

Calendar No. 1126110TH CONGRESS
2^D SESSION**S. RES. 708****[Report No. 110-522]**

Authorizing the President of the Senate to certify the facts of the failure of Karl Rove to appear and testify before the Committee on the Judiciary and to produce documents as required by Committee subpoena.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2008

Mr. LEAHY, from the Committee on the Judiciary, submitted the following original resolution; which was placed on the calendar

RESOLUTION

Authorizing the President of the Senate to certify the facts of the failure of Karl Rove to appear and testify before the Committee on the Judiciary and to produce documents as required by Committee subpoena.

Whereas, since the beginning of this Congress, the Senate Judiciary Committee has conducted an investigation into the removal of United States Attorneys;

Whereas the Committee's requests for information related to its investigation, including documents and testimony from the White House and White House personnel, were denied;

Whereas the White House has not offered any accommodation or compromise to provide the requested information that is acceptable to the Committee;

Whereas, on March 22, 2007, pursuant to its authority under rule 26 of the Standing Rules of the Senate, the Senate Committee on the Judiciary authorized issuance to Karl Rove, Deputy Chief of Staff to the President, subpoenas in connection with the Committee's investigation;

Whereas, on June 28, 2007, in response to subpoenas for documents issued by the Senate and House Judiciary Committees, White House Counsel Fred Fielding conveyed the President's claim of executive privilege over all information in the custody and control of the White House related to the Committee's investigation;

Whereas, on June 29, 2007, the Chairmen of the House and Senate Judiciary Committees provided the White House with an opportunity to substantiate its privilege claims by providing the Committees with the specific factual and legal bases for its privilege claims regarding each document withheld and a privilege log to demonstrate to the Committees which documents, and which parts of those documents, are covered by any privilege that is asserted to apply and why;

Whereas the White House declined this opportunity in a July 9, 2007, letter to the Committee Chairmen from Mr. Fielding, while reiterating the blanket privilege claims;

Whereas, on July 26, 2007, the Chairman issued a subpoena authorized March 22 to Mr. Rove for documents and testimony related to the Committee's investigation, with a return date of August 2;

Whereas the Chairman noticed an August 2, 2007, Judiciary Committee hearing under its rules at which Mr. Rove was subpoenaed to testify;

Whereas Mr. Fielding, in an August 1, 2007, letter to the Chairman and Ranking Member, informed the Committee that the President would invoke a claim of executive privilege and a claim of immunity from congressional testimony for Mr. Rove, and directed Mr. Rove not to produce responsive documents or testify before the Committee about the firings, and that Mr. Rove would not appear in response to the Committee's subpoena;

Whereas, based on these claims of executive privilege and absolute immunity, Mr. Rove refused to appear or to produce documents or to testify at the Committee's August 2, 2007, hearing in compliance with the subpoena;

Whereas, on August 17, 2007, Mr. Fielding rejected the Chairman's request for a meeting with the President to work out an accommodation for the information sought by the Committee;

Whereas, on November 29, 2007, the Chairman ruled that the White House's claims of executive privilege and immunity are not legally valid to excuse current and former White House employees from appearing, testifying, and producing documents related to this investigation and directed Mr. Rove, along with other current and former White House employees, to comply immediately with the Committee's subpoenas by producing documents and testifying;

Whereas Mr. Rove has not complied with the Committee's subpoenas or made any offer to cure his previous non-compliance; and

Whereas, the Committee's investigation is pursuant to the constitutional legislative, oversight, and investigative powers of Congress and the responsibilities of this Committee to the Senate and the American people; including the power to: (1) investigate the administration of existing laws, and obtain executive branch information in order to consider new legislation, within the Committee's jurisdiction, including legislation related to the appointment of U.S. Attorneys; (2) expose any corruption, inefficiency, and waste within the executive branch; (3) protect the Committee's role in evaluating nominations pursuant to the Senate's constitutional responsibility to provide advice and consent; and (4) examine whether inaccurate, incomplete, or misleading testimony or other information was provided to the Committee: Now, therefore, be it

1 *Resolved*, That the President of the Senate certify the
2 facts in connection with the failure of Karl Rove, though
3 duly summoned, to appear and testify before the Judiciary
4 Committee and to produce documents lawfully subpoenaed
5 to be produced before the Committee, under the seal of
6 the United States Senate, to the United States Attorney
7 for the District of Columbia, to the end that Karl Rove
8 may be proceeded against in the manner and form pro-
9 vided by law.

Calendar No. 1126

110TH CONGRESS
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