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2 MARKUP OF H.R. 3695, THE "HELP FIND THE

3 MISSING ACT" OR "BILLY'S LAW";

4 H.R. 569, THE "EQUAL JUSTICE FOR OUR MILITARY

5 ACT OF 2009";

6 H.RES. 1031, IMPEACHING G. THOMAS PORTEOUS, JR.,

7 JUDGE OF THE UNITED STATES DISTRICT COURT FOR

8 THE EASTERN DISTRICT OF LOUISIANA, FOR HIGH

9 CRIMES AND MISDEMEANORS; AND

10 H.R. 4506, "THE BANKRUPTCY JUDGESHIPS ACT OF

11 2010"

12 Wednesday, January 27, 2010

13 House of Representatives,

14 Committee on the Judiciary,

15 Washington, D.C.

16 The committee met, pursuant to call, at 10:27 a.m., in Room  
17 2141, Rayburn House Office Building, Hon. John Conyers  
18 [chairman of the committee] presiding.

19 Present: Representatives Conyers, Berman, Boucher,  
20 Nadler, Scott, Watt, Lofgren, Jackson Lee, Cohen, Johnson,  
21 Pierluisi, Quigley, Chu, Gutierrez, Baldwin, Gonzalez,  
22 Schiff, Sanchez, Wasserman Schultz, Maffei, Smith,  
23 Sensenbrenner, Coble, Gallegly, Goodlatte, Lungren, Forbes,  
24 King, Gohmert, Jordan, Poe, Rooney, and Harper.

25 Staff present: Perry Apelbaum, Staff Director/Chief  
26 Counsel; Ted Kalo, General Counsel/Deputy Staff Director;  
27 George Slover, Legislative Counsel/Parliamentarian; Sean  
28 McLaughlin, Minority Chief of Staff/General Counsel; Allison  
29 Halataei, Minority Deputy Chief of Staff/Parliamentarian; and  
30 Anita L. Johnson.

31 Chairman Conyers. [Presiding.] Committee will come to  
32 order. Good morning, everyone. Pursuant to notice, I call  
33 up H.R. 3695, the Help Find the Missing Act, and ask the  
34 clerk to report the bill.

35 The Clerk. H.R. 3695, a bill to authorize funding for,  
36 and increase accessibility to, the National Missing and  
37 Unidentified Persons System, to facilitate data sharing  
38 between such system and the National Crime Information Center  
39 database of the Federal Bureau of Investigation, to provide  
40 incentive grants to help facilitate reporting to such  
41 systems, and for other purposes.

42 [The bill follows:]

43 \*\*\*\*\* INSERT \*\*\*\*\*

44 Chairman Conyers. Thank you. Without objection the  
45 bill will be considered as read and opened for amendment at  
46 any point. May I start with a brief description of H.R.  
47 3695, the Help Find the Missing Act, or Billy's law?

48 Introduced by Representative Chris Murphy of  
49 Connecticut, developed along with Judge Ted Poe of Texas, and  
50 I commend both of them for their work on the legislation  
51 which will help families of missing persons find their loved  
52 ones.

53 Every year tens of thousands of Americans become missing  
54 and are never found, and they are real people with real  
55 families and each unsolved missing persons case is truly a  
56 tragedy. In the subcommittee hearing on the bill, conducted  
57 by Chairman Scott, we heard of Mrs. Smolinski whose son Billy  
58 was missing since 2004.

59 While she has not yet found her son, she has dedicated  
60 her life to improving the system for others, including  
61 highlighting the need to strengthen and expand access to our  
62 missing persons databases. And so the bill is sincerely  
63 dedicated to her son Billy.

64 It is important that law enforcement have all this  
65 appropriate information about missing persons so they can do  
66 their job to find them. It is also equally important that  
67 families be able to access information about missing persons  
68 and unidentified remains of persons so that they can search

69 for information that may solve their own cases.

70       The FBI has for many years maintained databases for  
71 persons and for unidentified remains of persons. The  
72 databases contain information submitted by law enforcement  
73 agencies. The missing persons file is comprised of entries  
74 from missing individuals listing various personal  
75 characteristics, name, gender, race, dental records, and that  
76 file mainly consists of descriptive information about  
77 deceased unidentified bodies in various states ranging from  
78 the recently deceased to skeletal and partial remains.

79       Could I yield to the subcommittee chairman the balance  
80 of my time?

81       Mr. Scott. Thank you. Thank you, Mr. Chairman, and I  
82 want to thank you for holding a markup on H.R. 3695, Helping  
83 Find the Missing Act, or Billy's law. It is a bipartisan  
84 bill introduced by Representative Chris Murphy from  
85 Connecticut and Ted Poe from Texas, and I commend my  
86 colleagues for their work on the legislation.

87       This bill will go a long way in making sure that all of  
88 the databases that we have work effectively to find missing  
89 persons and persons who are unfound and unidentified, and I  
90 would ask unanimous consent to enter the rest of this  
91 statement.

92       Chairman Conyers. Without objection so ordered.

93       [The statement of Mr. Scott follows:]

94 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

95 Chairman Conyers. I turn now to the ranking member,  
96 Lamar Smith of Texas.

97 Mr. Smith. Thank you, Mr. Chairman. Mr. Chairman, I  
98 support this bill and since my opening statement pretty much  
99 tracks your opening statement I would ask that my opening  
100 statement be made a part of the record.

101 Chairman Conyers. Without objection so ordered.

102 [The statement of Mr. Smith follows:]

103 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

104 Mr. Smith. Thank you. And I will yield the rest of my  
105 time to the gentleman from Texas, Mr. Poe, who is an original  
106 co-sponsor of this bill and who has dedicated much of his  
107 life in public service to this issue and to similar issues  
108 like this.

109 Mr. Poe. I thank the gentleman for yielding. Of course  
110 I support H.R. 3695. I appreciate the work of Congressman  
111 Chris Murphy from Connecticut. The system I think worked as  
112 best as it could be when you have a constituent like the  
113 Smolinskis have a problem locating their missing son.

114 They did what a lot of people do. They call their  
115 congressman, and they called Congressman Chris Murphy, and  
116 because of Billy disappearing this legislation has now come  
117 before this subcommittee.

118 And what it does is in a nutshell, is make it easier for  
119 families, but also law enforcement officials, to track  
120 missing persons. There are numerous databases throughout the  
121 country, state, local, federal, that keep up with missing  
122 persons, but they are not interconnected.

123 And so what this legislation does, it allows law  
124 enforcement agencies to report missing persons to a central  
125 national database and that database can then be shared with  
126 not only law enforcement but people who are looking for  
127 missing persons through the Department of Justice can access  
128 this database, and those families can have a better chance of

129 finding their missing loved one somewhere in the United  
130 States.

131       The way it works now they have to access as many  
132 databases as there are in the country locating those  
133 individuals. And so H.R. 3695 would authorize \$2.4 million  
134 for the next 5 years for the attorney general to maintain the  
135 National Missing and Unidentified Persons System, called  
136 NamUs, and it would require the attorney general to provide  
137 for the sharing of information on missing persons and  
138 unidentified human remains that is currently found in the  
139 NCIC with the NamUs database.

140       That is the basic purpose of this legislation. It is  
141 bipartisan. I hope that it passes this committee and gets a  
142 quick hearing on the floor. Once again, I want to thank the  
143 family of Billy for bringing this important issue to  
144 Congress. And with that I would like to submit the rest of  
145 my statement for the record, and I yield back my time.

146       [The statement of Mr. Poe follows:]

147 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

148 Chairman Conyers. Without objection other members'  
149 statements will be included in the record.

150 Chairman Scott is recognized for an amendment.

151 Mr. Scott. Thank you, Mr. Chairman. I have an  
152 amendment at the desk.

153 Chairman Conyers. Clerk will report it.

154 The Clerk. Amendment to H.R. 3695 offered by Mr. Scott  
155 of Virginia. Page 2, beginning on line 1, through page 6,  
156 line 6, strike section 2 (and redesignate the-

157 [The amendment by Mr. Scott follows:]

158 \*\*\*\*\* INSERT \*\*\*\*\*

159 Mr. Scott. Mr. Chairman, I would ask unanimous consent  
160 that amendment be considered.

161 Chairman Conyers. Without objection so ordered.  
162 Gentleman is recognized.

163 Mr. Scott. Mr. Chairman, these amendments were  
164 recommended by the Department of Justice. They are technical  
165 in nature, and there is no substantive change offered in the  
166 amendments, and I would ask that they be accepted and yield  
167 back.

168 Chairman Conyers. Lamar Smith?

169 Mr. Smith. Thank you, Mr. Chairman. Mr. Chairman, I  
170 support this amendment encouraging states to participate in  
171 the NamUs database system as they would EGOE. This amendment  
172 specifically provides a more efficient process through which  
173 states can submit authorization to the Department of Justice  
174 for state's coroners and medical examiners to participate in  
175 NamUs.

176 The amendment enables state authorities to update  
177 federal databases with new information without having to  
178 submit additional authorizations. If states wish to opt out  
179 of access to NamUs the amendment allows the states to do so.  
180 So I support the amendment and yield back.

181 Chairman Conyers. If there is no further discussion all  
182 in favor of the amendment indicate by saying "aye."

183 [A chorus of ayes.]

184 Chairman Conyers. All opposed to the amendment indicate  
185 by saying "no."

186 [No response.]

187 Chairman Conyers. Ayes have it, and so ordered. There  
188 have been no further amendments. Reporting quorum is  
189 present. The question on reporting the bill as amended  
190 favorably to the House, all in favor say "aye."

191 [A chorus of ayes.]

192 Chairman Conyers. All opposed say "no."

193 [No response.]

194 Chairman Conyers. Ayes have it. The bill as amended is  
195 ordered reported favorably, and without objection will be  
196 reported as a single amendment in the nature of a substitute  
197 incorporating amendments as adopted, and staff is authorized  
198 to make technical and conforming changes. Members have 2  
199 additional days to submit views.

200 I call up H.R. 569, the Equal Justice for our Military  
201 Act, and ask the clerk to report the bill, please.

202 The Clerk. H.R. 569, a bill to amend Titles 28 and 10,  
203 United States Code, to allow for certiorari review of certain  
204 cases denied relief or review by the United States Court of  
205 Appeals for the Armed Forces.

206 [The bill follows:]

207 \*\*\*\*\* INSERT \*\*\*\*\*

208 Chairman Conyers. Without objection the bill is  
209 reported by the subcommittee. It is considered for the  
210 original text for purposes of amendment and is open for  
211 amendment at any point.

212 But could I ask, and by Chairman Hank Johnson, the chair  
213 of the Courts and Competition Policy Subcommittee, to give us  
214 the initial description of the bill.

215 Mr. Johnson. Thank you, Mr. Chairman, for allowing this  
216 bill to come forward. The legislation before us today  
217 corrects a fundamental inequity to our servicemen and women  
218 that puts them at a disadvantage.

219 Under current law the Court of Appeals for the Armed  
220 Forces, also known as the CAAF, or C-A-A-F, has significant  
221 discretion whether to grant petitions to review court martial  
222 decisions. In instances where it does not grant a service  
223 member's petition the case may not be further reviewed by any  
224 other court.

225 Also under current law, a decision by the CAAF to deny a  
226 service member's motion for extraordinary relief may not be  
227 further reviewed. Meanwhile, the federal government has  
228 within its power the right to appeal those very same cases  
229 that these servicemen and women are barred by law from taking  
230 up.

231 So ladies and gentlemen, I submit that this is not fair.  
232 These imbalances to service members are in need of correction

233 and so that we can level the playing field. H.R. 569, the  
234 Equal Justice for Our Military Act, does this by giving  
235 service members the right to appeal their cases to the  
236 Supreme Court when the CAAF decides not to hear their cases  
237 or when the CAAF denies them extraordinary relief.

238       Some critics of this legislation have suggested that  
239 few, if any, service members will actually benefit from it  
240 because the Supreme Court takes so few cases as is. Well,  
241 tell that to a service member who feels she was denied her  
242 day in court because the CAAF chose not to hear her case.  
243 Besides, if the low number of cases the Supreme Court takes  
244 is a legitimate reason for denying service members access,  
245 then why should anyone be granted the right to appeal to the  
246 Supreme Court?

247       Other critics have said that the monetary cost and  
248 additional burden is placed on the military justice system,  
249 associated with giving service members this level of access  
250 to the Supreme Court. And that it would invoke—the costs  
251 would be too high and unjustified. However, experts have  
252 stated that the burdens placed on military lawyers and the  
253 Supreme Court will be minimal.

254       More importantly, why should the brave men and women in  
255 uniform who fight for our freedoms be denied a right everyone  
256 else is entitled to? Our service members already sacrifice  
257 so much for this country. This is one sacrifice they

258 shouldn't have to make.

259 I urge my colleagues to join me and the organizations  
260 such as the American Bar Association, the Jewish War Veterans  
261 Association, the Military Officers Association of America and  
262 the National Association of Criminal Defense Lawyers in  
263 support of passage of H.R. 569.

264 Mr. Chairman, I would also like to add a copy of the Cox  
265 commission report and a letter that we just received from the  
266 American Bar Association for the record.

267 Chairman Conyers. It will be introduced into the record  
268 without objection.

269 [The information follows:]

270 \*\*\*\*\* INSERT \*\*\*\*\*

271           Mr. Johnson. The report, which was chaired by former  
272 chief judge of the CAAF, Walter Cox, lists passage of this  
273 act as one of seven recommendations to advance principles of  
274 justice, equity and fairness in the American military justice  
275 system. The letter from the ABA reiterates its support for  
276 passage of H.R. 569 and goes into some detail on why this  
277 change in the law is necessary.

278           [The information follows:]

279 \*\*\*\*\* INSERT \*\*\*\*\*

280 Mr. Johnson. And I will again, thank the chairman for  
281 bringing this to the full committee, and I will yield back my  
282 time.

283 Chairman Conyers. We appreciate your description, Hank  
284 Johnson.

285 I will recognize Lamar Smith.

286 Mr. Smith. Thank you, Mr. Chairman. Mr. Chairman, H.R.  
287 569, the Equal Justice for Our Military Act of 2009 proposes  
288 amendments to the federal judicial code and the Uniform Code  
289 of Military Justice. It is my understanding that this bill  
290 was introduced because a single individual was unhappy with  
291 the way he had been treated by the military justice system.

292 The purpose of these proposed amendments is to grant the  
293 U.S. Supreme Court greater discretionary jurisdiction to  
294 review appeals from service members who have been court  
295 martialled and sentenced to a bad conduct or dishonorable  
296 discharge dismissal or confinement for 1 year or more.

297 I appreciate the Chairman's recognition that the measure  
298 should have been reviewed by the Court Subcommittee, and I  
299 thank both him and Chairman Johnson for conducting a  
300 legislative hearing on the reintroduced measure in 2009.

301 Seeking an administration representative, the  
302 subcommittee contacted the U.S. Department of Justice, the  
303 Office of the Solicitor General and the Department of  
304 Defense. After more than a month of notice and planning, the

305 administration refused to cooperate with the subcommittee and  
306 declined to either produce a witness or submit written  
307 testimony for the committee to consider in evaluating the  
308 bill.

309         Mr. Chairman, this might rightfully be construed as  
310 meaning the administration at the least has serious concerns  
311 about this legislation.

312         In the past, officials from the Defense Department have  
313 repeatedly expressed concerns about resource limitations and  
314 unintended consequences that may follow from enacting this  
315 legislation. The Defense Department is unambiguously on  
316 record as opposing previous versions of the bill since costs  
317 might be greater than imagined.

318         Much of the burden stems from the fact that the military  
319 services provide defense counsels to all personnel charged  
320 with criminal offenses for each step of the process. In  
321 civilian courts the Constitution does not require appointed  
322 counsel to represent defendants in last ditch petitions to  
323 the Supreme Court.

324         If this bill made clear that the military's obligation  
325 to provide defense counsel ended at the appellate stage so  
326 that convicted service members who wanted to seek Supreme  
327 Court review had to secure their own counsel, the burdens  
328 might be eased. But the bill does not do that.

329         So the military services will have to provide lawyer for

330 discretionary petitioners to the Supreme Court. Yet we  
331 undertake this precedent setting requirement on a thin record  
332 devoid of any indications of serious failures in the military  
333 justice system. The benefits of the bill are likely to be  
334 negligible, very few, if any, of the potential petitions for  
335 review to the Supreme Court are likely to be granted.

336         If cost to the Defense and Justice Departments  
337 dramatically outweigh the unlikely prospect that a few  
338 convicted service members may benefit from expanded review,  
339 then logic dictates that this bill would do little good in  
340 the real world and may in fact harm military justice more  
341 than it helps.

342         We simply do not have before us sufficient evidence that  
343 the military justice system needs changing in the manner  
344 specified in this bill. It is also undeniable that H.R. 569  
345 will increase the burden on the Supreme Court. More than 700  
346 cases per year, according to a 2008 letter from the  
347 Department of Defense, might become eligible to seek Supreme  
348 Court review as a result of the bill.

349         The Court is unlikely to hear any of these cases, but  
350 they must still consider them, taking limited time away from  
351 more urgent matters. The Supreme Court and our military  
352 justice system do not need to expand scarce resources on  
353 expanded appellate rights for convicted service members like  
354 Major Hasan, who in the future might well seek to take

355 advantage of H.R. 569.

356       Mr. Chairman, finally let me say we find ourselves in a  
357 situation where you have both Democratic and Republican  
358 administrations, both Democratic and Republican Departments  
359 of Justice, both Democratic and Republican Departments of  
360 Defense, all either not voicing their support for this bill  
361 or outright opposing this bill. So I see no real reason for  
362 us to advance the bill.

363       I know we are going to make that effort today, but I  
364 hope this is the end of the bill until we at least get some  
365 indication of support from the administration or from the  
366 Department of Defense or from the Justice Department, none of  
367 which has been forthcoming to date.

368       With that, Mr. Chairman, I will yield back.

369       Chairman Conyers. Thank you, Lamar Smith.

370       I would recognize Hank Johnson to make you and I feel a  
371 little bit better about this matter.

372       Mr. Johnson. Well, I thank you, Mr. Chairman, and the  
373 remarks that my friend from Texas, the ranking member on this  
374 committee has just come forth with are certainly somewhat  
375 legitimate. But in the final analysis the Congressional  
376 Budget Office scored similar legislation introduced in the  
377 110th Congress, which was S. 2052.

378       And they indicated that if the law were changed to grant  
379 service members the same rights that the United States

380 government has insofar as appellate rights are concerned, it  
381 would cost about a million dollars to administer per year.  
382 And this cost estimate was based on the assumption of the  
383 number of court martial decisions which would be made  
384 eligible for Supreme Court review under this legislation.

385       To put this in a more understandable format or context,  
386 the CAAF declined review in 780 court martial appeals. And  
387 our expert witness at the legislative hearing on H.R. 569,  
388 who was Colonel Dwight Sullivan, indicated that he expected  
389 no more than 80 additional court marital cases that would be  
390 appealed to the Supreme Court.

391       Letters from the Supreme Court indicate that if current  
392 court martial appeal rates remain steady they expect to see  
393 between 120 and 130 additional court martial appeals and  
394 certainly these appeals U.S. Supreme Court has discretion on  
395 whether or not to grant review.

396       And for 80 to 120 additional cases at about a million  
397 per year is a small offering to our brave servicemen and  
398 women who may have been aggrieved by a decision that  
399 certainly should be appealable to the U.S. Supreme Court.

400       And so in short, I don't think it is going to be a  
401 substantial number of cases and therefore the cost objection  
402 is unfounded. And to bring up the name of Major Hasan is  
403 somewhat troubling to me.

404       Somewhat troubling because I don't want to demonize

405 people because of their name or their religion, and of  
406 course, Major Hasan has not even been tried or convicted, so  
407 he is just the accused at this point, technically, and so I  
408 would hate to use his case as a model for denying that same  
409 right to appeal to someone else in the service who is  
410 blameless for any crime.

411 And with that I will yield back, Mr. Chairman.

412 Chairman Conyers. All right.

413 The Chair recognizes senior member Howard Coble.

414 Mr. Coble. Thank you, Mr. Chairman. I move to strike  
415 the last word, Mr. Chairman. I won't take the full amount  
416 because I will reiterate much of what Mr. Smith said.

417 Chairman Conyers. The gentleman is recognized.

418 Mr. Coble. Mr. Chairman and colleagues, in prior  
419 Congresses, bills similar to H.R. 569 were opposed by the  
420 Department of Defense. Then Department of Defense general  
421 counsel questioned the need for expanded certiorari and  
422 jurisdiction and raised concerns about what he called "the  
423 myriad of matters" that it would create.

424 In 2008, ranking member Smith reiterated those concerns  
425 on the floor consideration of H.R. 3174, and I think he  
426 correctly pointed out that no safeguards were included to  
427 prevent abuse by petitioners. And H.R. 569 still neglects to  
428 provide safeguards to prevent abuse.

429 Unfortunately, our Courts and Competition Policy

430 Subcommittee hearing included only two substantive witnesses,  
431 and the Obama administration, despite more than sufficient  
432 notice, did not work with the committee by not providing  
433 witnesses from either the Department of Defense, the  
434 Department of Justice or the Office of the Solicitor General.

435       Prior to the committee advancing this legislation, Mr.  
436 Chairman, it seems that we should—that the administration  
437 ought to at least tell us whether it concurs or disagrees  
438 with the considered judgment of the prior administration and  
439 what steps they believe are necessary to fully implement the  
440 authority contained herein.

441       At a minimum I think the administration and Congress  
442 should provide appropriate resources to ensure that the  
443 military justice system is not detrimentally impacted and to  
444 ensure, Mr Chairman, that appellants do not abuse this new  
445 appellate jurisdiction.

446       And with that I yield back my time.

447       Chairman Conyers. Thanks, Howard Coble.

448       All other statements will be—

449       Mr. Rooney. Mr. Chairman?

450       Chairman Conyers. —included in the—

451       Mr. Rooney. Mr. Chairman?

452       Chairman Conyers. —record. Who is—

453       Mr. Rooney?

454       Mr. Rooney. Mr. Chairman, I move to strike the last

455 word.

456 Chairman Conyers. The gentleman is recognized.

457 Mr. Rooney. Mr. Chairman, you know, it seems that every  
458 time I ask to be recognized on this committee, my statements  
459 over the last year have been in efforts to defend a practice  
460 or a procedure or a regulation that deals with the military,  
461 and specifically deals with justice in the military. And  
462 this is another case, and I just want to raise this point.

463 The very title of this bill and the purpose of this bill  
464 is written here on our handout. It implies an assumption of  
465 error or possible wrongdoing or even malfeasance by not only  
466 the JAG Corps, but the Department of Defense and the Army or  
467 any of the branches.

468 That I have to speak up against again, because I think  
469 that there continues to be this ongoing assumption that we in  
470 the JAG Corps, which by the way as has been stated time and  
471 time again, nobody has testified in front of any committee or  
472 subcommittee from the Department of Defense, from the  
473 military, from the administration, on why this bill is  
474 necessary or unnecessary.

475 We are going by, as the ranking member stated, one  
476 gentleman who is now an Australian citizen who pled guilty in  
477 his court martial for writing bad checks and then sometime  
478 thereafter changed his mind. And now we are meeting here  
479 today for him to decide whether or not the appellate system

480 that we have in the military is adequate.

481       Every court martial is automatically—automatically—  
482 reviewed by an appeals court from that individual branch.

483 Then there is the opportunity to go in front of the CAAF as  
484 Mr. Johnson pointed out, the Court of Appeals for the Armed  
485 Forces, to delve into that further.

486       Then if the CAAF determines as has been stated that  
487 there is a serious issue of constitutionality a writ of cert  
488 will be issued to the Supreme Court and the Supreme Court is  
489 the court of last resort, as we speak, for military members.  
490 I have a book that I taught when I was at West Point. This  
491 is the book that we teach to the cadets at West Point. This  
492 book is filled with Supreme Court cases which were cases that  
493 originated in courts martial.

494       So when we continue to go down this road of saying that  
495 the military systems, that what we are doing by bringing  
496 Khalid Sheikh Mohammed to New York City is because there is  
497 an assumption that we can't do it in military commissions  
498 because we are doing something wrong or we are not capable.

499       Or that the Fairness Doctrine needs to be revisited  
500 because the way that we administer justice civilly in the  
501 military is insufficient. Well, now here we have our  
502 appellate system being questioned.

503       When you talk about equal justice in the military, when  
504 you talk about putting on the uniform and serving, you are

505 sacrificing certain rights. But the military goes to extreme  
506 lengths to make sure that as much as possible that there is  
507 equality for service members as much as can be established to  
508 a civilian-type model.

509 But we have things in the military like absence without  
510 leave, disobeying an order, fraternization and the like,  
511 disrespecting a superior officer. There are differences for  
512 good order and discipline that we have to have differences in  
513 the military or else we won't be able to protect the security  
514 of this country.

515 The Supreme Court has said time and time again that the  
516 military is a separate society. That the president as  
517 commander-in-chief has the ability to serve as point man and  
518 establish the rules as we do in Congress for the differences  
519 that it will take for the sake of good order and discipline  
520 in the military.

521 I will just briefly read the opinion of a case that  
522 exemplifies that. The Supreme Court, 1986 Goldman v.  
523 Weinberger. "The military must foster instinctive obedience,  
524 unity, commitment, an esprit de corps. The Court must give  
525 great deference to the professional judgment of the military  
526 authorities concerning the relative importance of a  
527 particular military interest."

528 "Not only is the Court ill-equipped to determine the  
529 impact upon discipline that any particular intrusion upon

530 military authority might have, but the military authorities  
531 have been charged by the executive and the legislative  
532 branches with carrying out our nation's military policy."

533       The CAAF is a civilian board. It is not military  
534 judges. It is not military officers. They are civilians  
535 appointed by the president of the United States, confirmed by  
536 the Senate. They take these cases and they run them up to  
537 the Supreme Court on a case-by-case basis that is not  
538 automatic, admittedly, but something that filters out the  
539 cases which may cloud the docket or crowd the docket of the  
540 Supreme Court to where it is the truly important  
541 constitutional questions get there.

542       And that does not include writing bad checks. That does  
543 not include people that, you know, change their minds  
544 sometimes after pleading guilty and then moving to Australia  
545 and renouncing his U.S. citizenship, that we are sitting here  
546 today discussing whether or not our appellate courts in the  
547 military should be changed for this one guy when the United  
548 States Army, the United States military, the Department of  
549 Defense, nobody has come here to testify.

550       Once again, there is an inference that we have done  
551 something wrong. I take serious offense to it, and I urge  
552 people to vote no on this bill.

553       I yield back.

554       Chairman Conyers. I thank you, Mr. Rooney, for your

555 explanation. I am going to move this to a vote now.

556 Mr. Gohmert. Mr. Chairman, could I briefly speak on it?

557 Chairman Conyers. Sure, Judge. Go-

558 Mr. Gohmert. Thank you, and-

559 Chairman Conyers. You can-

560 Mr. Gohmert. -move to strike the last word, and I won't

561 take 5 minutes. But having been in the Army 4 years, having

562 been very familiar with the Uniform Code of Military Justice

563 and the justice in the military, it is-people in the military

564 do not have the same rights under the Constitution that

565 everybody else does, even though it is constitutional because

566 as the Supreme Court said, you have to have a system where

567 under certain circumstances, people follow orders.

568 Most people wouldn't know here but when you are trying-

569 you walk into an ambush, there is only one chance if it is a

570 well-setup ambush for you to live, and that is if you turn

571 and run directly into the source of the ambush. That is your

572 only chance if it is laid out properly. There can't be any

573 wavering. There is no place for people to doubt a question

574 or orders under those circumstances. It is a matter of life

575 and death, and that is what the military has to promote.

576 Some people say those in Guantanamo Bay need to have the

577 same rights as everybody else, an American citizen in order

578 for that to be constitutional. If the military doesn't have

579 the same rights, they should not have the same rights. They

580 need to have a fair but separate system in order to protect  
581 us the way they have for over 200 years.

582         So I really appreciate the efforts, but it is important  
583 to know what it will do to the discipline in the military.  
584 There doesn't need to be this additional system in order to  
585 have fairness and constitutionality under the military that  
586 we need to protect us.

587         And with that Mr. Chairman, I yield back.

588         Chairman Conyers. Well, I thank you, Judge Gohmert for  
589 your brevity this morning. What we are going to do is—we  
590 don't have a reporting quorum anyway, and there is some other  
591 discussion we want to have. So I am going to hold this.

592         I am going to just hold this until we get through with  
593 our impeachment resolution, which I want to call up now.  
594 Pursuant to notice, we now consider House Resolution 1031:  
595 Articles of Impeachment against United States District Judge  
596 G. Thomas Porteous. The clerk will report the resolution.

597         The Clerk. H. Res. 1031, Resolution: Impeaching G.  
598 Thomas Porteous, Jr., Judge of the United States District  
599 Court for the Eastern District Louisiana for High Crimes and  
600 Misdemeanors.

601         [The bill follows:]

602 \*\*\*\*\* INSERT \*\*\*\*\*

603 Chairman Conyers. Without objection the remainder of  
604 the resolution will be considered as read. And before I call  
605 upon Adam Schiff to make the initial description of this very  
606 serious matter, I want everyone to know that for each  
607 Article, the clerk will read the Article. Then we will  
608 consider any amendments, then have a roll call vote on  
609 adopting the Article, after which we will vote on reporting  
610 of resolution with the adopted Articles for recommendations  
611 to the House.

612 The Chair recognizes the chair of this special  
613 committee, Adam Schiff of California.

614 Mr. Schiff. I thank the chairman and would like to  
615 report on the work of the Impeachment Task Force and provide  
616 the members of the full committee with a brief overview of  
617 the facts in this matter. As a task force, we have worked to  
618 proceed in a fair, open and deliberate manner and we have  
619 done so on a bipartisan basis.

620 After a multi-year investigation by the U.S. Department  
621 of Justice and the FBI and an extensive disciplinary  
622 proceeding in the 5th Circuit Court of Appeals, the Judicial  
623 Conference of the United States voted unanimously to refer  
624 this matter to the House of Representatives based on  
625 substantial evidence of conduct that individually and  
626 collectively brought disrepute to the federal judiciary.

627 The 5th Circuit also moved to take the maximum

628 disciplinary action allowed by law against Judge Porteous,  
629 suspending him for 2 years or until Congress takes final  
630 action on impeachment proceedings. As directed by the House,  
631 the task force has inquired into whether Judge Porteous  
632 should be impeached.

633 As a part of our investigation, task force staff  
634 interviewed over 65 individuals, deposed approximately 25  
635 witnesses under oath and obtained documents from various  
636 sources including witnesses, the 24th Judicial Court in  
637 Jefferson Parish, Louisiana and the Department of Justice.

638 After the initial investigatory phase, the Task Force  
639 held four separate evidentiary hearings over 5 days in  
640 November and December of 2009 in order to determine whether  
641 Judge Porteous' conduct provides a sufficient basis for  
642 impeachment and to develop a record upon which to recommend  
643 whether to adopt Articles of Impeachment.

644 Our first hearing focused on allegations of misconduct  
645 in relation to Judge Porteous presiding over the case in re  
646 Liljeberg Enterprises, Inc. The record reflects that Judge  
647 Porteous was engaged in a corrupt kickback scheme with the  
648 law firm of Amato and Creely, that he failed to disclose his  
649 relationship with the firm and that he denied emotion to  
650 recuse himself from the case despite the firm's  
651 representation of one of the parties.

652 The kickback scheme involved appointing Mr. Creely as a

653 curator in hundreds of cases with fees amounting to  
654 approximately \$40,000 paid to Amato and Creely, approximately  
655 half of which was then paid back to Judge Porteous.

656         Judge Porteous made intentionally misleading statements  
657 at the recusal hearing intended to minimize the extent of his  
658 personal relationship with the firm. The record also  
659 reflects that Judge Porteous engaged in corrupt conduct after  
660 the bench trial in that federal case and while the case was  
661 under advisement by soliciting and accepting things of value  
662 from attorneys at the firm including \$2,000 in cash.

663         This corrupt relationship and his conduct as a federal  
664 judge have brought his court into scandal and disrepute to  
665 demonstrate that he is unfit for office. Our investigation  
666 also uncovered that Judge Porteous for years accepted other  
667 things of value, such as trips and expensive meals from  
668 parties and attorneys with matters before him without  
669 disclosing these facts to other parties who remained ignorant  
670 of these associations.

671         And these are in violation of ethics laws and  
672 regulations enacted by Congress and provide further evidence  
673 that his solicitation acceptance of things of value from  
674 attorneys Creely and Amato were not isolated events limited  
675 to two attorneys, but a pattern of using his perch on the  
676 federal bench to extract and receive things of value from  
677 attorneys and parties in front of him.

678           Our second hearing focused on allegations that Judge  
679 Porteous repeatedly made false and misleading statements  
680 including the concealment of debts under oath and a disregard  
681 of a bankruptcy court's orders.

682           The record reflects that as a federal judge, he  
683 knowingly and intentionally made material false statements  
684 and representations under penalty of perjury and repeatedly  
685 violated a court order in his case. This included using a  
686 false name and a post office box to conceal his identity as a  
687 debtor in the case, concealing assets, the preferential  
688 payment to certain creditors as well as gambling losses and  
689 debts and the incurring of new debts while the case was  
690 pending in violation of court order.

691           Our investigation also uncovered that Judge Porteous  
692 falsely reported the full extent of his liabilities in his  
693 required financial disclosure reports. These debts, which  
694 arose from Judge Porteous' gambling problems, provided  
695 further evidence of his willful efforts to conceal his  
696 financial situation and the extent of his gambling over the  
697 years.

698           Taken together it is clear that his false statements in  
699 the bankruptcy proceedings were not the result of an  
700 oversight or mistake, but reflected instead intentional and  
701 willful conduct to conceal his financial affairs and his  
702 gambling.

703           Our third hearing focused on allegations that Judge  
704 Porteous engaged in the corrupt relationship with bail  
705 bondsman Louis Marcotte and his sister, Lori. The record  
706 reflects that as a part of this corrupt relationship, Judge  
707 Porteous solicited and accepted numerous things of value  
708 including meals, trips, home and car repairs for his personal  
709 use and benefit while at the same time taking official  
710 actions on behalf of the Marcottes.

711           This included setting, reducing and splitting bonds for  
712 the Marcottes while in the state bench and improperly setting  
713 aside of expunging felony convictions for two Marcotte  
714 employees.

715           Judge Porteous also used the power and prestige of his  
716 office to assist the Marcottes in forming relationships with  
717 state judicial officers and others. Judge Porteous also knew  
718 and understood that Louis Marcotte made false statements to  
719 the FBI in an effort to assist his appointment to the federal  
720 bench.

721           At our fourth and final hearing, we received testimony  
722 from a panel of constitutional scholars on whether Judge  
723 Porteous' conduct renders him unfit to hold office and  
724 provides a sufficient basis for impeachment.

725           The record reflects that Judge Porteous knowingly made  
726 material false statements about his past to both the U.S.  
727 Senate and to the FBI in connection with his nomination to

728 the federal bench in order to conceal these corrupt  
729 relationships.

730         In addition, Judge Porteous knew that another individual  
731 made false statements to the FBI in an effort to assist his  
732 appointment to the federal bench. Judge Porteous' failure to  
733 disclose these corrupt relationships deprived the Senate and  
734 the public of information that would have had a material  
735 impact on his confirmation. Our panel of experts testified  
736 that such behavior clearly constitutes impeachable conduct.

737         I would like to note that the task force invited Judge  
738 Porteous to testify but he declined our offer. In addition,  
739 the task force afforded the opportunity for Judge Porteous  
740 and his counsel to request that the task force hear from a  
741 witness or witnesses that they wish to call. Judge Porteous'  
742 counsel informed the task force that they did not wish to  
743 avail themselves of that opportunity.

744         The task force permitted Judge Porteous' counsel to  
745 participate in our hearings on behalf of his client and was  
746 permitted to question the witnesses. This was an  
747 extraordinary prerogative that was granted to counsel.

748         Last week the task force met and unanimously voted in  
749 favor of recommending four Articles of Impeachment for  
750 consideration by the full committee. These Articles were  
751 subsequently introduced in the House by full committee  
752 Chairman Conyers and Ranking Member Smith, along with the

753 full membership of the task force in the form of House  
754 Resolution 1031.

755 I believe that the record before us establishes that  
756 Judge G. Thomas Porteous, Jr. should be impeached for high  
757 crimes and misdemeanors. Judge Porteous engaged in a pattern  
758 of conduct that is incompatible with the trust and confidence  
759 placed in him as a federal judge. His longstanding pattern  
760 of corrupt conduct, utterly lacking in honesty and integrity  
761 demonstrates his unfitness to serve as a United States  
762 district court judge.

763 His material false statements about his past made  
764 knowingly to both the U.S. Senate and to the FBI in order to  
765 obtain his federal office deprived the Senate and the public  
766 of information that would have had a material impact on his  
767 confirmation. Accordingly, I urge the committee to approve  
768 the Articles of Impeachment included in House Resolution  
769 1031.

770 And Mr. Chairman, with that I yield back.

771 Chairman Conyers. Well, I thank the task force chairman  
772 for his very detailed and effective work with himself and the  
773 members of the task force. I commend all of you.

774 Then recognize the ranking member of the committee,  
775 Lamar Smith.

776 Mr. Smith. Thank you, Mr. Chairman. Mr. Chairman, we  
777 meet today to consider the recommendation of the Impeachment

778 task force, which last week voted to submit four Articles of  
779 Impeachment to the committee relating to the conduct of Judge  
780 G. Thomas Porteous.

781 I want to compliment Congressman Schiff and Congressman  
782 Goodlatte for the way they have worked together in leading  
783 the task force's inquiry. They have set an outstanding  
784 example of how an inquiry like this should be conducted in a  
785 bipartisan manner.

786 The Constitution grants the House of Representatives the  
787 sole power to impeach a sitting federal judge. This is a  
788 very serious power which Congress does not take lightly.  
789 Impeachment by the House constitutes one of the few checks on  
790 the judiciary and is to be used only in instances when a  
791 judge betrays his office or proves unfit to hold that  
792 position of trust.

793 After months of investigation and hearings, there is  
794 clear and convincing evidence of a number of different  
795 actions by Judge Porteous that make him unfit to serve as a  
796 federal judge. And Mr. Schiff has just finished detailing  
797 those actions.

798 It is clear that Judge Porteous' actions are a violation  
799 of the American people's trust and a stain on the integrity  
800 of the federal bench. The American people deserve better  
801 from their federal judges.

802 I also hope this sends a message of encouragement to the

803 great majority of judges who serve our nation with  
804 distinction. We will not let a few bad actors mar the  
805 reputation of others on the federal bench. To preserve  
806 equality and fairness in our constitutional democracy, we  
807 must protect the integrity of the courts.

808       The time has come for the Judiciary Committee and then  
809 the House of Representatives to conclude that Judge Porteous'  
810 conduct has made him unworthy to serve on the federal bench.

811       Mr. Chairman, I will yield the balance of my time to the  
812 gentleman from Virginia, Mr. Goodlatte.

813       Mr. Goodlatte. I thank the gentleman for yielding.

814       And Mr. Chairman, I would like to thank you for holding  
815 this important markup and thank you and the ranking member,  
816 Mr. Smith, for the truly nonpartisan way in which you have  
817 promoted and supported the work of this task force. And I  
818 thank also, of course, Chairman Schiff and the other members  
819 of the task force.

820       The impeachment of a federal judge is a very infrequent  
821 occurrence within the halls of Congress. It is a power that  
822 Congress utilizes only in cases involving very serious  
823 allegations of misconduct.

824       Until last year when the House passed Articles of  
825 Impeachment against federal district court Judge Samuel Kent,  
826 the last judicial impeachment was in the late 1980s.  
827 However, this committee is now being called upon to consider

828 Articles of Impeachment against federal district court Judge  
829 Thomas Porteous.

830         In June of 2008, the Judicial Conference of the United  
831 States forwarded this matter to the Congress for further  
832 consideration after concluding that Judge Porteous "has  
833 engaged in conduct which might constitute one or more grounds  
834 for impeachment."

835         Last week the task force—excuse me, the Task Force on  
836 Judicial Impeachment unanimously recommended four Articles of  
837 Impeachment against Judge Thomas Porteous. This  
838 recommendation was the culmination of an exhaustive  
839 investigation by the task force, which included reviewing the  
840 records of past proceedings, rooting out new evidence that  
841 was never considered in previous investigations, conducting  
842 numerous interviews and depositions with firsthand witnesses  
843 and conducting hearings to take the testimony of firsthand  
844 witness and constitutional scholars.

845         The evidence shows that while on the federal bench,  
846 Judge Porteous refused to recuse himself from a case when he  
847 had previously engaged in a corrupt kickback scheme with the  
848 attorneys representing the defense, that he later took  
849 thousands of dollars in cash from those same attorneys while  
850 the case was pending, that he took gifts from a bail bondsman  
851 in exchange for granting favorable bond rates for him and  
852 then improperly expunged the records of two of the bail

853 bondsman's employees.

854       One, after he was confirmed by the Senate to be a  
855 federal judge. And he lied to a bankruptcy court when he  
856 filed for bankruptcy and then violated a bankruptcy court  
857 order mandating that he not incur further debt. And that he  
858 made materially false statements to the U.S. Senate and the  
859 FBI during his confirmation process.

860       It is important to note that Judge Porteous was invited  
861 to testify before the task force but declined to do so. It  
862 is not a pleasant task to impeach a federal judge, yet when a  
863 judge so clearly abuses his office, it becomes necessary to  
864 take the appropriate action in order to restore the  
865 confidence of the American people in the judicial system.

866       The Constitution gives the House of Representatives the  
867 power and responsibility to impeach federal judges. Last  
868 week Chairman Conyers and Ranking Member Smith introduced  
869 House Resolution 1031, which contains four separate Articles  
870 of Impeachment against Judge Porteous as recommended by the  
871 Task Force on Judicial Impeachment.

872       The details of these Articles have been discussed  
873 already today. All the members of the task force have co-  
874 sponsored these Articles, and it is my strong recommendation  
875 that the members of this committee adopt these Articles of  
876 Impeachment against Judge Porteous.

877       In addition I would like to thank Adam Schiff, the

878 Chairman of the Task Force on Judicial Impeachment for his  
879 leadership in this effort along with all the members of the  
880 task force on both sides of the aisle and the very competent  
881 staff of the task force that has worked together, again, in a  
882 nonpartisan fashion.

883       As ranking member of the Impeachment Task Force, I  
884 appreciate the fact that this effort has been undertaken in  
885 an extremely bipartisan, yet even nonpartisan fashion. I  
886 would also like to thank Chairman Conyers and Ranking Member  
887 Smith for their comprehensive yet expeditious and bipartisan  
888 consideration of these Articles of Impeachment today. And I  
889 yield back.

890       Thank you, Mr. Chairman.

891       Chairman Conyers. Thanks, Bob Goodlatte of Virginia,  
892 who served with distinction as the ranking member of this  
893 Impeachment Task Force.

894       Mr. Goodlatte. Thank you, Mr. Chairman.

895       Chairman Conyers. And without objection, all other  
896 members' statements that choose will be included in the  
897 record.

898       The clerk will now please read Article I.

899       The Clerk. Article I, G. Thomas Porteous, Jr., while a  
900 federal judge of the United States District Court for the  
901 Eastern District of Louisiana, engaged in a pattern of  
902 conduct that is incompatible with the trust and confidence

903 placed in him as a federal judge, as follows:

904       Judge Porteous, while presiding as a United States  
905 district judge in Lifemark Hospitals of Louisiana,  
906 Incorporated versus Liljeberg Enterprises, denied a motion to  
907 recuse himself from the case, despite the fact that he had a  
908 corrupt financial relationship with the law firm of Amato and  
909 Creely, P.C.

910       Chairman Conyers. I ask unanimous consent that Article  
911 I be considered as read. Are there amendments or discussions  
912 on Article I? The question is on adopting Article I—

913       Mr. Scott. Mr. Chairman?

914       Chairman Conyers. Yes, Mr. Scott.

915       Mr. Scott. Strike the last word.

916       Chairman Conyers. Gentleman is recognized.

917       Mr. Scott. I would just like to inquire to the  
918 gentleman from California what opportunity the judge had to  
919 respond to the allegations?

920       Mr. Schiff. Through the chair, the gentleman—Judge  
921 Porteous was invited to testify before the task force to  
922 present whatever issues or arguments that he wanted to make  
923 or clarify any of the facts. He declined to do so. He was  
924 also invited to present witnesses to the task force, to call  
925 anyone he would like. He also declined that.

926       He was allowed to, through his counsel, question each  
927 and every witness that was called. He was allowed to make an

928 opening and closing statement at the task force hearings,  
929 which counsel I think made an opening statement, I can't  
930 recall if counsel made any—I think counsel made only an  
931 opening statement.

932       So throughout the process they have had an opportunity  
933 through counsel to respond to each and all of the  
934 allegations. We have also received some written  
935 correspondence from counsel. And I should point out that  
936 although the task force allowed Judge Porteous as well as his  
937 counsel to participate, really, at every step that was not  
938 required.

939       And I think in many respects we may have gone beyond  
940 what prior impeachment proceedings have allowed in terms of  
941 counsel participation so again, ample opportunity to preside  
942 his side of the facts.

943       Mr. Gohmert. Mr. Chairman? Mr. Chairman?

944       Chairman Conyers. Who speaks?

945       Judge Gohmert.

946       Mr. Gohmert. Yes. I would just like to say here at the  
947 full committee what a terrific job Adam Schiff has done as  
948 chairman of the task force. His thoroughness, his fairness,  
949 just has been beyond reproach. Bob Goodlatte as ranking  
950 member has done an excellent job, the staff in gathering  
951 facts and information and going above and beyond has done a  
952 great job. And it was an honor to work in such a bipartisan

953 atmosphere among such competence, and I just wanted to  
954 express that. I appreciate very much all that was done.

955 Chairman Conyers. Thank you.

956 Mr. Lungren. Mr. Chairman.

957 Ms. Jackson Lee. Mr. Chairman.

958 Chairman Conyers. Yes, Dan Lungren?

959 Mr. Lungren. Mr. Chairman, as a member of the task  
960 force, I just want to make sure that it is clear on the  
961 record that although we allowed Judge Porteous to participate  
962 in the ways outlined by the gentleman from California, that  
963 is not required by our rules, but rather it was a courtesy we  
964 did extend to him.

965 And we made it clear both in writing and personally that  
966 he had the opportunity to respond to all the allegations and  
967 to the factual presentation by way of his own presence for  
968 several of the hearings and by way of his attorneys during  
969 the entire proceedings.

970 And I thank the Chairman.

971 Ms. Jackson Lee. Mr. Chairman?

972 Chairman Conyers. Thank you.

973 Ms. Jackson Lee?

974 Ms. Jackson Lee. Yes, Mr. Chairman, let me also thank  
975 both the chairman of the task force and the ranking member  
976 and speak to Article I, which I think the thrust of it for me  
977 was the fact that many, many people were caught up in the web

978 of deception.

979       And let me first of all say that I don't know whether  
980 the judge is—or I have no opinion on him as a good person, no  
981 opinion of this as it reflects or defines the federal  
982 judiciary. I believe it does not. I believe it is important  
983 for us to emphasize the importance of the judiciary carving  
984 out or calling out if you will individuals who act in this  
985 matter.

986       But the worthiness of Article I is that lawyers were  
987 caught up in this web because it specifically goes to the  
988 court refusing to recuse itself, in this instance Judge  
989 Porteous, although there was special relationship with a  
990 particular law firm.

991       That means that officers of the court on both sides of  
992 the bench were in fact engaged enough to potentially deny  
993 justice in the court. And I think clearly when you begin to  
994 talk about a contravention of canons of judicial ethics, the  
995 fact that you did not disclose in the late 1980s while you  
996 were at state courts that you were engaged in a corrupt  
997 scheme with certain attorneys, Mr. Amato, Mr. Creely, whereby  
998 he appointed them as curator in hundreds of cases.

999       That goes to the very idea of what justice is about and  
1000 the role of the officer of the court. As we listened to  
1001 judicial witnesses, I think it is clear that when we have the  
1002 potential of a criminal impact by infringing upon the justice

1003 of others, then you rise to the level of a violation of the  
1004 Constitution, an impeachable offense.

1005       Finally in closing, although we have not reached that  
1006 point, I think to add to insult of the web of those involved,  
1007 impacting on justice was the next step of presenting to  
1008 federal authority, whether it is the FBI or other authorities  
1009 in your confirmation proceedings, those are official federal  
1010 documents under 18, let us say, 1,001 that you purposely  
1011 denied any information that might have pointed back to this  
1012 inappropriate and illegal activity.

1013       So I think Article I goes to the very crux of our  
1014 offense and the offense and it is what we need to clean up  
1015 and purge as related to the justice system in America.

1016       And I will be happy to yield to the distinguished  
1017 chairman.

1018       Mr. Schiff. I thank the gentlewoman for yielding and  
1019 just wanted to amplify further on the question that was asked  
1020 in terms of counsel's participation. Counsel for Judge  
1021 Porteous participated in each of the evidentiary hearings  
1022 that we had.

1023       The only hearings that counsel has not been invited to  
1024 participate in are the markup today and the markup of the  
1025 task force, since we don't invite witness participation in  
1026 markups. But absent those two meetings of the committee and  
1027 task force, counsel has been able to participate in each and

1028 every evidentiary hearing.

1029 And I thank the gentlewoman and yield back.

1030 Ms. Jackson Lee. Thank you. And just reclaiming the  
1031 time, this is a question of the interpretation by the Madison  
1032 Papers and others, and you should be very serious about what  
1033 you use—what fact situation that you use to impeach  
1034 individuals and also whether it is a government or a  
1035 government action. And there is no doubt that the judge's  
1036 actions were inside the courthouse, a fixed government  
1037 entity, and that the individuals who acted with him were  
1038 officers of the court.

1039 And I believe that that clearly points to a compliance  
1040 with the impeachable criteria of the Constitution. And so I  
1041 thank the chairman for yielding to me and I believe that as  
1042 the chairman of the task force said, opportunities were given  
1043 to the lawyers to be present and to offer their presentation  
1044 on behalf of Judge Pickering (sic). I yield back.

1045 Chairman Conyers. The question is on adopting Article  
1046 I. There will be roll call vote. As your name is called,  
1047 those in favor will say "aye," those opposed, "no." The  
1048 clerk will call the roll.

1049 The Clerk. Mr. Conyers.

1050 Chairman Conyers. Aye.

1051 The Clerk. Mr. Conyers votes aye.

1052 Mr. Berman

1053 [No response.]

1054 Mr. Boucher?

1055 [No response.]

1056 Mr. Nadler?

1057 [No response.]

1058 Mr. Scott?

1059 Mr. Scott. Aye

1060 The Clerk. Mr. Scott votes aye.

1061 Mr. Watt?

1062 Mr. Watt. Aye.

1063 The Clerk. Mr. Watt votes aye.

1064 Ms. Lofgren?

1065 Ms. Lofgren. Aye.

1066 The Clerk. Ms. Lofgren votes aye.

1067 Ms. Jackson Lee?

1068 Ms. Jackson Lee. Aye.

1069 The Clerk. Ms. Jackson Lee votes aye.

1070 Ms. Waters?

1071 [No response.]

1072 Mr. Delahunt?

1073 [No response.]

1074 Mr. Cohen?

1075 Mr. Cohen. Aye.

1076 The Clerk. Mr. Cohen votes aye.

1077 Mr. Johnson?

1078 Mr. Johnson. Aye.  
1079 The Clerk. Mr. Johnson votes aye.  
1080 Mr. Pierluisi?  
1081 Mr. Pierluisi. Aye.  
1082 The Clerk. Mr. Pierluisi votes aye.  
1083 Mr. Quigley?  
1084 [No response.]  
1085 Ms. Chu?  
1086 Ms. Chu. Aye.  
1087 The Clerk. Ms. Chu votes aye.  
1088 Mr. Gutierrez?  
1089 [No response.]  
1090 Ms. Baldwin?  
1091 Ms. Baldwin. Aye.  
1092 The Clerk. Ms. Baldwin votes aye.  
1093 Mr. Gonzalez?  
1094 [No response.].  
1095 Mr. Weiner?  
1096 [No response.]  
1097 Mr. Schiff?  
1098 Mr. Schiff. Aye.  
1099 The Clerk. Mr. Schiff votes aye.  
1100 Ms. Sanchez?  
1101 Ms. Sanchez. Aye.  
1102 The Clerk. Ms. Sanchez votes aye.

1103 Ms. Wasserman Schultz?  
1104 Ms. Wasserman Schultz. Aye.  
1105 The Clerk. Ms. Wasserman Schultz votes aye.  
1106 Mr. Maffei?  
1107 Mr. Maffei. Aye.  
1108 The Clerk. Mr. Maffei votes aye.  
1109 Mr. Smith?  
1110 Mr. Smith. Aye.  
1111 The Clerk. Mr. Smith votes aye.  
1112 Mr. Goodlatte?  
1113 Mr. Goodlatte. Aye.  
1114 The Clerk. Mr. Goodlatte votes aye.  
1115 Mr. Sensenbrenner?  
1116 Mr. Sensenbrenner. Aye.  
1117 The Clerk. Mr. Sensenbrenner votes aye.  
1118 Mr. Coble?  
1119 [No response.]  
1120 Mr. Gallegly?  
1121 [No response.]  
1122 Mr. Lungren?  
1123 Mr. Lungren. Aye.  
1124 The Clerk. Mr. Lungren votes aye.  
1125 Mr. Issa?  
1126 [No response.]  
1127 Mr. Forbes?

1128 Mr. Forbes. Aye.

1129 The Clerk. Mr. Forbes votes aye.

1130 Mr. King?

1131 Mr. King. Aye.

1132 The Clerk. Mr. King votes aye.

1133 Mr. Franks?

1134 [No response.]

1135 Mr. Gohmert?

1136 Mr. Gohmert. Aye.

1137 The Clerk. Mr. Gohmert votes aye.

1138 Mr. Jordan?

1139 [No response.]

1140 Mr. Poe?

1141 Mr. Poe. Aye.

1142 The Clerk. Mr. Poe votes aye.

1143 Mr. Chaffetz?

1144 [No response.]

1145 Mr. Rooney?

1146 Mr. Rooney. Aye.

1147 The Clerk. Mr. Rooney votes aye.

1148 Mr. Harper?

1149 Mr. Harper. Aye.

1150 The Clerk. Mr. Harper votes aye.

1151 Chairman Conyers. Any other members wish to cast a

1152 vote?

1153 Chairman Berman?

1154 Mr. Berman. Aye.

1155 The Clerk. Mr. Berman votes aye.

1156 Chairman Conyers. Mr. Weiner?

1157 Mr. Weiner. Aye.

1158 The Clerk. Mr. Weiner votes aye.

1159 Ms. Jackson Lee. Mr. Chairman, how am I recorded?

1160 Chairman Conyers. I don't know.

1161 The Clerk. Ms. Jackson Lee voted aye.

1162 Ms. Jackson Lee. Thank you.

1163 Chairman Conyers. Any others want to cast their vote?

1164 Mr. Jordan?

1165 Mr. Jordan. Aye.

1166 The Clerk. Mr. Jordan votes aye.

1167 Chairman Conyers. Mr. Boucher?

1168 Mr. Boucher. Aye.

1169 The Clerk. Mr. Boucher votes aye.

1170 Chairman Conyers. Mr. Quigley?

1171 Mr. Quigley. Aye.

1172 The Clerk. Mr. Quigley votes aye.

1173 Chairman Conyers. The clerk will report.

1174 The Clerk. Mr. Chairman, 29 members voted aye, zero

1175 members voted nay.

1176 Chairman Conyers. The majority having voted in favor,

1177 the Article I is adopted. Clerk will now please read Article

1178 II.

1179       The Clerk. Article II, G. Thomas Porteous, Jr. engaged  
1180 in a longstanding pattern of corrupt conduct that  
1181 demonstrates his unfitness to serve as a United States  
1182 District Court Judge.

1183       That conduct included the following: Beginning in or  
1184 about the late 1980s while he was a State court judge in the  
1185 24th Judicial District Court in the State of Louisiana, and  
1186 continuing while he was a Federal judge in the United States  
1187 District Court for the Eastern District of Louisiana, Judge  
1188 Porteous engaged in a corrupt relationship with bail bondsman  
1189 Louis M. Marcotte, III, and his sister Lori Marcotte.

1190       As part of this corrupt relationship, Judge Porteous  
1191 solicited and accepted numerous things of value, including  
1192 meals, trips, home repairs, and car repairs, for his personal  
1193 use and for benefit.

1194       Chairman Conyers. Without objection, Article II will be  
1195 considered as read. Are there any amendments or questions to  
1196 Article II? If not the question is on about adopting Article  
1197 II as your name is called—this will be another roll call  
1198 vote. Those in favor will say "aye," those opposed, "no."  
1199 The clerk will call the roll.

1200       The Clerk. Mr. Conyers?

1201       Chairman Conyers. Aye.

1202       The Clerk. Mr. Conyers votes aye.

1203 Mr. Berman?

1204 Mr. Berman. Aye.

1205 The Clerk. Mr. Berman votes aye.

1206 Mr. Boucher?

1207 [No response.]

1208 Mr. Nadler?

1209 [No response.]

1210 Mr. Scott?

1211 Mr. Scott. Aye.

1212 The Clerk. Mr. Scott votes aye.

1213 Mr. Watt?

1214 Mr. Watt. Aye.

1215 The Clerk. Mr. Watt votes aye.

1216 Ms. Lofgren?

1217 Ms. Lofgren. Aye.

1218 The Clerk. Ms. Lofgren votes aye.

1219 Ms. Jackson Lee?

1220 Ms. Jackson Lee. Aye.

1221 The Clerk. Ms. Jackson Lee votes aye.

1222 Ms. Waters?

1223 [No response.]

1224 Mr. Delahunt?

1225 [No response.]

1226 Mr. Cohen?

1227 Mr. Cohen. Aye.

1228 The Clerk. Mr. Cohen votes aye.  
1229 Mr. Johnson?  
1230 Mr. Johnson. Aye.  
1231 The Clerk. Mr. Johnson votes aye.  
1232 Mr. Pierluisi?  
1233 Mr. Pierluisi. Aye.  
1234 The Clerk. Mr. Pierluisi votes aye.  
1235 Mr. Quigley?  
1236 Mr. Quigley. Aye.  
1237 The Clerk. Mr. Quigley votes aye.  
1238 Ms. Chu?  
1239 Ms. Chu. Aye.  
1240 The Clerk. Ms. Chu votes aye.  
1241 Mr. Gutierrez?  
1242 [No response.].  
1243 Ms. Baldwin?  
1244 Ms. Baldwin. Aye.  
1245 The Clerk. Ms. Baldwin votes aye.  
1246 Mr. Gonzalez?  
1247 Mr. Gonzalez. Aye.  
1248 The Clerk. Mr. Gonzalez votes aye.  
1249 Mr. Weiner?  
1250 Mr. Weiner. Aye.  
1251 The Clerk. Mr. Weiner votes aye.  
1252 Mr. Schiff?

1253 Mr. Schiff. Aye.

1254 The Clerk. Mr. Schiff votes aye.

1255 Ms. Sanchez?

1256 Ms. Sanchez. Aye.

1257 The Clerk. Ms. Sanchez votes aye.

1258 Ms. Wasserman Schultz?

1259 Ms. Wasserman Schultz. Aye.

1260 The Clerk. Ms. Wasserman Schultz votes aye.

1261 Mr. Maffei?

1262 Mr. Maffei. Aye.

1263 The Clerk. Mr. Maffei votes aye.

1264 Mr. Smith?

1265 Mr. Smith. Aye.

1266 The Clerk. Mr. Smith votes aye.

1267 Mr. Goodlatte?

1268 Mr. Goodlatte. Aye.

1269 The Clerk. Mr. Goodlatte votes aye.

1270 Mr. Sensenbrenner?

1271 Mr. Sensenbrenner. Aye.

1272 The Clerk. Mr. Sensenbrenner votes aye.

1273 Mr. Coble?

1274 [No response.]

1275 Mr. Gallegly?

1276 [No response.]

1277 Mr. Lungren?

1278 Mr. Lungren. Aye.  
1279 The Clerk. Mr. Lungren votes aye.  
1280 Mr. Issa?  
1281 [No response.]  
1282 Mr. Forbes?  
1283 Mr. Forbes. Aye.  
1284 The Clerk. Mr. Forbes votes aye.  
1285 Mr. King?  
1286 Mr. King. Aye.  
1287 The Clerk. Mr. King votes aye.  
1288 Mr. Franks?  
1289 [No response.]  
1290 Mr. Gohmert?  
1291 Mr. Gohmert. Aye.  
1292 The Clerk. Mr. Gohmert votes aye.  
1293 Mr. Jordan?  
1294 [No response.]  
1295 Mr. Poe?  
1296 Mr. Poe. Aye.  
1297 The Clerk. Mr. Poe votes aye.  
1298 Mr. Chaffetz?  
1299 [No response.]  
1300 Mr. Rooney?  
1301 Mr. Rooney. Aye.  
1302 The Clerk. Mr. Rooney votes aye.

1303 Mr. Harper?

1304 Mr. Harper. Aye.

1305 The Clerk. Mr. Harper votes aye.

1306 Chairman Conyers. Any other members choose to cast  
1307 their vote? If not, the clerk will report.

1308 The Clerk. Mr. Chairman, 28 members responded aye by  
1309 saying aye and zero members voted no.

1310 Chairman Conyers. The majority having voted in favor  
1311 Article II is adopted. We have two votes on the floor. We  
1312 will stand in recess and resume this impeachment resolution  
1313 as soon as those votes are—

1314 Voice. You want to do one real quick—

1315 Chairman Conyers. —no.

1316 Voice. Do another—Article III—

1317 Voice. We just have one more Article and then we can  
1318 take the vote on the bill we have remaining and recess if you  
1319 want to.

1320 Voice. We have two more.

1321 Chairman Conyers. We have two more, yes. We stand in  
1322 recess.

1323 [Recess.]

1324 Chairman Conyers. Committee will come to order. Clerk  
1325 will read Article III.

1326 The Clerk. Article III. Beginning in or about March  
1327 2001 and continuing through about July 2004, while a Federal

1328 judge in the United States District Court for the Eastern  
1329 District of Louisiana, G. Thomas Porteous, Jr. engaged in a  
1330 pattern of conduct inconsistent with the trust and confidence  
1331 placed in him as a Federal judge by knowingly and  
1332 intentionally making material false statements and  
1333 representations under penalty of perjury related to his  
1334 personal bankruptcy filing and by repeatedly violating a  
1335 court order in his bankruptcy case.

1336 Judge Porteous did so by:

1337 (1) using a false name and a post office box address to  
1338 conceal his identity as the debtor in the case;

1339 (2) concealing assets;

1340 (3) concealing preferential payments to certain  
1341 creditors;

1342 (4) concealing gambling losses and other gambling debts;  
1343 and

1344 (5) incurring new debts while the case was pending, in  
1345 violation of the bankruptcy court's order.

1346 In doing so, Judge Porteous brought his court into  
1347 scandal and disrepute, prejudiced public respect for and  
1348 confidence in the Federal judiciary, and demonstrated that he  
1349 is unfit for the office of Federal judge.

1350 Wherefore, Judge G. Thomas Porteous, Jr., is guilty of  
1351 high crimes and misdemeanors and should be removed from  
1352 office.

1353 Chairman Conyers. Is there any discussion or questions  
1354 on adopting Article III?

1355 If not, all those in favor, say "aye."

1356 [A chorus of ayes.]

1357 Chairman Conyers. All those opposed, say "no."

1358 [No response.]

1359 Chairman Conyers. The clerk should call the roll on  
1360 this.

1361 The Clerk. Mr. Conyers?

1362 Chairman Conyers. Aye.

1363 The Clerk. Mr. Conyers votes aye.

1364 The Clerk. Mr. Berman?

1365 [No response.]

1366 Mr. Boucher.

1367 Mr. Boucher. Aye.

1368 The Clerk. Mr. Boucher votes aye.

1369 Mr. Nadler?

1370 Mr. Nadler. Aye.

1371 The Clerk. Mr. Nadler votes aye.

1372 Mr. Scott.

1373 [No response.]

1374 Mr. Watt?

1375 [No response.]

1376 Ms. Lofgren?

1377 [No response.]

1378 Ms. Jackson Lee?  
1379 Ms. Jackson Lee. Aye.  
1380 The Clerk. Ms. Jackson Lee votes aye.  
1381 Ms. Waters?  
1382 [No response.]  
1383 Mr. Delahunt?  
1384 [No response.]  
1385 Mr. Cohen?  
1386 Mr. Cohen. Aye.  
1387 The Clerk. Mr. Cohen votes aye.  
1388 Mr. Johnson?  
1389 Mr. Johnson. Aye.  
1390 The Clerk. Mr. Johnson votes aye.  
1391 Mr. Pierluisi?  
1392 Mr. Pierluisi. Aye.  
1393 The Clerk. Mr. Pierluisi votes aye.  
1394 Mr. Quigley?  
1395 [No response.]  
1396 Ms. Chu?  
1397 Ms. Chu. Aye.  
1398 The Clerk. Ms. Chu votes aye.  
1399 Mr. Gutierrez?  
1400 [No response.]  
1401 Ms. Baldwin?  
1402 Ms. Baldwin. Aye.

1403 The Clerk. Ms. Baldwin votes aye.  
1404 Mr. Gonzales?  
1405 [No response.]  
1406 Mr. Weiner?  
1407 [No response.]  
1408 Mr. Schiff?  
1409 Mr. Schiff. Aye.  
1410 The Clerk. Mr. Schiff votes aye.  
1411 Ms. Sanchez?  
1412 [No response.]  
1413 Ms. Wasserman Schulz?  
1414 [No response.]  
1415 Mr. Maffei?  
1416 Mr. Maffei. Aye.  
1417 The Clerk. Mr. Maffei votes aye.  
1418 Mr. Smith?  
1419 Mr. Smith. Aye.  
1420 The Clerk. Mr. Smith votes aye.  
1421 Mr. Goodlatte?  
1422 Mr. Goodlatte. Aye.  
1423 The Clerk. Mr. Goodlatte votes aye.  
1424 Mr. Sensenbrenner?  
1425 Mr. Sensenbrenner. Aye.  
1426 The Clerk. Mr. Sensenbrenner votes aye.  
1427 Mr. Coble?

1428 [No response.]  
1429 Mr. Gallegly?  
1430 Mr. Gallegly. Aye.  
1431 The Clerk. Mr. Gallegly votes aye.  
1432 Mr. Lungren?  
1433 Mr. Lungren. Aye.  
1434 The Clerk. Mr. Lungren votes aye.  
1435 Mr. Issa?  
1436 [No response.]  
1437 Mr. Forbes?  
1438 Mr. Forbes. Aye.  
1439 The Clerk. Mr. Forbes votes aye.  
1440 Mr. King?  
1441 Mr. King. Aye.  
1442 The Clerk. Mr. King votes aye.  
1443 Mr. Franks?  
1444 [No response.]  
1445 Mr. Gohmert?  
1446 [No response.]  
1447 Mr. Jordan?  
1448 [No response.]  
1449 Mr. Poe?  
1450 Mr. Poe. Aye.  
1451 The Clerk. Mr. Poe votes yes.  
1452 Mr. Chaffetz?

1453 [No response.]

1454 Mr. Rooney?

1455 [No response.]

1456 Mr. Harper?

1457 Mr. Harper. Aye.

1458 The Clerk. Mr. Harper votes aye.

1459 Chairman Conyers. Are there any members that want to

1460 vote?

1461 Mel Watt.

1462 The Clerk. Mr. Watt?

1463 Mr. Watt. Aye.

1464 The Clerk. Mr. Watt votes aye.

1465 Chairman Conyers. Mr. Gutierrez?

1466 The Clerk. Mr. Gutierrez?

1467 Mr. Gutierrez. Aye.

1468 The Clerk. Mr. Gutierrez votes aye.

1469 Chairman Conyers. Mr. Weiner.

1470 Mr. Weiner. Aye.

1471 The Clerk. Mr. Weiner votes aye.

1472 Chairman Conyers. Clerk will report.

1473 The Clerk. Mr. Chairman, 23 members voted aye, zero

1474 members voted nay.

1475 Chairman Conyers. Thank you. The majority having voted

1476 in favor of Article III it is adopted. The clerk will now

1477 please read Article IV.

1478           The Clerk. Article IV. In 1994, in connection with his  
1479 nomination to be a judge of the United States District Court  
1480 for the Eastern District of Louisiana, G. Thomas Porteous,  
1481 Jr., knowingly made material false statements about his past  
1482 to both the United States Senate and to the Federal Bureau of  
1483 Investigation in order to obtain the office of United States  
1484 District Court Judge.

1485           These false statements included the following:

1486           (1) On his Supplemental SF-86, Judge Porteous was asked  
1487 if there was anything in his personal life that could be used  
1488 by someone to coerce or blackmail him, or if there was  
1489 anything in his life that could cause an embarrassment to  
1490 Judge Porteous or the President if publicly-

1491           Mr. Watt. Mr. Chairman, I ask unanimous consent the  
1492 Article be considered as read.

1493           Chairman Conyers. Without objection, so ordered. Any  
1494 discussion or questions on Article IV? If not, all those in  
1495 favor of adopting Article IV-well, let us have a record vote  
1496 on it.

1497           The Clerk. Mr. Conyers?

1498           Chairman Conyers. Aye.

1499           The Clerk. Mr. Conyers votes aye.

1500           Mr. Berman?

1501           [No response.]

1502           Mr. Boucher?

1503 Mr. Boucher. Aye.

1504 The Clerk. Mr. Boucher votes aye.

1505 Mr. Nadler?

1506 Mr. Nadler. Aye.

1507 The Clerk. Mr. Nadler votes aye.

1508 Mr. Scott?

1509 [No response.]

1510 Mr. Watt?

1511 Mr. Watt. Aye.

1512 The Clerk. Mr. Watt votes aye.

1513 Ms. Lofgren?

1514 [No response.]

1515 Ms. Jackson Lee?

1516 Ms. Jackson Lee. Aye.

1517 The Clerk. Ms. Jackson Lee votes aye.

1518 Ms. Waters?

1519 [No response.]

1520 Mr. Delahunt?

1521 [No response.]

1522 Mr. Cohen?

1523 Mr. Cohen. Aye.

1524 The Clerk. Mr. Cohen votes aye.

1525 Mr. Johnson?

1526 Mr. Johnson. Aye.

1527 The Clerk. Mr. Johnson votes aye.

1528 Mr. Pierluisi?  
1529 Mr. Pierluisi. Aye.  
1530 The Clerk. Mr. Pierluisi votes aye.  
1531 Mr. Quigley?  
1532 Mr. Quigley. Aye.  
1533 The Clerk. Mr. Quigley votes aye.  
1534 Ms. Chu?  
1535 Ms. Chu. Aye.  
1536 The Clerk. Ms. Chu votes aye.  
1537 Mr. Gutierrez?  
1538 Mr. Gutierrez. Aye.  
1539 The Clerk. Mr. Gutierrez votes aye.  
1540 Ms. Baldwin.  
1541 Ms. Baldwin. Aye.  
1542 The Clerk. Ms. Baldwin votes aye.  
1543 Mr. Gonzalez?  
1544 [No response.]  
1545 Mr. Weiner?  
1546 Mr. Weiner. Aye.  
1547 The Clerk. Mr. Weiner votes aye.  
1548 Mr. Schiff?  
1549 Mr. Schiff. Aye.  
1550 The Clerk. Mr. Schiff votes aye.  
1551 Ms. Sanchez?  
1552 [No response.]

1553 Ms. Wasserman Schulz?  
1554 [No response.]  
1555 Mr. Maffei?  
1556 Mr. Maffei. Aye.  
1557 The Clerk. Mr. Maffei votes aye.  
1558 Mr. Smith?  
1559 Mr. Smith. Aye.  
1560 The Clerk. Mr. Smith votes aye.  
1561 Mr. Goodlatte?  
1562 Mr. Goodlatte. Aye.  
1563 The Clerk. Mr. Goodlatte votes aye.  
1564 Mr. Sensenbrenner?  
1565 Mr. Sensenbrenner. Aye.  
1566 The Clerk. Mr. Sensenbrenner votes aye.  
1567 Mr. Coble?  
1568 [No response.]  
1569 Mr. Gallegly?  
1570 Mr. Gallegly. Aye.  
1571 The Clerk. Mr. Gallegly votes aye.  
1572 Mr. Lungren?  
1573 Mr. Lungren. Aye.  
1574 The Clerk. Mr. Lungren votes aye.  
1575 Mr. Issa?  
1576 [No response.]  
1577 Mr. Forbes?

1578 [No response.]

1579 Mr. King?

1580 Mr. King. Aye.

1581 The Clerk. Mr. King votes aye.

1582 Mr. Franks?

1583 [No response.]

1584 Mr. Gohmert?

1585 [No response.]

1586 Mr. Jordan?

1587 Mr. Jordan. Aye.

1588 The Clerk. Mr. Jordan votes yes.

1589 Mr. Poe?

1590 Mr. Poe. Aye.

1591 The Clerk. Mr. Poe votes aye.

1592 Mr. Chaffetz?

1593 [No response.]

1594 Mr. Rooney?

1595 [No response.]

1596 Mr. Harper?

1597 Mr. Harper. Aye.

1598 The Clerk. Mr. Harper votes aye.

1599 Chairman Conyers. Mr. Forbes?

1600 Mr. Forbes. Aye.

1601 The Clerk. Mr. Forbes votes aye.

1602 Chairman Conyers. Any other members choose to vote?

1603 Clerk will report.

1604 The Clerk. Mr. Chairman, 25 members voted aye, zero  
1605 members voted nay.

1606 Chairman Conyers. And the Article is adopted.

1607 Now we have a reporting quorum, and we will now vote on  
1608 the reporting the entire resolution with the approved  
1609 Articles favorably to the House. So members, as your name is  
1610 called, if you are in favor vote "aye" and if you are opposed  
1611 vote "no." And the clerk will call the roll.

1612 Mr. Watt. Mr. Chairman, just a question on  
1613 parliamentary inquiry?

1614 Chairman Conyers. Let us take this vote first and then—

1615 Mr. Watt. Is this the final vote?

1616 Chairman Conyers. You can inquire later. Yes, it is  
1617 the final vote.

1618 Clerk will call the roll.

1619 The Clerk. Mr. Conyers.

1620 Chairman Conyers. Aye.

1621 The Clerk. Mr. Conyers votes aye.

1622 Mr. Berman?

1623 [No response.]

1624 Mr. Boucher?

1625 Mr. Boucher. Aye.

1626 The Clerk. Mr. Boucher votes aye.

1627 Mr. Nadler?

1628 Mr. Nadler. Aye.

1629 The Clerk. Mr. Nadler votes aye.

1630 Mr. Scott?

1631 [No response.]

1632 Mr. Watt?

1633 Mr. Watt. Aye.

1634 The Clerk. Mr. Watt votes aye.

1635 Ms. Lofgren?

1636 [No response.]

1637 Ms. Jackson Lee?

1638 Ms. Jackson Lee. Aye.

1639 The Clerk. Ms. Jackson Lee votes aye.

1640 Ms. Waters?

1641 [No response.]

1642 Mr. Delahunt?

1643 [No response.]

1644 Mr. Cohen?

1645 Mr. Cohen. Aye.

1646 The Clerk. Mr. Cohen votes aye.

1647 Mr. Johnson?

1648 Mr. Johnson. Aye.

1649 The Clerk. Mr. Johnson votes aye.

1650 Mr. Pierluisi?

1651 Mr. Pierluisi. Aye.

1652 The Clerk. Mr. Pierluisi votes aye.

1653 Mr. Quigley?  
1654 Mr. Quigley. Aye.  
1655 The Clerk. Mr. Quigley votes aye.  
1656 Ms. Chu?  
1657 Ms. Chu. Aye.  
1658 The Clerk. Ms. Chu votes aye.  
1659 Mr. Gutierrez?  
1660 Mr. Gutierrez. Aye.  
1661 The Clerk. Mr. Gutierrez votes aye.  
1662 Ms. Baldwin.  
1663 Ms. Baldwin. Aye.  
1664 The Clerk. Ms. Baldwin votes aye.  
1665 Mr. Gonzalez?  
1666 [No response.]  
1667 Mr. Weiner?  
1668 Mr. Weiner. Aye.  
1669 The Clerk. Mr. Weiner votes aye.  
1670 Mr. Schiff?  
1671 Mr. Schiff. Aye.  
1672 The Clerk. Mr. Schiff votes aye.  
1673 Ms. Sanchez?  
1674 [No response.]  
1675 Ms. Wasserman Schulz?  
1676 [No response.]  
1677 Mr. Maffei?

1678 Mr. Maffei. Aye.  
1679 The Clerk. Mr. Maffei votes aye.  
1680 Mr. Smith?  
1681 Mr. Smith. Aye.  
1682 The Clerk. Mr. Smith votes aye.  
1683 Mr. Goodlatte?  
1684 Mr. Goodlatte. Aye.  
1685 The Clerk. Mr. Goodlatte votes aye.  
1686 Mr. Sensenbrenner?  
1687 Mr. Sensenbrenner. Aye.  
1688 The Clerk. Mr. Sensenbrenner votes aye.  
1689 Mr. Coble?  
1690 [No response.]  
1691 Mr. Gallegly?  
1692 Mr. Gallegly. Aye.  
1693 The Clerk. Mr. Gallegly votes aye.  
1694 Mr. Lungren?  
1695 Mr. Lungren. Aye.  
1696 The Clerk. Mr. Lungren votes aye.  
1697 Mr. Issa?  
1698 [No response.]  
1699 Mr. Forbes?  
1700 Mr. Forbes. Aye.  
1701 The Clerk. Mr. Forbes votes aye.  
1702 Mr. King?

1703 Mr. King. Aye.

1704 The Clerk. Mr. King votes aye.

1705 Mr. Franks?

1706 [No response.]

1707 Mr. Gohmert?

1708 [No response.]

1709 Mr. Jordan?

1710 [No response.]

1711 Mr. Poe?

1712 Mr. Poe. Aye.

1713 The Clerk. Mr. Poe votes aye.

1714 Mr. Chaffetz?

1715 [No response.]

1716 Mr. Rooney?

1717 [No response.]

1718 Mr. Harper?

1719 Mr. Harper. Aye.

1720 The Clerk. Mr. Harper votes aye.

1721 Chairman Conyers. Any members choose to vote that

1722 haven't?

1723 Mr. Watt. Mr. Chairman?

1724 Chairman Conyers. Yes, sir.

1725 Mr. Watt. I am not recorded. I think Mr. Scott is on

1726 the way, I think, is what—I am trying to stall a little bit—

1727 for to be totally transparent. Am I recorded?

1728 [Laughter.]

1729 The Clerk. Mr. Watt voted aye.

1730 Mr. Watt. Are you absolutely sure?

1731 [Laughter.]

1732 The Clerk. I will double-check, sir.

1733 Mr. Watt. Please double-check or triple-check.

1734 The Clerk. Mr. Watt voted aye.

1735 Mr. Watt. Again, the second time, too?

1736 Chairman Conyers. Mr. Schiff requests to know how he  
1737 cast his vote.

1738 The Clerk. Mr. Schiff voted aye.

1739 Mr. Maffei. Mr. Chairman.

1740 Chairman Conyers. I don't know.

1741 Chairman Conyers. Clerk will report.

1742 The Clerk. Mr. Chairman, 24 members voted aye, zero  
1743 members voted nay.

1744 Chairman Conyers. Thank you. A majority having voted  
1745 in favor, the resolution is ordered reported favorably to the  
1746 House. Members will have 2 days to submit views.

1747 Members of the committee, we now have a quorum to vote  
1748 on the Equal Justice For Our Military Act, H.R. 569, and we  
1749 will now have a voice vote on that matter.

1750 All in favor of H.R. 569 indicate by saying "aye."

1751 [A chorus of ayes.]

1752 Chairman Conyers. All those opposed, indicate by saying

1753 "no."

1754 [A chorus of noes.]

1755 Chairman Conyers. Ayes have it and the bill is reported  
1756 favorably without objection as it is reported as amended to  
1757 the subcommittee, reported by the subcommittee and is  
1758 considered original text for the purpose of amendment and  
1759 will be reported favorably to the House. Members will have 2  
1760 days to submit additional views.

1761 A final issue for today and that is the bankruptcy bill.  
1762 Pursuant to notice, I call up H.R. 4506 for purposes of  
1763 markup and ask the clerk to report the bill.

1764 The Clerk. H.R. 4506, a bill to authorize the  
1765 appointment of additional bankruptcy judges and for other  
1766 purposes.

1767 [The bill follows:]

1768 \*\*\*\*\* INSERT \*\*\*\*\*

1769 Chairman Conyers. Thank you. Without objection, the  
1770 bill will be considered read and open for amendment.

1771 I invite the chair of Commercial and Administrative Law,  
1772 Steve Cohen of Tennessee, to describe the measure that is  
1773 before the committee.

1774 Mr. Cohen. Thank you, Mr. Chairman Conyers and members  
1775 of the committee. H.R. 4506, the Bankruptcy Judgeship Act of  
1776 2010, addresses a critical resource needed for the federal  
1777 judiciary, one that has been needed for some time.

1778 According to the Judicial Conference of the United  
1779 States workloads for bankruptcy courts have been increasing  
1780 steadily since 2005 both in terms of the number of bankruptcy  
1781 cases filed and the complexity of those cases. This trend  
1782 has only been exacerbated by the nation's continuing economic  
1783 troubles.

1784 Data compiled by the Administrative Office of the U.S.  
1785 Court shows that there were more than 1.4 million bankruptcy  
1786 filings at the end of fiscal 2009. Additionally, The Wall  
1787 Street Journal reported a sharp increase in personal  
1788 bankruptcy filings in 2009, up 32 percent from 2008.

1789 According to The Journal, these increases were driven by  
1790 high unemployment rates and the continuing housing crisis,  
1791 both of which have affected not only those on the economic  
1792 margins but also growing numbers of middle class families who  
1793 have turned to our nation's bankruptcy system for help.

1794           People have lost their jobs through no reason of their  
1795 own. This trend hits pretty close to me in Shelby County in  
1796 Memphis, Tennessee. We had the highest overall bankruptcy  
1797 filing rate of any county in the nation as of November 2009.  
1798 Among states, Tennessee had the second highest only to  
1799 Nevada.

1800           In addition to growing numbers of bankruptcy cases, the  
1801 cases have grown much more complex. In 2000 (sic) alone,  
1802 General Motors and Chrysler, two companies upon which tens of  
1803 thousands of workers, dealers, suppliers, and many  
1804 communities across the nation who depended on these companies  
1805 and their other suppliers for their livelihoods, went through  
1806 quick but nonetheless intense bankruptcies in which  
1807 bankruptcy courts performed admirably but under considerable  
1808 strain.

1809           Outside the auto industry, businesses from Delta  
1810 Airlines to Lehman Brothers to Circuit City have all turned  
1811 to bankruptcy system for relief in recent years with similar  
1812 burdens being imposed on the bankruptcy courts.

1813           Whether or not these companies successfully reorganized  
1814 or were forced into liquidation, they are indicative of an  
1815 increasingly complex and time consuming cases bankruptcy  
1816 judges have been required to take on in recent times.

1817           While the workload for bankruptcy courts is increasing,  
1818 judicial resources are in danger of decreasing. Many current

1819 bankruptcy judges are authorized only on a temporary basis  
1820 and some are set to expire soon.

1821       The Bankruptcy Judgeship Act of 2010 would authorize the  
1822 creation of 13 new bankruptcy judges, the conversion of 22  
1823 temporary judgeships to permanent judgeships, and extend the  
1824 temporary time for two judgeships temporary now for another 5  
1825 years.

1826       These new converted and extended bankruptcy judges  
1827 reflect the recommendations of the Judicial Conference of the  
1828 United States. Those recommendations have turned to the  
1829 culmination of an extensive and careful survey and review  
1830 process that thoroughly assessed the bankruptcy judgeship  
1831 needs of every judicial district in the country.

1832       To pay for the 13 new judgeships, the bill raises filing  
1833 fees for Chapter 7 and 13 cases by \$1, simply \$1, and for  
1834 Chapter 11 cases by \$42. While I understand filing fees are  
1835 needed for the successful operation of the bankruptcy system,  
1836 I believe they are already too high, particularly for  
1837 consumer debtors seeking bankruptcy relief.

1838       No one should conclude, based on the minimal increases  
1839 contained in this bill that this bill sets the precedent for  
1840 raising filing fees on consumers to pay for future bankruptcy  
1841 judgeships. It was ultimately determined that a fee increase  
1842 was necessary in this one instance to get the needed  
1843 judgeships which will allow for the efficient functioning of

1844 the bankruptcy courts to the ultimate benefit of debtors.

1845       If we don't have the increase in fees to afford the  
1846 judges, we won't have the judges and justice delayed is  
1847 justice denied.

1848       I thank Chairman Conyers and Ranking Member Smith for  
1849 their co-sponsorship of this bill. I thank the ranking  
1850 member of the Subcommittee on Commercial and Administrative  
1851 Law, Trent Franks, for support of this legislation, and I  
1852 strongly urge my colleagues to support this bill.

1853       Chairman Conyers. Lamar Smith, please.

1854       Mr. Smith. Thank you, Mr. Chairman. Like you and Mr.  
1855 Cohen, I was pleased to co-sponsor this legislation.  
1856 Additional permanent bankruptcy judges have not been  
1857 authorized since 1992. The Judicial Conference has requested  
1858 more judgeships several times and the House has passed  
1859 legislation to add them. However, the Senate has not acted  
1860 on such legislation.

1861       Since Congress last authorized additional permanent  
1862 judgeships, judicial workloads have increased substantially.  
1863 The important bankruptcy reforms Congress passed in 2005, for  
1864 example, called on judges to do more to help prevent abuse.  
1865 In addition, troubles in our economy have increased the  
1866 number of cases in the bankruptcy courts.

1867       Congress compensated for some of the courts rising  
1868 increasing burden in recent years by creating temporary

1869 bankruptcy judgeships. Many of those judgeships are near to  
1870 their expiration dates. The time has come for Congress to  
1871 address bankruptcy judgeships and the needs more permanently.

1872 Bankruptcy judges are essential to the bankruptcy  
1873 process. They make certain that the bankruptcy process is  
1874 fair and impartial to those who come before the bankruptcy  
1875 courts. It is also their job to ensure that the bankruptcy  
1876 courts effectively adjudicate party's rights and  
1877 responsibilities.

1878 This bill is based on a comprehensive study of judicial  
1879 resource needs conducted by the judicial conference. The  
1880 conference has assured us that its request comes only after  
1881 it has taken steps to maximize all other alternatives to  
1882 reduce judicial workloads.

1883 There are currently 352 bankruptcy judges including 36  
1884 temporary judges. This legislation creates 13 new permanent  
1885 bankruptcy judgeships and converts 22 of the existing  
1886 temporary judgeships to permanent status. It also provides  
1887 5-year extensions to two temporary judgeships.

1888 Finally, this bill will not present any new costs for  
1889 the taxpayer. The increased costs of these judgeships are  
1890 paid for by an increase in Chapter 7, Chapter 11 and Chapter  
1891 13 bankruptcy filing fees.

1892 We need a bankruptcy system that has a sufficient number  
1893 of judges to be able to manage the system's case load in a

1894 just, economical, and timely manner. This bill helps ensure  
1895 that we have such a system. I urge my colleagues to support  
1896 the legislation.

1897 Mr. Chairman, I yield back.

1898 Chairman Conyers. Thank you very much, Lamar Smith.

1899 All other statements will be invited to be submitted into the  
1900 record, and if there are no amendments—

1901 Mr. Watt. Mr. Chairman.

1902 Chairman Conyers. Yes, gentleman from North Carolina?

1903 Mr. Watt. Can I just move to strike the last word to  
1904 ask—

1905 Chairman Conyers. The gentleman is recognized.

1906 Mr. Watt. —ask the chairman of the subcommittee a  
1907 question. We, both Mr. Scott and I noticed that there are  
1908 five new judgeships being authorized in Delaware, and I guess  
1909 the question is, I mean, we understand that that is probably  
1910 related to corporate bankruptcies increasing substantially,  
1911 but the question becomes, is there some—what happens after  
1912 the economy settles down and the number of bankruptcies  
1913 presumably would go back to some more manageable level.

1914 That doesn't—I mean, I have never known a cutback in the  
1915 number of judges. I always see an increase of but that might  
1916 argue theoretically for some of these judges in Delaware  
1917 being temporary as opposed to permanent. And I would ask the  
1918 chairman of the committee to maybe set me at ease about that.

1919 Mr. Cohen. Thank you.

1920 Mr. Watt. I yield to the gentleman.

1921 Mr. Cohen. No, these numbers were determined on an  
1922 objective basis by the court system and not in any way  
1923 political. Delaware—

1924 Mr. Watt. I am not suggesting they were political.

1925 Mr. Cohen. Oh, I know.

1926 Mr. Watt. I don't mean to suggest that.

1927 Mr. Cohen. But I mean there was an analysis, and I know  
1928 Delaware's corporate population is great and probably will  
1929 continue to be great. I, like you, share the belief that we  
1930 are going to follow the advice of the president, work with  
1931 him to get out of this economic malaise that we have fallen  
1932 into and that things will get better.

1933 But for right now, there is certainly a need and I can't  
1934 necessarily give you a good answer. I hope you will work  
1935 with me and I will talk to the vice president and try to get  
1936 a better answer for you.

1937 Mr. Watt. Okay. I appreciate the gentleman at least  
1938 acknowledging that and maybe he can help me to get an answer  
1939 to that question between now and the floor.

1940 I yield back, Mr. Chairman.

1941 Chairman Conyers. Thank you. Reporting quorum being  
1942 present, the question is on reporting the bill favorably to  
1943 the House. All those in favor, say "aye."

1944 [A chorus of ayes.]

1945 All those opposed, say "no."

1946 [No response.]

1947 Chairman Conyers. The ayes have it, and the bill is  
1948 ordered reported favorably without objection. It will be  
1949 reported as a single amendment in the nature of a substitute  
1950 incorporating amendments adopted. Staff is authorized to  
1951 make technical and conforming changes. Members have 2  
1952 additional days.

1953 That concludes the four measures on our agenda. I thank  
1954 everyone for their participation. The committee stands  
1955 adjourned.

1956 [Whereupon, at 12:46 p.m., the committee was adjourned.]