

Moran (VA)	Ryan (OH)	Towns
Pence	Sestak	Watson
Peterson (PA)	Shays	Wilson (NM)
Rangel	Shimkus	Wittman (VA)
Renzi	Simpson	Wynn
Rohrabacher	Solis	
Ruppersberger	Tierney	

□ 1157

Messrs. RAHALL, MILLER of Florida, OBERSTAR, and FRANK of Massachusetts changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. SESTAK. Madam Speaker, on rollcall No. 58, I was with my six-year-old daughter, Alex, at the hospital. Had I been present, I would have voted "nay."

Ms. SOLIS. Madam Speaker, during rollcall vote No. 58 on the motion to adjourn, I was unavoidably detained. Had I been present, I would have voted "nay."

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5270. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

The message also announced that pursuant to section 5 of title I of division H of Public Law 110-161, the Chair, on behalf of the Vice President, appoints the following Senator as Chairman of the U.S.-Japan Interparliamentary Group conference for the One Hundred Tenth Congress:

The Senator from Alaska (Mr. STEVENS).

PROVIDING FOR ADOPTION OF H. RES. 979, RECOMMENDING THAT HARRIET MIERS AND JOSHUA BOLTEN BE FOUND IN CONTEMPT OF CONGRESS, AND ADOPTION OF H. RES. 980, AUTHORIZING COMMITTEE ON THE JUDICIARY TO INITIATE OR INTERVENE IN JUDICIAL PROCEEDINGS TO ENFORCE CERTAIN SUBPOENAS

Ms. SLAUGHTER. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 982 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That House Resolution 979 and House Resolution 980 are hereby adopted.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 1 hour.

Ms. SLAUGHTER. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Ms. SLAUGHTER. I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and insert extraneous material into the RECORD.

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

There was no objection.

Ms. SLAUGHTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H. Res. 982 provides that upon its adoption, House Resolution 979 and House Resolution 980 are hereby adopted.

House Resolution 979 recommends that the House of Representatives find Harriet Miers and Joshua Bolten, the White House Chief of Staff, in contempt of Congress for refusal to comply with subpoenas duly issued by the Judiciary Committee.

□ 1200

House Resolution 980 authorizes the Judiciary Committee to initiate or to intervene in any judicial proceedings to enforce certain subpoenas.

Madam Speaker, I've had so many requests for time that I will cut my own time short. I simply want to give some reasons why it's important that we're here today.

In my 21 years in the House, I have known that there were Members who came to Congress simply hoping that throughout their career they will always land on the safe square; not wanting to take a vote that might challenge them in any way, not wanting to take a vote that might require explanation. Fortunately, this is the safe square today.

What we are doing here today is protecting the Constitution of the United States of America, which all of us are pleased, when we come here, to raise our hand and swear so to do. It is critically important that we protect the powers of the Congress of the United States for future generations. It would be dreadful if a future President, having looked back over the recent events, used it as a precedent.

We have a strong case on the merits, is the first point I want to make. The administration's assertions of executive privilege are weak, excessively broad, and unprecedented. We win the executive privilege argument both on legal grounds and our compelling need for requested information.

Aside from prevailing on the merits of the executive privilege dispute, enforcing our subpoenas is part and parcel of our current ability to perform effective oversight. If we accept the White House stonewalling in this instance, the House, in the future, will not be able to conduct its oversight. And every future President can view Congress, not as a coequal branch of this government, but as subordinate to the executive.

The enforcement of the subpoenas in this investigation seeks to strengthen,

rather than weaken, the House's prerogatives by demonstrating that we are serious about citizens resisting the issuance of validly authorized congressional subpoenas. If we countenance a process where subpoenas can be readily ignored, where a witness, under a duly authorized subpoena, doesn't even bother to appear, where privilege can be asserted on the thinnest of reeds and the broadest possible manner, then we have already lost, and we may be in much more danger than even we believe.

There's ample precedent supporting the House's prerogative to initiate a civil action. If we pursue this course of action and it proves to be legally incorrect, then we here in Congress, where the laws are passed, can take necessary steps to correct that procedure. If we do not pursue this course of action at all, we, again, have already lost.

There are some who believe that the court will say that indeed we have no rights here. If that is the case, if that even should be a possibility, then I think we have to say that if the Justice Department has become that politicized and that weak, then we are in worse shape in this democracy than we know.

Madam Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I would like to thank the gentlelady from New York (Ms. SLAUGHTER) for the time, and I yield myself such time as I may consume.

Madam Speaker, I was in the funeral of our distinguished friend and colleague, Congressman Lantos, someone whom I admired very, very much and who was a personal friend. I was standing by the ranking member of the Rules Committee.

At the time during the funeral, the House was in recess subject to the call of the Chair under the understanding that we would not come back into session until after the funeral. And I was most disturbed and hurt and pained when, even though the funeral was still proceeding and distinguished guests were speaking, the bells rang that the House was going back into session and I had to leave.

Because of my obligation today, I have the assignment, as a member of the Rules Committee, to be here during this rule. I had to leave the funeral to be here today. It's most unfortunate, and I'm very, very sorry that the day has begun in that ultimately unfortunate fashion.

Madam Speaker, today the majority proposes that the House consider a rule that, according to the Parliamentarian, is unprecedented in the history of this institution. It will prevent any and all debate on two contempt motions against former White House Counsel Harriet Miers and White House Chief of Staff Josh Bolten.

A contempt resolution is a privileged matter because it directly concerns the constitutional rights and privileges of

the House. Chapter 17, section 2 of House Practice states, "Such a resolution may be offered from the floor as privileged, because the privileges of the House are involved."

The action of the majority today is most unfortunate. Never before in the history of this House has a contempt resolution, one of the highest questions regarding the rights and privileges of this institution, been treated in such an underhanded manner. If this rule is adopted, there will be no debate, no vote, and the contempt resolutions will magically and automatically be hereby adopted when this rule is adopted.

Now, if the majority believes the contempt resolution to be correct, the just and proper course of action to assert the rights of this institution would be to debate and vote on the resolution.

The majority leadership is subverting the rights of every Member of this House, allegedly in order to assert the rights of this House. The irony can escape no one. These are the constitutional rights of this institution that are in question, and not one Member of this institution is going to be allowed to discuss it or vote, to have a vote on these resolutions.

The majority's attempt to rush this contempt resolution through the House will have repercussions that many Members may not be aware of. And so I urge my colleagues to pay close attention because, by this action, the House majority risks causing great harm. It risks causing grave harm and undermining Congress's oversight authority for generations to come, and here is why.

The administration is claiming executive privilege, and any attempt to force testimony from the President's former counsel and his Chief of Staff will be fought by the administration within the courts. This could very possibly lead to the courts ruling that Congress does not have civil contempt authority, for example; that the U.S. Attorney, for example, does not have to prosecute criminal citations against executive officials or that the President's senior advisors are absolutely immune from compelled testimony before Congress. Any of those rulings would weaken Congress's ability to conduct oversight in the future, and a weakened Congress means a strengthened executive.

This is not an extreme or farfetched theory, Madam Speaker. Administrations from both parties have claimed executive privilege for many decades. The former Attorney General, for example, Janet Reno, stated, and I quote, "the President and his immediate advisors are absolutely immune from testimonial compulsion by a congressional committee, because subjecting a senior Presidential advisor to the congressional subpoena power would be akin to requiring the President himself to appear before Congress on matters relating to his constitutionally assigned functions."

What the majority is doing today is needlessly tempting a court loss that

could gravely undermine Congress's oversight authority, the very authority the majority is allegedly seeking to protect. If Congress loses in the courts, we could forever disable one of our most important powers, the power of oversight. And for what in return, Madam Speaker? Harriet Miers is no longer with the administration; Alberto Gonzales is no longer Attorney General. But the majority, with its action today, risks quite a bit.

Let's remember, Members will not even get the opportunity to vote on these resolutions today. And that's not only uncalled for, but absolutely unprecedented. Members will only be able to vote on this rule. Once the rule passes, so do the two resolutions and so does the majority's gamble.

So, back in July, the Judiciary Committee cited both Mr. Bolten and Ms. Miers for contempt of Congress. Now, here we are, 8 months later, considering these two contempt resolutions, but not really, just the rule. By passing the rule, automatically those contempt resolution will be passed, after an emergency Rules Committee meeting last night.

So the question is, why the rush? For some reason the majority feels that after 8 months, now this is a pressing issue. But I can think of a large list of other issues that I feel that Americans would rather we address; none more than considering the FISA bill that the Senate approved this week to give the administration the ability to protect the United States from terrorist attacks.

The tragic events of September 11, 2001, taught us many lessons, and one of the lessons we learned that day was that our Nation must remain aggressive in our fight against international terrorism. We must always stay one step ahead of those who wish to harm America, and now is not the time to tie the hands of our intelligence community. And the majority seeks to leave today and go home without addressing this issue.

The modernization of the foreign intelligence surveillance into the 21st century is a critically important national priority, and I'm pleased that several of my colleagues on the other side of the aisle agree as well.

On January 28, 21 members of the Blue Dog Coalition sent a letter to the Speaker in support of the Senate FISA legislation. The letter states, and I quote, "The Senate FISA Rockefeller-Bond legislation contains satisfactory language addressing all these issues, and we would fully support the measure should it reach the House floor without substantial change. We believe these components will ensure a strong national security apparatus that can thwart terrorism across the globe and save American lives here at home."

Madam Speaker, I will insert the letter sent by the Blue Dogs to the Speaker into the RECORD.

DEAR MADAM SPEAKER: Legislation reforming the Foreign Intelligence Surveillance

Act (FISA) is currently being considered by the Senate. Following the Senate's passage of a FISA bill, it will be necessary for the House to quickly consider FISA legislation to get a bill to the President before the Protect America Act expires in February.

It is our belief that such legislation should include the following provisions: Require individualized warrants for surveillance of U.S. citizens living or traveling abroad; Clarify that no court order is required to conduct surveillance of foreign-to-foreign communications that are routed through the United States; Provide enhanced oversight by Congress of surveillance laws and procedures; Compel compliance by private sector partners; Review by FISA Court of minimization procedures; Targeted immunity for carriers that participated in anti-terrorism surveillance programs.

The Rockefeller-Bond FISA legislation contains satisfactory language addressing all these issues and we would fully support that measure should it reach the House floor without substantial change. We believe these components will ensure a strong national security apparatus that can thwart terrorism across the globe and save American lives here in our country.

It is also critical that we update the FISA laws in a timely manner. To pass a long-term extension of the Protect America Act, as some may suggest, would leave in place a limited, stopgap measure that does not fully address critical surveillance issues. We have it within our ability to replace the expiring Protect America Act by passing strong, bipartisan FISA modernization legislation that can be signed into law and we should do so—the consequences of not passing such a measure could place our national security at undue risk.

Sincerely,

Leonard L. Boswell, —, Mike Ross, Bud Cramer, Heath Shuler, Allen Boyd, Dan Boren, Jim Matheson, Lincoln Davis, Tim Holden, Dennis Moore, Earl Pomeroy, Melissa L. Bean, John Barrow, Joe Baca, John Tanner, Jim Cooper, Zachary T. Space, Brad Ellsworth, Charlie Melancon, Christopher P. Carney.

The extension of this important program is set to expire at 11:59 p.m. tomorrow night. After that, our ability to conduct surveillance on foreign terrorists will be severely hampered. It's time to make our country safer, and Congress needs to act today. The House should vote on the Senate measure, and we should do it now, instead of debating these contempt motions in an unprecedented and uncalled-for fashion.

Today I will give all Members of the House an opportunity to vote on a bipartisan, long-term modernization of FISA. I call on my colleagues to join with me in defeating the previous question so that we can immediately move to concur in the Senate amendment and send the bill to the President to be signed into law before the current law expires and our Nation is at greater risk.

Madam Speaker, I ask unanimous consent to have the text of the amendment and extraneous material inserted into the RECORD prior to the vote on the previous question.

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

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I am pleased to yield 4 minutes to the gentleman from Michigan, the distinguished chairman of the Judiciary Committee, Mr. CONYERS.

Mr. CONYERS. Madam Speaker, I will insert into the RECORD from today's New York Times, "Time to Vote Contempt."

[From the New York Times, Feb. 14, 2008]

TIME TO VOTE CONTEMPT

Alberto Gonzales may be out, but the country is still waiting for a full accounting of how he and his White House patrons cynically politicized the Justice Department. Congress is rightly asking questions about the actions of yet another United States attorney: New Jersey's Christopher J. Christie. The House also needs to stop procrastinating and vote to hold witnesses in contempt for refusing to testify in the wider scandal.

Federal prosecutors must be scrupulously nonpartisan. Mr. Christie, a Republican activist who got his job despite a lack of trial and criminal-law experience, has gone up to the line of acceptable behavior—and possibly crossed it.

He began an investigation of Senator Robert Menendez, a New Jersey Democrat, late in a hard-fought election campaign. The charges now appear baseless, but at the time the news provided a big boost to Mr. Menendez's Republican opponent. Mr. Christie went against a long Justice Department presumption against opening investigations or bringing indictments right before an election, to avoid affecting the outcome.

There are also questions about Mr. Christie's decision to award, without competitive bidding, a lucrative contract to monitor a company accused of consumer fraud. The winner? Former Attorney General John Ashcroft, an influential Republican who was once Mr. Christie's boss. Senate and House leaders have asked the Government Accountability Office to investigate.

Some of the people who likely know the most about the role politics has played in the Bush Justice Department have defied Congressional subpoenas to testify. Joshua Bolten, the White House chief of staff, and Harriet Miers, the former White House counsel, contend that they are protected from testifying by executive privilege. That is not enough. They have a legal obligation to appear before Congress and plead that privilege to specific questions.

The House Judiciary Committee voted in July to hold Mr. Bolten and Ms. Miers in contempt. The House's Democratic leadership has been trying to figure out the pros and cons ever since. The public needs to hear the testimony of these officials (along with Karl Rove, who is also refusing to appear), and the full House should vote as quickly as possible to hold them in contempt.

The House should also approve a resolution authorizing the Judiciary Committee to go to court to enforce the contempt citations if the current attorney general, Michael Mukasey, as expected, refuses to do so.

The stakes are high. There are people in jail today, including a former governor of Alabama, who have raised credible charges that they were put there for political reasons. Congress's constitutionally guaranteed powers are also at risk. If Congress fails to enforce its own subpoenas, it would effectively be ceding its subpoena power. It would also be giving its tacit consent to the dangerous idea of an imperial president—above

the law and beyond the reach of checks and balances.

The founders did not want that when they wrote the Constitution, and the voters who elected this Congress do not want it today.

Ladies and gentlemen of the House, the resolution we are considering today is not steps that I take as chairman easily or lightly. It's been 8 months that we've tried to negotiate, nine letters, but this is what is necessary to protect the constitutional prerogatives as a coequal branch of government in this democracy of ours.

I believe the investigation we have been engaged in is an important one. And it's not about whether the U.S. Attorneys can serve at the pleasure of the President. They clearly can and do. But it concerns whether the American people can be assured that their laws are being fairly and impartially enforced by the United States Department of Justice. That's why we're here.

In order to pursue this investigation, we've done what committees in the Congress have traditionally done: We've sought our documents and testimony initially on a voluntary basis and through compulsory process only as a last resort. The investigation did not begin with the White House but has ended up there only after the review of thousands of pages of documents and obtaining the testimony and interviews of nearly 20 current and former Department of Justice employees.

□ 1215

We have been open at all times to any reasonable compromise and have been fully respectful and cognizant of the prerogatives of the executive branch. As a matter of fact, I have written the White House counsel on no less than nine separate occasions, and talked with him seeking a compromise on this matter.

What I am not open to, as the chairman of Judiciary, is accepting a take-it-or-leave-it offer which would not allow us access to information that we need, would not even provide for a transcript, and would prevent us from seeking any additional information in the future. That is the only proposal we've ever received from White House counsel, and so I would hope that all of the Members in this body, as an institutional matter, recognize the problems inherent in such an approach.

Now, some may argue that the stakes in this confrontation, and I think that's what's been suggested already, are so high that we cannot afford to risk that we might lose. Well, I'd say to them that if we countenance a process where our subpoenas can be readily ignored, where a witness under a duly authorized subpoena doesn't even have to bother to show up or tell us that they're not coming, where privilege can be asserted on the thinnest of bases and in the broadest possible manner, then we've already lost.

This is not a matter of vindicating the Judiciary Committee; and if you're really concerned about Congress'

rights, which I think all of us are, you would contact the White House counsel's office.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I yield 4 minutes to the distinguished ranking member of the Judiciary Committee, Mr. SMITH of Texas.

Mr. SMITH of Texas. Madam Speaker, I rise in strong opposition to the rule.

Yesterday, House Democrats said that Congress does not have enough time to pass critical FISA modernization legislation to keep America safe from foreign terrorists. Today, we are wasting Congress' time on an issue that does nothing to make our Nation safer. Clearly, the Democratic majority is out of touch with the needs of our intelligence community and is placing Americans' lives at risk.

On the eve of the expiration of critical intelligence legislation, the House Democratic majority has chosen to put extreme partisanship ahead of our country's safety. Apparently, the Democratic majority cares more about the alleged steroid use of a few baseball players and the personnel decisions of the White House than they do about promoting national security.

Last year, Admiral McConnell, the Director of National Intelligence, warned Congress that the intelligence community was missing two-thirds of all overseas terrorist communications, endangering Americans' lives. Congress enacted the Protect America Act to close this terrorist loophole.

Now House Democrats are going to let the Protect America Act expire. If the act expires, we will return to the status quo, unable to begin any new foreign intelligence surveillance without a court order and risk losing two-thirds of all foreign intelligence.

Today we find ourselves at two very dangerous thresholds: first, expiration of legislation vital to this Nation's national security, the Foreign Intelligence Surveillance Act. The House Democratic majority has let this legislation lapse without even allowing a straight up-or-down vote on the bipartisan Senate bill approved earlier this week by a vote of 68-29. Instead of reauthorizing FISA, the Democratic majority chooses to take us to another threshold, that of a needless constitutional confrontation in the courts over the dismissal of a handful of United States Attorneys.

We know that the President has the authority to dismiss U.S. Attorneys. We know that his executive privilege claims are consistent with those made by previous Presidents for decades. We know that by tilting at the executive privilege windmill we risk severely undermining the very oversight authority we would want to protect. But most of all, we know that reauthorization of FISA is infinitely more important than this spat over executive privilege.

Once again, we see why Congress' approval rating is at an historic low. It's

because the Democratic majority engages in extreme partisanship and ignores the people's business.

I urge my colleagues to oppose this resolution.

Ms. SLAUGHTER. Madam Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. MILLER).

Mr. MILLER of North Carolina. Madam Speaker, I am not overly concerned by what the courts ultimately decide executive privilege covers. The Bush administration's claim of executive privilege here goes well beyond any privilege ever recognized by any court decision, but the Republic can obviously survive a court decision on the narrow question of the exact extent of executive privilege.

But, Madam Speaker, the courts must decide. The President cannot decide by decree. The President cannot announce with absolute, unreviewable authority what information the administration will provide or withhold.

The Framers of our Constitution had just fought a war against an autocratic King. It is inconceivable that they intended to create an executive with the powers that the Bush administration now claims and that the minority now supports.

For the entire history of our Republic, our courts have recognized that Congress needs information to carry out our constitutional duties, to decide what the laws should be, to decide what to appropriate Federal funds for, and that we cannot rely on information that is voluntarily, cheerfully provided. Congress must have the power to require information, including information that the President does not want to provide, that the President sees as inconvenient or embarrassing.

We must inquire into the need for new laws. We must inquire into how existing laws are being administered. And the Supreme Court said half a century ago that Congress' investigative powers are never greater than when inquiring into abuse of authority or corruption by Federal Government agencies.

Madam Speaker, the allegations here are very serious. Does the minority think that these are trivial allegations? Prosecutorial decisions cannot be used to reward political friends or punish enemies. Elections have consequences, Madam Speaker; but they should never have these consequences, not in America. Criminal prosecutions guided by political concerns are fundamentally incompatible with democracy and the rule of law.

The two resolutions that we are considering will allow the courts to decide these questions of what information Congress can require in the discharge of our constitutional duties. It will allow important constitutional questions to be decided, as they should be decided in a democracy, by the courts.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I yield 2 minutes to the distinguished minority whip, Mr. BLUNT of Missouri.

Mr. BLUNT. Madam Speaker, I thank the gentleman for yielding, and I'm

here to say that I am fully supportive of the prerogatives of the Congress. I think the Congress has a right to ask for, receive, demand information from the administration; but I don't think that right extends to this case.

I think the idea that we would expect to get information that is dealing with advice to the President on the status of at-will employees is a loser for us on the House floor. It's a loser for us in court. It will set back the prerogatives of the Congress; and beyond that, I think the idea that we're here today, as we see the Foreign Intelligence Surveillance Act get less value to us every day because we're unwilling to deal with a permanent solution, this is the wrong debate to have at any time. It's certainly the wrong debate to have at this time.

And the idea that somehow if we extend that act, if we've done all we could do by trying to extend an act, a bipartisan group of Members of this Congress for various reasons said we don't want to extend and then we come back today and we take our time focusing on a contempt charge on two dedicated civil servants is the wrong thing to do at any time, and it's particularly the wrong thing to do at this time.

Ms. SLAUGHTER. Madam Speaker, I am pleased to yield 1 minute to the distinguished Speaker of the House, the Honorable NANCY PELOSI of California.

Ms. PELOSI. Madam Speaker, I thank the gentlelady, the Chair of the Rules Committee, for yielding.

Today is a very sad day for us for more than one reason. One reason is, though, the matter that is before us. I had hoped, frankly, that this day would never have come, that the respectful negotiations that should take place between article I, the legislative branch, and article II, the executive branch, would have yielded the information that is necessary for Congress to make its decisions.

I thank Chairman CONYERS for his distinguished lifetime leadership of protecting the Constitution of the United States. We all take that oath of office, every single one of us who serves. Indeed, every person who serves in any civic capacity in our country does so. Today, we are honoring our oath of office with this resolution that is before us.

Again, I rise in sadness, not in confrontation. This is not a conflict that the Congress has sought. In fact, as the distinguished chairman of the Judiciary Committee has indicated, the committee has repeatedly sought to avoid confrontation, repeatedly making requests that have been ignored or rejected by the White House on completely unacceptable terms.

The Judiciary Committee, indeed the Congress, is clearly entitled to this information. It involves neither national security information nor communications with the President. The President has no grounds to assert executive privilege.

On the other hand, Congress has the responsibility of oversight of the execu-

utive branch. I know that Members on both sides of the aisle take that responsibility very seriously. Oversight is an institutional obligation to ensure against abuse of power, in this case the politicizing of the Department of Justice. Subpoena authority is a vital tool for that oversight.

Today, we seek to require the Department of Justice to bring contempt motions against Harriet Miers and Josh Bolten. When our resolution passes, we hope the administration will realize that this House of Representatives, this Congress, is serious about our constitutional role of oversight and will reach a settlement with us over the documents and testimony at issue. I still hold out the hope that they will cooperate.

But if the administration fails to do so, and if it orders the Department of Justice not to file contempt proceedings, we will then, through this resolution, have the power ourselves to go to Federal court and seek civil enforcement of our subpoenas.

The resolution before us today should not be a partisan issue. It should not be. This isn't about Democrats or Republicans. Former Congressman Mickey Edwards, who once served in the Republican leadership, has said that the enforcement of the subpoenas in the U.S. Attorney matter is about defending Congress, not a Democratic or a Republican Congress, but the people's Congress, as a separate, independent, and completely equal branch of government.

The subject of the Judiciary Committee's investigation involves serious and credible allegations that Federal law enforcement was politicized. Political manipulation of law enforcement undermines public confidence in our criminal justice system. Congress must find out what happened not just in terms of those who were fired but also whether improper criteria were used to retain the remaining U.S. Attorneys.

□ 1230

We must have the information in order to protect against political manipulation of law enforcement, and it must be provided in terms consistent with our constitutional obligations.

The so-called White House offer refused to permit even a transcript of any interviews and to permit questions on discussions and required the committee to promise in advance not to seek further information. This is beyond arrogance; this is hubris taken to the ultimate degree.

As former Congressman Edwards, again I remind, a former member of the Republican leadership in the House, said, "No Congress, indeed, no lawyer, would ever agree to such an outrageous demand."

Madam Speaker, we must continue in our efforts to restore our Nation's fundamental system of checks and balances. This Congress and future Congresses must have the ability to conduct meaningful oversight. It is the

hallmark of our constitutional democracy that has served us well for more than two centuries.

Thank you, again, Chairman CONYERS, for your leadership, Congresswoman LINDA SÁNCHEZ, chairwoman of the subcommittee that dealt with this issue, Chairwoman LOUISE SLAUGHTER, for the important work of the Rules Committee on all of this. To the new Members of Congress, on this issue of article I led by JOHN YARMUTH, article I, protecting the prerogatives of the Congress of the United States, we thank our new Members for their leadership honoring their oath of office. And BRAD MILLER, an expert on the subject in the Congress, has been a tremendous resource to us as well.

Let us uphold our oath of office by voting for this resolution, my colleagues. Let us restore the rule of law. Let us act to protect and defend our constitution by ensuring appropriate congressional oversight in all areas essential to the well-being of the American people.

I urge my colleagues to support this resolution.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I yield 2 minutes to the distinguished ranking member of the Rules Committee, Mr. DREIER of California.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, Speaker PELOSI is absolutely right, this is a very, very sad day for all of us. We just memorialized our colleague, Tom Lantos, and we have come back today to deal with an issue which I believe is one that creates the potential to undermine the power of the first branch of government.

Now, as has been said, if we looked at the potential court challenge that we can see, this notion that has been put forward by our former colleague, Mr. Edwards, that we are, in fact, a separate, independent, and equal branch of government could be thrown out the window.

The other thing that's very sad about today, Madam Speaker, is the fact that we are here with an absolutely unprecedented rule. Never before in the history of the Republic has there been such a rule. This rule actually undermines the deliberative nature of the people's House. What we're doing is we are saying that there will be no debate whatsoever, no debate whatsoever on these very important two contempt resolutions, no debate whatsoever. When this rule is adopted, we will see those two measures hereby adopted, meaning that there will be no chance for us to, as a House, have the kind of debate that we did for an hour upstairs in the Rules Committee. And so, we're throwing out the window the notion of participation in a free and open debate.

And Madam Speaker, the other thing that is very sad about today is that, while we were promised 1 year ago last month a new direction for America, a

new era of openness, an opportunity for free-flowing debate, we will, with passage of this resolution, be on the brink of seeing the 110th Congress, and I will say to the distinguished chair of the Committee on Rules, since she is presiding over this, Madam Speaker, we will have, this Congress, adopted more closed rules than any Congress in the history of the Republic.

I urge a "no" vote on this rule. And I urge strong support for the resolution which will allow us to finally bring about modernization of the Foreign Intelligence Surveillance Act.

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the distinguished majority leader of the House, Mr. HOYER of Maryland.

Mr. HOYER. I thank the gentlelady for yielding.

We are dealing, in these days, with serious issues. And serious people have been considering these issues in committee, and we will now consider them on the floor. This matter has been pending now for over half a year.

Madam Speaker, in 1885, a young scholar wrote an influential book about the United States Congress entitled "Congressional Government." And in that book he offered the following observations about legislative branch oversight, and he said this, "Quite as important as legislation is vigilant oversight of the administration. Not any particular administration, but of the other coequal branch of government."

He continued, "It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. The informing function of Congress, not just informing ourselves, but informing the American public as well, the informing function of Congress should be preferred even to its legislative function." An interesting observation. Many years later, in 1913, that young scholar, Woodrow Wilson, became President of the United States.

Congressional oversight of any administration is absolutely imperative to the proper functioning of our government, to our system of checks and balances, and to the fulfillment of our constitutional duty. A President who is forced to answer for his administration's actions, decisions, and conduct is a President who is less likely to amass power beyond that which the Constitution proscribes for his office or to imperil the welfare of our republic form of government. And that is the constitutional interest that today's resolution addresses.

I support the rule before us because I believe in a system of checks and balances in which no branch holds itself above the constitutional objectives of the sharing of authority, which the Founders wisely believed was essential to protect against the abuse of that authority by any one of those branches.

The issue before this body is not fundamentally whether the current administration acted properly and within

the law when it dismissed seven U.S. attorneys in 2006, that may be the issue at some point in time, but unless we have the information to get to that point, such a question will be moot. Nor is this a partisan clash between a Democratic House and a Republican President. Rather, the basic issue before this House is this: whether this body and the committee system, which is central to our duties to perform meaningful and vigorous oversight, can simply be ignored by the executive branch when this body seeks testimony and documents relevant to an important public policy controversy.

As the New York Times noted this morning, "If Congress fails to enforce its own subpoenas, it would effectively be ceding subpoena power. It would also be giving its tacit consent to the dangerous idea of an imperial President, above the law, and beyond the reach of checks and balances."

What profit it a Nation if we include checks and balances within our constitutional framework to protect our country's freedom, and more importantly, our people's freedom, if, in fact, we honor it only in the breach? And as Bruce Fein, the constitutional scholar and former Department of Justice official during the Reagan administration, has stated, "If Congress shies from voting for contempt in this case, secret government will become the rule." This is perhaps the most secretive administration in our history. This is a danger to our democracy.

He went on to say "that Congress would be reduced to an ink blot on the constitutional map." That is why every one of us, every one of the 435 of us who have sworn an oath to defend the Constitution of the United States and uphold its laws, ought to vote for this resolution, because it does not matter whether there is a Republican President or a Democratic President, for them to refuse to respond to a subpoena of the Congress of the United States, and to even come here and claim a privilege, which they have not, our democracy will be lessened.

I urge my colleagues to carry out the intent and the vision of the Founders and the writers of our Constitution. Support this resolution.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I would remind our colleagues that one of the reasons why the minority is outraged with the conduct of the majority today is that we are not even allowed to debate nor vote on the contempt resolutions, but rather on a rule that will self-adopt, automatically adopt even resolutions of this magnitude of importance; totally unprecedented and uncalled for.

Madam Speaker, at this time, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Madam Speaker, I rise in opposition to this resolution.

Yesterday, the Democratic leadership tried to sweep a bipartisan FISA bill under the rug, and today they're trying to throw the President's Chief of Staff in jail. I am curious to know what happened to the pledge of partnership with Republicans in Congress, and with the President, and not partisanship.

The vote we are going to take this afternoon has been festering since July, when the House Judiciary Committee decided to vote on holding White House officials in contempt. This pandering to the left reflected a political and unnecessary escalation on the part of the Democratic majority.

The contempt resolution was approved on a straight party line vote in the committee, and today's vote will be the same. The threat of losing in court should be enough for this institution to back down from this escalation.

My concern with the Democratic leadership's course of action is that it will likely weaken Congress' position in situations where we disagree with the President on matters of executive privilege. If the Speaker and the House Judiciary Committee chairman really cared about getting to the bottom of this matter, they could have taken the nonpolitical route, such as directing the House Office of General Counsel to file a civil lawsuit with the U.S. District Court for the District of Columbia. This proposal, which I suggested last summer, would be a legitimate effort to resolve our issues with the President in an arena where the Congress would have equal footing.

So, what's next? How will we rehabilitate our image to give the public confidence in the Congress? I don't think throwing the President's Chief of Staff in jail will do the trick.

It amazes me that the Democratic leadership would bring such a divisive matter to the floor so soon after receiving accolades for working so well with the minority to pass an economic stimulus package.

I encourage my colleagues to vote "no" on this resolution.

Ms. SLAUGHTER. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from New York, a member of the Rules Committee, Mr. ARCURI.

Mr. ARCURI. Madam Chairman, today is not about a FISA debate. Actually, it's not even about whether or not Ms. Miers and Mr. Bolten have a right to claim an executive privilege. What it is about is does a person in this country have to follow the laws of the United States, follow the rule of law, follow the Constitution and abide by a legally administered subpoena.

And I guess the best way to talk about that is to draw a comparison. Under the Constitution, a person has an absolute right to claim their fifth amendment right against self-incrimination. So, if a person is subpoenaed to testify in a criminal matter, they can't call the judge up and say, "Judge, I think I might have a fifth amendment problem here. I'm not going to show up." The judge will tell them they have

to be in court and they have to assert their fifth amendment right after they are asked a question. The same thing applies here. They have to appear before Congress and at least assert that right before they can claim some kind of privilege; otherwise, the entire system falls apart.

Oh, today is a very important day for Congress. We are taking up a very, very important measure, and that is the Constitution going to be followed and are we going to do our constitutional job.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I yield 2 minutes to the distinguished Member from California (Mr. DANIEL E. LUNGREN).

□ 1245

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for yielding.

Madam Speaker, I have prepared a whole series of remarks to respond to the comments made on the floor as to the substance of the concept citation. Unfortunately, because we're only able to debate the rule, we don't have time to do that. Let me just try to make a couple of points here very quickly.

First of all, the question is, is this the most important thing we should be doing today? Is there a time limit on the action of the House of Representatives that requires us to act on this today? And the answer is no. This doesn't expire today. It doesn't expire tomorrow. It doesn't expire the next day. We are able to do this anytime until the end of this Congress.

But what does expire? The Protect America Act. It expires at midnight tomorrow. We should be doing the Nation's business with respect to that, rather than this. If, in fact, we are serious about the war on terror; if, in fact, we are serious about gathering that information which is necessary to protect us against those who would harm us and those we represent, we would be acting on the FISA Act reconstitution here today. We'd be acting on the Senate bill. That's the time limit.

There is no reason for scheduling this today. We have had 8 months to schedule this. But yet we find that this is what we're going to be dealing with before we go home. And we're going to say it is unimportant as to whether or not we would continue with the Protect America Act. Unimportant except in the opinion of the number one intelligence officer in the United States, Admiral McConnell, who served under Democrat and Republican administrations, who told us if we allow this to go down, that is, the Protect America Act, we will close our eyes for 60 percent of the legitimate terrorist targets around the world prospectively.

What are we doing here?

Mr. ARCURI. Madam Speaker, I yield 2½ minutes to the gentlewoman from California, the Chair of the Commercial and Administrative Law Subcommittee (Ms. LINDA T. SANCHEZ).

Ms. LINDA T. SANCHEZ of California. Madam Speaker, we have reluc-

tantly reached today's vote to hold former White House Counsel Harriet Miers and White House Chief of Staff Joshua Bolten in contempt of Congress.

Since March 9 of 2007, Chairman CONYERS and I have patiently negotiated in good faith to reach an accommodation with the White House for documents and testimony relevant to the U.S. Attorney investigation.

Mr. CANNON. Madam Speaker, will the gentlewoman yield?

Ms. LINDA T. SANCHEZ of California. Under normal instances, I would, but I don't have the time. I apologize.

Mr. CANNON. I hope the gentlewoman will remain on the floor so that on my time I will be able to yield for a colloquy.

Ms. LINDA T. SANCHEZ of California. I apologize to the gentleman, but this is my time.

The SPEAKER pro tempore. The gentlewoman will proceed.

Ms. LINDA T. SANCHEZ of California. Madam Speaker, we have patiently negotiated in good faith to reach an accommodation with the White House for documents and testimony relevant to the U.S. Attorney investigation. Unfortunately, the White House has stubbornly refused to move off its opening position, an unreasonable offer that testimony be given without an oath or a transcript and that any testimony and documents provided exclude internal White House communications. To have negotiations, concessions by both sides are necessary. Otherwise, it's just capitulation.

I was extremely disappointed that Ms. Miers, Mr. Bolten, and the White House based their refusal to comply with our subpoenas on sweeping claims of executive privilege and immunity that some experts have called "Nixonian in breadth." The subcommittee carefully considered these claims in two separate meetings last year. In detailed rulings, I found that these claims were not properly asserted and were not legally valid. Even if the claims were properly asserted and legally valid, the strong public need for information about the U.S. Attorney firings substantially outweighs the assertion of executive privilege here.

I was also very disappointed to hear from Attorney General Mukasey in testimony before the Judiciary Committee last week that he will direct the D.C. U.S. Attorney not to comply with the contempt statute, which provides that the U.S. Attorney "shall" refer the contempt citation to a grand jury for action after receiving it from the Speaker.

Members on both sides of the aisle should recognize the gravity of this vote. If the executive branch is allowed to simply ignore congressional subpoenas while Congress stands idly by, we will have abdicated our role of oversight of the executive branch and undermined our system of checks and balances. Further, our lack of action will

be cited by future Presidents as justification for questionable claims of executive privilege.

I hope that my colleagues on the other side will stand together in support of this body's institutional prerogatives. Time is long overdue for Congress to reassert itself as a co-equal branch of government.

I urge support of the rule and House resolutions 979 and 980.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I yield 4½ minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Madam Speaker, I would ask the chairman of the Subcommittee on Commercial and Administrative Law, who has oversight of this matter and which committee I rank on, to remain on the floor so we could have a colloquy on this issue.

It appears that she has left the floor. That's unfortunate. Her response to my inquiry about yielding was that she didn't have enough time, and we are standing here today with very little time to debate an issue that is dramatically important. It's important for this institution, and, by the way, people on both sides of the aisle have said and the Speaker and majority leader have both made a point of how important this issue is to this body. It is vitally important to me that we retain the rights of this body as it relates to administration, whether that's a Republican administration or Democratic administration.

In his opening statements, Mr. DIAZ-BALART gave a quote from former Attorney General Janet Reno in which she said there was no right to do what we're trying to do today. I would have loved to have asked the chairman on the Subcommittee on Commercial and Administrative Law if she thought that was the case or if she disagreed with what the scope of the right of the administration is to not appear.

Obviously, there is a sense in this case that we ought to get something done; and, in fact, we have done a great deal. We have had hundreds of hours of depositions, literally tens of thousands of pages, tens of thousands of e-mails. We have asked questions of everyone involved in the matter in the case. And what have we come up with? I wanted to ask the chairman what the evidence we are going to present to the U.S. Attorney is that he can take and say, I have a need to get this information from these people in the administration who won't show up to the House. I have a need to understand these facts which seem to be in confusion. I have a need to decide what between these two different stories is the truth.

But we haven't said that to him. We don't have evidence that we can give the U.S. Attorney. What we are giving to him is a desire to continue a witch hunt which has produced up to today zero, nothing, as far as I can tell; and I've been in every meeting, every hearing, and followed on every single deposition that we have had. There is nothing

that indicates that anybody has lied or that there is a reason that the White House has been involved. And, therefore, there is no reason that I can understand, and I have asked many times on the record in committee hearings what those reasons are, what it is, what the discrepancies, what the problems are for which we need to subpoena people in the White House and create a showdown, a showdown between our institution and the White House. And I ask the gentleman, as the chairman of the committee has just risen to his feet, and I would love to yield to him if he is willing to answer that question: What are the discrepancies?

Mr. CONYERS. We don't know because we can't get one sheet of paper from Mr. Bolten and nobody else will talk to us. That's precisely why we were forced to this position, sir.

Mr. CANNON. Reclaiming my time, Madam Speaker, I appreciate the gentleman's position. The gentleman has said that eloquently in the past on many occasions. But we are now talking about getting a subpoena, enforcing a subpoena in a criminal process against people for whom we have no evidence, as far as I can tell, and I will be happy to yield to the gentleman if he has evidence, no evidence that they have been involved.

There are no discrepancies in the testimony that we have had before us, is there?

Mr. CONYERS. If the gentleman is so kind to yield again, we don't have any evidence. We aren't accusing them of anything, sir. We're merely seeking the documents that could be relevant to the determination of whether the Department of Justice has been politicized.

Mr. CANNON. Reclaiming my time, Madam Speaker, I appreciate the gentleman's candor, and I appreciate the very gracious way the gentleman has handled this whole investigation. But it comes back down to this: we have no evidence.

Let me just finish by saying that having seen this, if there was a conspiracy, and I know that the majority believes there is something evil that is happening out there, then we ought to have given enough time and enough context to be able to track that down and prove that this administration has done something wrong.

As opposed to what the gentleman has just said, we have had a number of statements by the chairman of this committee saying that there is evidence of corruption. But we have had no evidence of corruption, none at all adduced anywhere from all the investigations we have done, and there is no basis for these contempt citations. I ask that we vote against them.

COOPER & KIRK,

Washington, DC, December 4, 2007.

HON. LAMAR S. SMITH,
Ranking Member, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. SMITH: We write in response to your request for our views regarding the legal issues raised by the Judiciary Commit-

tee's resolution recommending that the House of Representatives find Harriet Miers and Joshua Bolten in contempt of Congress. Each of us has had substantial experience in the Executive Branch, including in the Office of Legal Counsel. Charles J. Cooper served as Assistant Attorney General for the Office of Legal Counsel from November 1985 through July 1988. Howard C. Nielson, Jr. served as Deputy Assistant Attorney General for the Office of Legal Counsel from June 2003 through August 2005. In addition, our law firm has successfully litigated a number of significant separation of powers cases.

We have reviewed the opinions of the Justice Department regarding the assertion of executive privilege and testimonial immunity in response to the Miers and Bolten subpoenas. We have also reviewed the committee report relating to this matter, the additional views of the Chairman and Subcommittee Chair, and the minority views. The positions asserted by the Administration reflect the longstanding and considered views of the Executive Branch, views repeatedly affirmed by Administrations of both parties. These views were held during our tenures in the Office of Legal Counsel, and we continue to believe that they are sound. Moreover, we believe that a decision by the House to hold Ms. Miers and Mr. Bolten in contempt would likely be a legally futile gesture that could ultimately undermine Congress's ability to obtain information from the Executive Branch.

As an initial matter, even if the House votes to hold Ms. Miers and Mr. Bolten in contempt, and even if a contempt citation is referred to the appropriate United States Attorney, the United States Attorney will have no choice but to decline to take action on the matter. It has long been the position of the Executive Branch that "the criminal contempt of Congress statute does not apply to the President or presidential subordinates who assert executive privilege." Application of 28 U.S.C. 458 to Presidential Appointments of Federal Judges, 19 Op. O.L.C. 350, 356 (1995) (opinion of Assistant Attorney General Walter Dellinger). As then-Assistant Attorney General Theodore B. Olson explained the position of the Executive Branch in 1984:

"First, as a matter of statutory interpretation reinforced by compelling separation of powers considerations, we believe that Congress may not direct the Executive to prosecute a particular individual without leaving any discretion to the Executive to determine whether a violation of the law has occurred. Second, as a matter of statutory interpretation and the constitutional separation of powers, we believe that the contempt of Congress statute was not intended to apply and could not constitutionally be applied to an Executive Branch official who asserts the President's claim of executive privilege in this context."

Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege, 8 Op. O.L.C. 101, 102 (1984); see also *id.* at 119, 129 (documenting similar positions taken by the Eisenhower and Ford Administrations).

While the Chairman and Subcommittee Chair note that Justice Department opinions such as the Dellinger and Olson memoranda are not binding on Congress or the Judiciary, such opinions are binding on members of the Executive Branch—including the United States Attorney to whom a contempt citation would be referred. Furthermore, because a prosecutor's "decision whether or not to prosecute . . . generally rests entirely in his discretion," *Wayte v. United States*, 470 U.S. 598, 607 (1985), it is highly unlikely that Congress could obtain any sort of judicial review of the United States Attorney's refusal to submit the contempt citation to a grand jury.

Assuming Congress could somehow obtain judicial review of the claim of executive privilege, we believe that it could not overcome that claim on the facts presented here. To be sure, there is a paucity of judicial authority resolving executive privilege disputes between Congress and the Executive; still, the following factors should persuade a court to uphold the claim of executive privilege here.

First, the threshold arguments that executive privilege has not been, or cannot be, properly invoked to protect the communications at issue here appear insubstantial. The Chairman and Subcommittee Chair have identified no authority—and we are aware of none—requiring the Executive Branch to submit a privilege log to sustain a claim of executive privilege in a legislative proceeding. The letter sent to Chairman Conyers by Counsel to the President Fielding, written “at the direction of the President” to “advise and inform [Congress] that the President has decided to assert Executive Privilege,” Letter of Fred F. Fielding to Chairmen Leahy and Conyers at 1 (June 28, 2007), plainly suffices to invoke executive privilege under controlling precedent. See *In re Sealed Case*, 121 F.3d 729, 744, n.16 (D.C. Cir. 1997). And *In re Sealed Case* clearly establishes that executive privilege extends to “communications of presidential advisors which do not directly involve the President,” id. at 751, and protects “communications that these advisors and their staff author or solicit and receive in the course of performing their function of advising the President on official government matters”—whether or not the President is aware of those communications. Id. at 752. Given the essential role of the President in appointing and removing United States Attorneys, communications to or from senior presidential advisors regarding the replacement of United States Attorneys plainly fall within the scope of the privilege recognized by *In re Sealed Case*. As the D.C. Circuit explained, where “the President himself must directly exercise the presidential power of appointment and removal . . . there is assurance that even if the President were not a party to the communications over which the government is asserting presidential privilege, these communications nonetheless are intimately connected to his presidential decisionmaking.” Id. at 753.

Second, there is nothing novel or unprecedented in the claim of privilege here. On the contrary, many historical precedents support the Administration’s refusal to disclose confidential communications and deliberations relating to the appointment or dismissal of executive officers. For example, as early as 1886, the Cleveland Administration rejected Congress’s attempt to obtain communications relating to the dismissal of a district attorney (the historical predecessor of today’s U.S. Attorneys). As President Cleveland explained, “the documents related to an act (the suspension and removal of an Executive Branch official) which was exclusively a discretionary executive function.” History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress, 6 Op. O.L.C. 751, 767 (1982) (opinion of Assistant Attorney General Theodore B. Olson); see also id. at 758–759 (discussing similar refusals to provide information regarding the appointment or removal of executive officers by the Jackson and Tyler Administrations). Furthermore, D.C. Circuit precedent addressing executive privilege expressly recognizes that “confidentiality is particularly critical in the appointment and removal context.” *In re Sealed Case*, 121 F.3d 729, 753 (D.C. Cir. 1997).

Third, when the judiciary has adjudicated executive privilege disputes between Con-

gress and the Executive, it has required Congress to establish that the information it seeks “is demonstrably critical to the responsible fulfillment of [Congress’s] functions” to overcome even a generalized claim of executive privilege. Senate Select Committee on *Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974) (en banc). To satisfy this burden, it is not enough for Congress to show that the information it desires “may possibly have some arguable relevance to the subjects it has investigated and to the areas in which it may propose legislation.” Id. at 733. Rather, it must identify “specific legislative decisions that cannot responsibly be made without access to materials uniquely contained in” the documents or testimony it seeks. Id. Furthermore, decisions such as *United States v. Nixon*, 418 U.S. 683 (1974), and *In re Sealed Case* that limit executive privilege to accommodate the special needs of the criminal justice system offer little support for Congress here. As the D.C. Circuit has explained:

“There is a clear difference between Congress’s legislative tasks and the responsibility of a grand jury, or any institution engaged in like functions. While fact-finding by a legislative committee is undeniably a part of its task, legislative judgments normally depend more on the predicted consequences of proposed legislative actions and their political acceptability, than on precise reconstruction of past events; Congress frequently legislates on the basis of conflicting information provided in its hearings. In contrast, the responsibility of the grand jury turns entirely on its ability to determine whether there is probable cause to believe that certain named individuals did or did not commit specific crimes.”

Senate Select Committee, 498 F.2d at 732. Cf. *Nixon*, 418 U.S. at 713 (“Without access to specific facts a criminal prosecution may be totally frustrated.”).

Given the voluminous documentary evidence and testimony already provided by the Executive Branch—not to mention the additional documents and testimony that the White House has offered to make available in attempt to resolve this controversy, see e.g., Letter of Fred F. Fielding to Chairmen Leahy and Conyers at 1–2 (June 28, 2007)—it seems clear the lingering factual ambiguities identified by the Committee Chairman and the Subcommittee Chair are inadequate to overcome even a generalized claim of executive privilege under controlling precedent. And a judicial determination to that effect would plainly prejudice Congress’s ability to obtain sensitive information from the Executive Branch not only in this investigation but in future investigations as well.

The Justice Department’s determination that Ms. Miers is immune from compulsion to testify before Congress likewise reflects the longstanding and consistent position of the Executive Branch. As Attorney General Reno explained in a formal opinion to the President, “It is the longstanding position of the executive branch that ‘the President and his immediate advisors are absolutely immune from testimonial compulsion by a Congressional committee.’” Assertion of Executive Privilege with Respect to Clemency Decision, 23 Op. O.L.C. 1, 4 (1999) (quoting Memorandum from John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Re: Executive Privilege at 5 (May 23, 1977)). This view is not only that of the current Administration and the Clinton Administration. As documented in Attorney General Reno’s opinion, this view also reflects the position of the Reagan, Carter, and Nixon Administrations. See id. (collecting opinions from Assistant Attorneys General Theodore B. Olson, John M. Harmon, Roger C. Crampton, and William H. Rehnquist).

This view also reflects the position of the Johnson and Truman Administrations. See History of Refusals, 6 Op. O.L.C. at 771–72, 777–78. And as documented by the Justice Department in its opinion regarding Ms. Miers, the Executive Branch—including, again, Administrations of both parties—have long taken the position that the same immunity extends to former Presidents and their Advisors. See Memorandum from Stephen G. Bradbury, Principal Assistant Attorney General Office of Legal Counsel, Re: Immunity of Former Counsel to the President from Compelled Testimony at 2–3 (July 10, 2007) (documenting positions taken by the Truman and Nixon Administrations).

In short, we believe the President’s assertions of executive privilege and testimonial immunity in this instance are entirely constitutionally sound. We also believe that a determination by the House to hold Mr. Bolten and Ms. Miers in contempt of Congress would be futile as a legal matter and might ultimately prejudice Congress’s ability to obtain information from the Executive Branch.

Sincerely,

CHARLES J. COOPER.
HOWARD C. NIELSON, JR.

Ms. SLAUGHTER. Madam Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. YARMUTH).

Mr. YARMUTH. I thank the distinguished chairwoman from the Rules Committee, a native Kentuckyan and someone who has always stood for the finest traditions of this body.

In November of 2006, the American people decided to give the Democrats the control of the House of Representatives and the Congress. I was fortunate enough to be elected as one of the 43 new Democrats in that class.

And many people have said, in examining that election, oh, we were elected because of the war in Iraq. But that’s not what I heard. What I heard when I was campaigning in 2006, and I think most of my colleagues in this class would say the same thing, is we want to return the Government to the tenets of the Constitution. We want to restore the checks and balances that the Founding Fathers prescribed. We want to make sure that this President and every President is held accountable, is not above the law.

So when we came here, one of the things we did was to start talking about article I, which established that all legislative powers herein granted shall be vested in a Congress of the United States. We started wearing these buttons, article I buttons, and we offered them to Members of both parties, hoping that this would not be a partisan issue and not be an expression of partisanship but, instead, a respect for the integrity of this institution.

Unfortunately, most of my colleagues on the other side chose not to wear these buttons. They have chosen to make this a partisan issue in spite of the fact that during the last 6 years before we took control of the Congress, no subpoenas were issued against this President. No efforts to hold him accountable were made, in spite of the fact that in the prior administration a thousand subpoenas were offered by the Republican Congress to the Democratic President.

So, unfortunately, this has become a partisan issue when it shouldn't be. To me this is all about institutional integrity, about restoring the checks and balances.

Fundamental to our power, legislative power, is our ability to gather information. If we do not stand up for our right to gather information, then in spite of the fact that my colleagues on the other side have said we may lose our prerogatives if we go to court, if we don't challenge the President on this issue, we will have surrendered our prerogatives; and that is the worst fate that we could commit this body to.

So I would say, in closing, that many people look at polls today and say the standing of the Congress is at its lowest ebb ever, and they say maybe that's because we are not doing anything. I think it's because the American people recognize that we have been negligent in not upholding our responsibilities under the Constitution.

This is an important step in restoring the integrity of this institution and restoring the confidence of the American people in this body in its willingness to respond to the dictates of the Constitution.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Madam Speaker, rather than spinning our wheels on this issue, there is a much more important issue that we should be dealing with today, and the very safety of our Nation is at issue. I'm disappointed that we have reached the point in this House that reasonable minds could not prevail on an issue that involves the very safety of the American people.

Last August Congress passed, and the President signed into law, the Protect America Act. This critical legislation closed the gaps which had previously caused the intelligence community to miss more than two-thirds of all overseas terrorist communications, finally allowing the United States to stay one step ahead of the terrorists.

The Senate amendments to H.R. 3773 would enable law enforcement and the intelligence community to continue their counterterrorism efforts, including working with telecommunications companies and allowing officials to gather intelligence from potential foreign terrorists outside the United States.

At the same time, this bill is mindful of our Constitution and the protections it affords to U.S. citizens, whether they are inside or outside the United States. Furthermore, the authority provided by the bill would sunset in 6 years, allowing Congress to revisit any issues that might arise.

We cannot afford to let the terrorists, particularly those who are conspiring abroad, to have the upper hand. Our law enforcement and intelligence communities must have every resource available to do their jobs in keeping this Nation safe. I urge my colleagues

to support the United States, not the terrorists, by passing the Senate amendments to H.R. 3773.

And I thank the gentleman from Florida for yielding.

□ 1300

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS), Chair of the Judiciary Committee.

Mr. CONYERS. I wanted to respond, or continue our discussion that was raised by the gentleman from Utah. As a matter of fact, in our resolution recommending that contempt of Congress be issued, we found plenty of evidence of wrongdoing at the Department of Justice, nearly 100 pages of it. This was voted out of the committee. For example:

The decision to fire or retain some U.S. attorneys may have been based in part on whether or not their offices were pursuing or not pursuing public corruption or vote fraud cases based on partisan political factors;

Department officials appear to have made false or misleading statements to Congress, many of which sought to minimize the role of White House personnel in the U.S. Attorney firings;

Actions by some department personnel may have violated civil service laws.

EXECUTIVE SUMMARY

To date, the committee's investigation—which has reviewed materials provided by the Department of Justice in depth and obtained testimony from 20 current and former Department of Justice employees—has uncovered serious evidence of wrongdoing by the Department and White House staff with respect to the forced resignations of U.S. Attorneys during 2006 and related matters. This includes evidence that: (a) the decision to fire or retain some U.S. Attorneys may have been based in part on whether or not their offices were pursuing or not pursuing public corruption or vote fraud cases based on partisan political factors, or otherwise bringing cases which could have an impact on pending elections; (b) Department officials appear to have made false or misleading statements to Congress, many of which sought to minimize the role of White House personnel in the U.S. Attorney firings, or otherwise obstruct the Committee's investigation, and with some participation by White House personnel; and (c) actions by some Department personnel may have violated civil service laws and some White House employees may have violated the Presidential Records Act.

Based on this evidence, and because of the apparent involvement of White House personnel in the U.S. Attorney firings and their aftermath, the committee has sought to obtain relevant documents from the White House and documents and testimony from former White House Counsel Harriet Miers—who appears to have been significantly involved in the matter—on a voluntary basis and, only after taking all reasonable efforts to obtain a compromise, on a compulsory basis. The committee's subpoenas have been met with consistent resistance, including wide-ranging assertions of executive privilege and immunity from testimony. This has gone so far that the administration indicated in July that it would refuse to allow the District of Columbia U.S. Attorney's office to pursue any congressional contempt citation against the White House's wishes. In addition

to the many infirmities and deficiencies in the manner in which the White House Counsel has sought to assert executive privilege, in the present circumstance such privilege claims would be strongly outweighed by the committee's need to obtain such information.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I would ask the distinguished chairwoman how many speakers she has remaining.

Ms. SLAUGHTER. Possibly five, Madam Speaker.

The SPEAKER pro tempore. The gentleman from Florida has 4 minutes remaining. The gentlewoman from New York has 10 minutes remaining.

Mr. LINCOLN DIAZ-BALART of Florida. I reserve at this time.

Ms. SLAUGHTER. I am pleased to yield 2 minutes to the gentlewoman from Ohio (Ms. SUTTON) who serves on both the Committee on Rules and Judiciary.

Ms. SUTTON. Madam Speaker, let us recall what this is all about. We are here today because the now-resigned Chief of Staff to former attorney, Alberto Gonzalez, ran a plan over a period of just under 2 years during which he maintained a revised list of U.S. attorneys to be fired or retained. If prosecutors were placed on this list for political reasons, or alternatively kept off because of a willingness to engage in political prosecutions, these actions are not only improper and illegal, but they constitute criminal abuse. These are serious allegations, and we have a constitutional duty to pursue this proceeding today.

Congress is not only entitled to look into this matter, we must conduct a thorough oversight of the executive branch. Now, some of my colleagues argue that the United States attorneys serve at the pleasure of the President. However, it is very critical to note that throwing out this term, "at the pleasure of the President," may be accurate in the sense that the President may fire somebody for no reason, Alberto Gonzalez can fire somebody for no reason, but they can't fire him for an illegal reason.

And that is what we are looking at here. The Committee on the Judiciary Chairman CONYERS testified yesterday that he pursued documents from the White House and the testimony of Ms. Miers and from Mr. Bolten for 8 long months, and in return the White House did not provide a single document and specifically directed Ms. Miers and Mr. Bolten to ignore the Judiciary Committee's subpoenas citing executive privilege.

This is not a situation of exerting executive privilege, because Ms. Miers did not even show up for the hearings that they were called to testify before to assert that claim. Furthermore, Madam Speaker, it is one thing for them to decline to answer certain questions based on a claim of executive privilege; it is an entirely different matter to defy even orders to appear.

Mr. LINCOLN DIAZ-BALART of Florida. I continue to reserve, Madam Speaker.

Ms. SLAUGHTER. Madam Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COHEN), a member of the Judiciary Committee.

Mr. COHEN. I appreciate the time. I do serve on Judiciary Committee, and I looked at that empty chair that Ms. Miers was supposed to be sitting in when she was asked to testify before our committee.

Nothing is more contemptuous of an official than not to simply appear. To appear by counsel, to appear in person, to allege a privilege is one thing. Not to show up is the uttermost peak of contempt that a person could have for the Congress and for the legislative body. She didn't even send a little note, Ms. Miers regrettably cannot attend your hearing.

This is the highest contempt. We are representatives of the people, and we are upholding the Constitution and our jobs as being an equal branch of government, which this legislative body is, and there is no such thing as an imperial Presidency, and no one is above the law.

Mr. LINCOLN DIAZ-BALART of Florida. I continue to reserve.

Ms. SLAUGHTER. Madam Speaker, I am pleased to yield 1½ minutes to the gentleman from Florida (Mr. WEXLER) from the Judiciary Committee.

Mr. WEXLER. Madam Speaker, no one is immune from accountability and the rule of law, not Harriet Miers or Josh Bolten, and especially not President Bush or Vice President CHENEY.

It is high time to defend the Constitution and Congress as a coequal branch of government. Our liberty and freedoms as Americans are dependent upon the checks and balances that protect our Nation. Not since Watergate, not since Watergate has a President so openly disregarded the will of Congress. Josh Bolten and Harriet Miers have blatantly ignored congressional subpoenas, thumbing their nose at Congress and our obligation of legitimate oversight.

The power of the congressional subpoena safeguards our liberty. It protects against an all-powerful President. The Constitution demands that we hold these renegade officials in contempt of Congress.

Thank you, Madam Chairman.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members that the wearing of communicative badges is not in order while under recognition.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I continue to reserve.

Ms. SLAUGHTER. Madam Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) of the Judiciary Committee.

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise today in support of this resolution. I urge my colleagues on both sides of the aisle as Members of a coequal branch of government to issue these contempt citations to members of the Bush administration who

clearly feel that they are above the law.

Last year, when the Judiciary Committee was legitimately investigating the political purge of U.S. attorneys and conducting oversight into the politicization of the Justice Department, administration officials not only failed to turn over key documents after receiving subpoenas, they didn't even bother to show up to testify.

Madam Speaker, I am deeply frustrated by this administration's continued stonewalling and, frankly, the contempt that it has shown for Congress. As our former Republican colleague Congressman Mickey Edwards told our committee, the administration's actions have been outrageous and it continues to erode the separation of powers.

I applaud Chairman CONYERS' patience and his many attempts to resolve this situation short of the manner in which we will today, but I know I speak for many of my colleagues when I say enough is enough.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I would ask the distinguished chairwoman how many speakers she has remaining.

Ms. SLAUGHTER. I believe I have just one. And so I will yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Judiciary Committee.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank my colleagues of the Judiciary Committee, and I thank my colleagues of the Rules Committee.

Madam Speaker, I stand on this floor with a very heavy heart. It is a heavy heart compounded by the fact that Harriet Miers is my friend. We practiced law together in the State of Texas. We worked together. And so it is very difficult to stand here today and to acknowledge what is an enormous crisis in our Government, and that is the lack of recognition of the constitutional premise of the three equal branches of Government. I came yesterday to talk of the embeddedness of the Constitution not only in many books but also in the hearts of Americans. When I go home to Texas, people still ask the question: What are you doing about the U.S. attorney situation? What happened to the fairness and integrity of the appointment process? The American people want to know. We are now doing their bidding. They want us to be able to clear the air.

As a member of the Judiciary Committee, let me tell you, JOHN CONYERS has the patience of Job. Over and over again, and Chairwoman SANCHEZ, over and over again, working with Ranking Member CANNON, said that we wanted to do this in a way that you could come and give information, that information could be transcribed. We will then try to find out the truth.

We come here with a broken heart, a humble spirit, but with the Constitu-

tion deeply embedded in our heart, recognizing that there is nothing to protect if the President says that he is not involved.

Let the Constitution stand. Let us do what we are supposed to do. My friends, vote for this in a bipartisan way so that the Constitution remains sacred in our hearts and in this country.

Madam Speaker, I rise today in strong support of H. Res. 982, which provides that upon adoption of the rule, both H. Res. 979 recommending that the House of Representatives find former White House Counsel Harriet Miers and White House Chief of Staff Joshua Bolten in contempt of Congress for their refusal to comply with subpoenas issued by the Committee on the Judiciary and H. Res. 980—Authorizing the Committee on the Judiciary to initiate or intervene in judicial proceedings to enforce certain subpoenas are adopted. Both of the resolutions were introduced by my distinguished colleague from Michigan, the Honorable JOHN CONYERS, Jr.

H. RES. 979

This resolution highlights the accountability issues that this body has continued to have with the Bush administration. This committee made attempt after attempt to secure critical information voluntarily from both former White House Counsel Harriet Miers and White House Chief of Staff Joshua Bolten. At no point did they cooperate and comply with our requests. Even as this committee directed their appearance by subpoena, the White House sought to avert our inquiries by citing executive privilege.

Instead, the White House offered this committee a very limited inquiry, completely controlled by providing: (1) virtually no access to internal White House documents, (2) no questioning regarding internal White House discussions, and (3) no interview transcripts. The White House is not bluffing with this act of defiance. Rather, it seems the Bush administration wants to test, and attempt to expand, the limits of presidential power.

Madam Speaker, it was on July 12, 2007 that Ms. Harriet Miers was asked to testify before the Subcommittee on Commercial and Administrative Law investigating the removal of U.S. attorneys by the Bush administration, and did not attend. That same day, the subcommittee's Chair, the Honorable LINDA SANCHEZ, undertook the preliminary steps necessary to declare Miers in contempt. The subcommittee voted 7–5 that there was no legal justification for Ms. Miers's failing to appear pursuant to the subpoena.

Notwithstanding this blatant affront to the House Judiciary Committee, Republican Members allowed party affiliation to trump institutional responsibility, just as they had when they controlled Congress. The Minority continues to make excuses for the Bush administration's defiance, and appears content to let the President slight the subcommittee by instructing both Ms. Miers and Mr. Bolten to not testify.

H. RES. 980 AND CONGRESSIONAL OVERSIGHT

Congressional oversight is an implied rather than an enumerated power. My colleagues across the aisle may make the argument that nothing explicitly grants this body the authority to conduct inquiries or investigations of the

Executive, to have access to records or materials held by the Executive, or to issue subpoenas for documents or testimony from the Executive.

However, congressional investigations sustain and vindicate our role in our constitutional scheme of separated powers. The rich history of congressional investigations from the failed St. Clair expedition in 1792 through Teapot Dome, Watergate, and Iran-Contra, has established, in law and practice, the nature and contours of congressional prerogatives necessary to maintain the integrity of the legislative role. Numerous Supreme Court precedents recognize a broad and encompassing power in this body to engage in oversight and investigation that would reach all sources of information necessary for carrying out its legislative function. Without a countervailing constitutional privilege or this body self-imposing a statutory restriction on our authority, this chamber, along with our colleagues in the Senate, have plenary power to compel information needed to discharge our legislative functions from the Executive, private individuals, and companies.

In *McGrain v. Daugherty*, 1927, the U.S. Supreme Court deemed the power of inquiry, with the accompanying process to enforce it, "an essential and appropriate auxiliary to the legislative function." Senate Rule XXVI, 26, and House Rule XI, 11, presently empower all standing committees and subcommittees to require the attendance and testimony of witnesses and the production of documents. This chamber was given an implied power of oversight by the U.S. Constitution; that power has supported by our 3rd branch of government, the Supreme Court; we ourselves have expressed this authority in our Senate and House Rules, and yet two attorneys under the direction of the White House continue to tell us we do not have the proper authority.

H.R. 5230, CONTEMPT OF THE HOUSE OF REPRESENTATIVES SUBPOENA AUTHORITY ACT OF 2008 [110TH]

On February 6, I introduced legislation that would amend Title 28, of the United States Code and grant this chamber the statutory authority to bring a civil action to enforce and secure a declaratory judgment to prevent a threatened refusal or failure to comply with any subpoena or order for the production of documents, the answering of any deposition or interrogatory, or the securing of testimony issued by the House or any of its committees or subcommittees.

Once we pass H.R. 5230, we should have no further need to adopt resolutions for authorization to enforce certain subpoenas; we would already hold that statutory authority. As it stands now, we must collectively support both H. Res. 979 and H. Res. 980 under H. Res. 982, the adopted rule. Therefore, I urge my colleagues to join me in supporting H. Res. 982 an important piece of legislation that allows for not only accountability but enforcement.

Mr. LINCOLN DIAZ-BALART of Florida. I would ask the distinguished chairwoman if she has no other speakers, obviously besides herself.

Ms. SLAUGHTER. That's correct, if the gentleman is prepared to close.

Mr. LINCOLN DIAZ-BALART of Florida. Actually I will yield myself 2 minutes at this time.

The actions of the majority today are unprecedented. We have checked with

the House Parliamentarian, and they are absolutely and totally unprecedented, that privileged resolutions would be taken to the floor in this fashion, in effect, avoiding even the floor by virtue of the fact that when the rule is passed, the rule that we are debating, automatically the two privileged resolutions of contempt will be considered adopted. That is absolutely unprecedented as well as uncalled for.

And the nature of the actions of the majority today are most, most unfortunate. I had the recent opportunity to speak at Florida International University's law school. Professor Levitt asked me to speak there about the rule of law. In studying, restudying the issue, the rule of law, I stressed how the independence of the judiciary is perhaps the key, or certainly one of the fundamental keys, to the rule of law. And judicial restraint has permitted the judiciary to remain independent throughout these two-plus centuries. All of the branches, Madam Speaker, must exercise restraint.

And the actions of the majority today manifest the opposite, not only restraint, but I would say unprecedented, uncalled for, an unprecedented and uncalled for manner of dealing with even an issue of this importance.

As I stated, the majority is not even allowing debate on the resolutions of contempt, not even permitting votes on the resolutions of contempt.

The SPEAKER pro tempore. The time of the gentleman has expired.

MOTION TO ADJOURN

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I move that the House do now adjourn.

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

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 2, nays 400, not voting 26, as follows:

[Roll No. 59]

YEAS—2

Johnson (IL)

Young (AK)

NAYS—400

Abercrombie
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin

Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)

Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany

Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carter
Castle
Castor
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Fortenberry
Fossella
Foxy
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey

Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hersteth Sandlin
Higgins
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Hoolley
Hoyer
Hulshof
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loeb sack
Lofgren, Zoe
Lucas
Lungren, Daniel
E.
Lynch
Mack
Maloney (NY)
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern

McHenry
McHugh
McIntyre
McKeon
McMorris
Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascarell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Badanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sanchez, Linda
T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions