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

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

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

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

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

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

The legislative clerk read as follows:

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

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

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

S. RES. 202

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The legislative clerk read as follows:

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

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

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

S. RES. 203

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

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

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

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

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

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

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

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

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

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

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

APPOINTMENT OF IMPEACHMENT TRIAL COMMITTEE

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

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

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

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

The majority leader.

Mr. REID. Mr. President, the Committee on Rules and Administration will be providing its hearing room, SR–301, to the impeachment committee for an organizational meeting at a time to be determined.

The ACTING PRESIDENT pro tempore. The Senate will take further proper order and notify the House of Representatives and counsel for Judge Kent.

Mr. REID. Mr. President, I ask in an orderly fashion that Senators approach the desk for the signing of the resolution of impeachment before they leave the Chamber.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

SCHEDULE

Mr. REID. Mr. President, at 11 o'clock today, there will be a vote on the nomination of Mr. Koh, to be Legal Adviser of the Department of State. I tell all Senators I had a conversation with the Republican leader today. We are doing our best to move to a couple appropriations bills. The first in line is the Legislative Branch appropriations bill, and the next is Homeland Security. We hope we can get on those. The Republican leader said he would do his best to help us do that. I hope that, in fact, is the case. We will keep Members advised as to what we will do the rest of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF HAROLD HONGJU KOH TO BE LEGAL ADVISER OF THE DEPARTMENT OF STATE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Harold Hongju Koh, of Connecticut, to be Legal Adviser of the Department of State.

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield myself such time as I will consume. I intend to yield time to Senator LIEBERMAN and Senator FEINGOLD.

Mr. President, I rise in very strong support of the nomination of Dean Harold Koh to be the Legal Adviser to the Secretary of State. This nomination is, in fact, overdue.

Dean Koh is one of the foremost legal scholars in the country and a man of the highest intellect, integrity, and character. He received a law degree from Harvard, where he was an editor of the Law Review, with two master's degrees from Oxford University where he was a Marshall Scholar.

He clerked on both the DC Circuit Court of Appeals and the U.S. Supreme Court. He has served with distinction in both Democratic and Republican administrations, beginning his career in government in the Office of Legal Counsel in the Reagan era.

I think everybody who has dealt with him and has worked with him on a personal level understands the skill Dean Koh would bring to this job. He has worked with the State Department on a firsthand basis. He served as Assistant Secretary of State for Democracy, Human Rights, and Labor in the Clinton administration—a post for which he was unanimously confirmed by the Senate in 1998.

He left government to teach at Yale Law School, and he went on to serve as dean until his nomination to serve in the current administration. As a renowned scholar and a leading expert on international law, he has published or coauthored eight books and over 150 articles.

Throughout his career, Dean Koh has been a fierce defender of the rule of law and human rights. He understands that the United States benefits as much if not more than any other country from an international system of law where we are governed by the rule of law.

At the same time, his personal commitment to America's security and to the defense of our Constitution are indisputable. Accusations that his views on international or foreign law would somehow undermine the Constitution are simply unjustified and unfounded—completely and totally. As Dean Koh explained in response to a question from Senator LUGAR, who supports his nomination, he said:

> My family settled here in part to escape from oppressive foreign law, and it was America's law and commitment to human rights that drew us here and have given me every privilege in my life that I enjoy. My life's work represents the lessons learned from that experience. Throughout my career, both in and out of government, I have argued that the U.S. Constitution is the ultimate controlling law in the United States and that the Constitution directs whether and to what extent international law should guide courts and policymakers.

So while disagreements on legal theory are obviously legitimate, I regret that some of the accusations and insinuations against Dean Koh have simply gone over any line of reasonableness or decency. Some people have actually alleged that Dean Koh supports the imposition of Islamic Shariah law in America, which it just begs any notion of relevance to what is rational.

Some have questioned Dean Koh for allegedly supporting suits against Bush administration officials involved in abusive interrogation techniques. Well, this is a matter for the Justice Department that he will have no role in as Legal Adviser of the State Department.

Others have actually gone so far as to claim—believe it or not—that he is against Mother's Day. I am happy his mother was at the hearing. He pointed to her and had to go so far as to actually deny that, which is rather extraordinary.

Dean Koh deserves a better debate than he has been given thus far, and all of us are done a disservice when the debate gets diverted to some of the accusations we have heard in this case.

Regardless of any policy differences, everyone in the Senate ought to be able to agree on Dean Koh's obvious competence. We have received an outpouring of support for this nomination from all corners, including from over 600 law professors, over 100 law school deans, over 40 members of the clergy, 7 former State Department Legal Advisers—including the past two Legal Advisers from the Bush administration—and many others.

Perhaps most remarkable has been the enthusiastic support for Dean Koh from those who do not agree with him on some issues who have spoken out on his behalf, including former Solicitor General Ted Olson and former White House Chief of Staff Joshua Bolten. No less a conservative legal authority than Ken Starr wrote:

> The President's nomination of Harold Koh deserves to be honored and respected. For our part as Americans who love our country, we should be grateful that such an extraordinarily talented lawyer and scholar is willing to leave the deanship at his beloved Yale Law School and take on this important but sacrificial form of service to our Nation.

So I think that says it all. That is the kind of Legal Adviser we need at the State Department. I urge my colleagues to support this nomination and to vote for cloture on this nomination.

Mr. President, how much time do we have remaining on our side? At least another 15 minutes.

The PRESIDING OFFICER. There is 3 minutes 40 seconds remaining.

Mr. KERRY. That is the total time we have available?

The PRESIDING OFFICER. That is the total time remaining controlled by the majority.

Mr. KERRY. I divide it evenly between Senator LIEBERMAN and Senator FEINGOLD.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to speak on behalf of the nomination of Harold Koh to be Legal Adviser at the Department of State.

I have known Harold Koh for many years, as a friend and as a neighbor in New Haven, and there is no doubt in my mind that he is a profoundly qualified choice for this important position, and deserving of confirmation.