no one should be a judge in his own case. It also ignores the fact that the standard to be applied in recusal cases is the appearance of bias, which by necessity depends on the views of others, and not the justice's own views of his or her impartiality. Exacerbating this lack of accountability is a lack of transparency, as justices are not required to issue a written opinion explaining a recusal decision.

That's why over 100 law professors recently sent a letter calling on Congress to hold hearings and implement legislation to increase the transparency and accountability of recusal decisions.

A recent Supreme Court case, *Caperton v. A.T. Massey Coal, Inc.* provides an object lesson in the hazards of a self-policing judiciary, in which individual judges determine whether or not their impartiality can reasonably be questioned. In *Caperton*, West Virginia Justice Brent D. Benjamin received substantial campaign contributions made directly or indirectly from the president of a company with an outstanding \$50 million judgment against it on appeal before the judge. Justice Benjamin denied three motions to recuse himself, and then voted in the 3-2 majority to reverse the judgment against the company. A public opinion poll indicated that 67% of West Virginians doubted Justice Benjamin would be fair and impartial.

The Supreme Court reversed Justice Benjamin's decisions not to recuse himself on the basis that the risk of actual bias was so high that it violated petitioners' constitutional due process rights. It did not matter

what Justice Benjamin thought of his own potential for bias, the key was whether the appearance of impartiality was compromised, the Court held. The Court emphasized the need for an objective test to evaluate whether an interest rises to such a degree that the average judge might become biased, rather than relying on a judge's self-evaluation of actual bias. "The difficulties of inquiring into actual bias and the fact that the inquiry is often a private one, simply underscore the need for objective rules," the Court added. The Court held that the need for an independent inquiry is particularly important "where, as here, there is no procedure for judicial factfinding and the sole trier of fact is the one accused of bias."

The opacity and lack of accountability of the recusal process erodes public confidence in the integrity of the Court and the sense that justice is being administered fairly. For example:

In 2003, a prominent legal ethicist argued that Justice Breyer should have recused from Pharmaceutical Research and Manufacturers of America v. Walsh, in which an association of drug manufacturers, including three in which Justice Breyer held stock, brought suit challenging the constitutionality of state regulations aimed at keeping drug costs down for consumers. Justice Breyer chose not to recuse himself, despite his potential financial conflict of interest.

In 2004, just weeks after the Supreme Court granted certiorari in a public records case brought by the Sierra Club against then-Vice President Dick Cheney, Justice Scalia went duck hunting with Cheney and accepted a free ride on the Vice President's plane. Despite widespread public criticism questioning his appearance of bias in the case, Justice Scalia refused to recuse himself. In a memorandum opinion denying the Sierra Club's motion to recuse, Justice Scalia wrote that he "would have been pleased to demonstrate [his] integrity" by disqualifying himself from the case, but nonetheless decided there was no basis for recusal. He then cast his vote in support of Vice President Cheney's position.

This year, the advocacy organization Common Cause filed a petition with the Department of Justice, requesting that it file a Rule 60(b) motion seeking the invalidation of last year's Citizens United v. FEC ruling on the basis that Justices Scalia and Thomas should have recused themselves. The petition alleged the impartiality of both justices could reasonably be questioned under 18 U.S.C. §455(a) due to their alleged attendance at a closed-door retreat hosted by Koch Industries, a politically active corporation that supported and has benefited from Citizen United's dismantling of campaign finance laws. Common Cause also alleges that Justice Thomas had an obligation to recuse himself under 18 U.S.C. §455(b), due to a financial conflict of interest created by his wife's employment at a conservative political organization that stood to benefit from unrestricted corporate donations made possible by Citizens United.

Also this year, Representative Anthony Weiner (D-NY) and 73 other members of the House of Representatives have asked Justice Thomas to recuse himself from any upcoming review of the Affordable Care Act due to his wife's ties to organizations lobbying to repeal the Act. Rep. Weiner asserts that IRS records show that between 2003 and 2007, Virginia ("Ginni") Thomas was paid \$686,589 by the conservative Heritage Foundation, which at the time opposed health care reform. He adds that in 2009, Ms. Thomas became the CEO of a nonprofit, Liberty Central, which also opposed health care reform, and that earlier this year, Ms. Thomas announced that she had formed a lobbying firm, "Lib-

erty Consulting," to advance various Tea Party legislative initiatives, including the repeal or nullification of the Affordable Care Act. Rep. Weiner alleges that these connections give rise to an appearance of partiality, and a potential financial conflict of interest that require Justice Thomas to recuse himself, if the Affordable Care Act reaches the Court. While a judge's spouse is not prohibited from engaging in political activities, Judicial Conference Advisory Opinions interpreting the Code of Conduct make clear that a spouse's political activities may increase the likelihood that a judge must recuse from a particular case.

These examples highlight the need for transparency and review of recusal issues that arise for Supreme Court justices. The impartiality of specific justices, and thereby the integrity of the Court, has come under question because the recusal statute fails to provide an open and reviewable process. This needs to change, either through Congressional legislation, or by the Court itself adopting new recusal policies.

REAFFIRMING COMMITMENT TO NEGOTIATED SETTLEMENT OF ISRAELI-PALESTINIAN CONFLICT

SPEECH OF

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 6, 2011

Mr. GEORGE MILLER of California. Madam Speaker, the effort to establish a lasting peace in the Middle East does not lend itself to a simple up or down vote on a resolution in Congress, and so I rise to offer my thoughts on the resolution before us today.

While I voted in favor of H. Res. 268, because it reinforces the importance of direct talks for a two-state solution, I was disappointed with the resolution regarding the Israeli-Palestinian conflict that was brought to the floor today. The fact is that this resolution was made possible because of the absence of a viable peace process.

I am disappointed with the resolution not so much because of the general contents of the resolution, but because this resolution does not treat the issue with the serious and careful consideration that it deserves. It is simply one in a series of votes in the House that fail to address the entirety of the conflict and take instead political shots at one side of the conflict.

Israel is and has always been a close friend and ally of the United States, and rightfully so. We share many goals and values, including a strong commitment to a vibrant democracy and diverse economy. Too often, however, Congress uses resolutions regarding the Middle East as referenda on whether or not a particular Member supports or does not support Israel, even though such support is not in question. That is unfortunate and does a disservice to the effort to establish peace between Israel and the Palestinians.

The Obama Administration, like its predecessors, has been working to keep the two parties at the table and to try to ensure that they can make the necessary compromises to ensure that type of lasting peace. Here in Congress, we should be supporting these important efforts, rather than playing political games, given the real-life consequences that this conflict is having on millions of people's lives and on our own country's security interests.

I am glad to see that today's resolution encouraged the formation of a two-state solution through the process of direct negotiations. I am also glad to see that it acknowledges the work that President Obama has done to try and ward off unilateral attempts to break out of the negotiating process. This resolution also importantly notes the violent and harmful actions of Hamas.

Yet I am disappointed that the resolution specifically criticizes the Palestinians for their actions but does not acknowledge that the Israeli government has also not always moved productively toward peace—in particular, through the ongoing construction of new settlements in the West Bank.

Furthermore, the truth of the matter is that the failure of the peace talks has provided the opening for an alliance between the Palestinian Authority and Hamas and, in their view, a reason for them to go before the United Nations, rather than continue direct talks. I support the continuation of direct talks and do not believe this issue should be resolved before the U.N. But make no mistake that the failure to achieve sufficient progress in talks has provided momentum to this latest effort to seek the U.N.'s involvement. That is all the more reason why Congress should prioritize real progress over political games.

I am further disappointed that the resolution misstates U.S. law, incorrectly claiming that current law precludes the United States from providing aid to the Palestinian Authority if it agrees to share power with Hamas. Current law rightfully provides an exception to the prohibition in order to enhance border security and the peace process.

In addition, I do not believe it would be beneficial to cut off aid to the Palestinian Authority. This aid provides Fatah with negotiating leverage among their fellow Palestinians against Hamas. Security experts, including Israeli Defense Minister Ehud Barak and others, have warned against such a cutoff, since it could destabilize the security situation on the West Bank. Fortunately, the language of the resolution only asks that the Administration consider withholding such aid, yet this is still unwise.

Congress could—and Congress should—take the peace process in the Middle East more seriously than it has with this resolution and similar resolutions before it.

OUR UNCONSCIONABLE NATIONAL
DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 7, 2011

Mr. COFFMAN of Colorado. Mr. Speaker, today our national debt is \$14,343,021,848,987.23.

On January 6th, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$3,704,596,102,693.43 since then.

This debt and its interest payments we are passing to our children and all future Americans.

ST. PETERSBURG, FLORIDA LETTER CARRIERS LEAD NATION IN COLLECTION OF FOOD

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 7, 2011

Mr. YOUNG of Florida. Mr. Speaker, for the third time in five years, the men and women of the National Association of Letter Carriers Branch 1477 of St. Petersburg, Florida, led the Nation in food collection as part of the national "Stamp Out Hunger" food drive.

Their chapter alone collected an astounding 1,770,814 pounds of food that has been distributed to Pinellas County food banks, pantries and shelters, many of which are affiliated with Feeding America. St. Petersburg Branch 1477, combined with another local branch, Tampa 599, collected 3,500,196 pounds, more food than in any other geographic area in the Nation. In fact, these two chapters accounted for two of the top five branch totals nationally.

Having spent time with many members of Branch 1477, I know of the great pride they have in serving our community. They acknowledge that the "Stamp Out Hunger" food drive is an outstanding partnership between the National Association of Letter Carriers, the United States Postal Services, the American Postal Workers Union, the National Rural Letter Carrier's Association, Campbell's Soup Company, United Way Worldwide, AFL-CIO, and local businesses including Uncle Bob's Self Storage and Valpak, a major sponsor in my area. Most importantly though, the level of success of this annual drive is due to the compassion and support of the residents of our local communities who place bag after bag of food out at their mail box on this one day of the year to lend a helping hand to their neighbors in need.

Mr. Speaker, please join me in thanking the National Association of Letter Carriers for taking the initiative to sponsor the "Stamp Out Hunger" program for these past 19 years and in congratulating the letter carriers of Branch 1477 who serve from Dunedin through Largo, Pinellas Park, St. Petersburg and south to Punta Gorda, Florida, for once again topping the Nation in the collection of food. This program is in the finest American tradition of neighbor helping neighbor.

HONORING LOUIS AND SUSANNA HAGER AS CO-CHAIRS OF THE OTSEGO COUNTY CONSERVATION ASSOCIATION

HON. RICHARD L. HANNA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 7, 2011

Mr. HANNA. Mr. Speaker, I proudly pause to recognize Louis and Susanna Busch Hager,

co-chairs of the Otsego County Conservation Association, serving as long-time stewards of Otsego Lake. The Hagers are dedicated to the preservation of our most precious natural resources, particularly Otsego Lake in Coopers-town, New York.

Mr. and Mrs. Hager have played a vital role in supporting community education regarding the challenging present issues surrounding development and maintenance of healthy lakes. They have also generously supported numerous environmental campaigns and programs, most notably the Otsego Lake Challenge Campaign.

It is with great honor that I rise today to commend the Hagers for their tremendously positive impact on our community and its future. They are being honored tonight for working tirelessly and devoting countless volunteer hours to the Otsego County Conservation Association and other community organizations. Through their significant philanthropic contributions, future generations can have hope for a clean and healthy living environment.

Mr. Speaker, I proudly ask you to join me in commending Louis and Susanna Busch Hager for their invaluable contribution to this community, our environment and our future. The positive results of their contribution will be noted for generations to come.

REAFFIRMING COMMITMENT TO
NEGOTIATED SETTLEMENT OF
ISRAELI-PALESTINIAN CONFLICT

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 6, 2011

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today to express my concern that H. Res. 268 threatens Palestinians with sanctions if they attempt to get UN membership this fall. This resolution, which addresses the Israeli-Palestinian conflict, unfairly demands more of the Palestinians than it does of Israel. The United States cannot be a force for peace by unfairly singling out one party and ignoring the faults of another. While the United States concerns about Hamas's inclusion in the Palestinian unity government are valid, we should not prematurely pull the rug underneath the feet of the Palestinian unity government.

In an effort to achieve peace, the United States must hold both Israeli and Palestinian decision-makers accountable for upholding past agreements and negotiating a new one. I urge my colleagues to support more balanced policies and actions that seek a solution to the Israeli-Palestinian conflict.

As our country continues to help move the peace process forward, I remain committed to preserving the peace negotiations between all parties. I will continue to work with the Administration in honoring our commitment to a peaceful resolution in the Middle East.