

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. RES. 779

To establish prospective standards effective January 20, 2017 defining impeachable “high crimes and misdemeanors” within the meaning of Article II, section 4 as applied to the President of the United States to provide fair warning and evenhandedness in the administration of the impeachment power of the House of Representatives.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2014

Mr. BENTIVOLIO submitted the following resolution; which was referred to the Committee on the Judiciary

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## RESOLUTION

To establish prospective standards effective January 20, 2017 defining impeachable “high crimes and misdemeanors” within the meaning of Article II, section 4 as applied to the President of the United States to provide fair warning and evenhandedness in the administration of the impeachment power of the House of Representatives.

Whereas Article II, section 4 of the Constitution provides that, “The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors”;

Whereas Article I, section 2, clause 5 provides that, “The House of Representatives . . . shall have the sole power of impeachment”;

Whereas Benjamin Franklin at the constitutional convention described the impeachment power as the alternative to the historical practice of assassination to remove tyrants;

Whereas the constitutional convention rejected “neglect of duty” or “maladministration” as impeachment standards in favor of “high crimes and misdemeanors” because the former terms were too broad;

Whereas Alexander Hamilton in Federalist 65 explained that impeachable offenses “proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself”;

Whereas impeachable “high crimes and misdemeanors” has an objective meaning based on the intent of the Constitution’s framers and British impeachment precedents;

Whereas then Congressman Gerald R. Ford erred in 1970 when he declared that, “An impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history”;

Whereas the House of Representatives has voted articles of impeachment against two Presidents, one Cabinet officer, one Senator, one Supreme Court Justice, and eleven (11) Federal judges without providing a general standard for defining an impeachable offense;

Whereas the law should warn before it strikes;

Whereas the absence of impeachment standards creates an appearance that impeachment is a partisan exercise, which undermines its legitimacy and deters its use;

Whereas the impeachment power of the House of Representatives is a cornerstone safeguard against Presidential tyranny;

Whereas the past neglect of the House of Representatives to use the impeachment power against Presidential usurpations and lawlessness has concentrated alarming power in the executive branch, crippled liberty, undermined transparency, and encouraged Presidents to further aggrandizements; and

Whereas it would be unfair and would carry an appearance of partisanship if newly articulated impeachment standards were applied to the incumbent President: Now, therefore, be it

1       *Resolved,*

2       **SECTION 1. DEFINITION OF PRESIDENTIAL IMPEACHABLE**

3                               **OFFENSES.**

4       The House of Representatives declares that the fol-  
 5       lowing Presidential actions shall constitute impeachable  
 6       “high crimes and misdemeanors” within the meaning of  
 7       Article II, section 4, which will cause the House to vote  
 8       an article or articles of impeachment to send to the Senate  
 9       for trial—

10                   (1) initiating war without express congressional  
 11       authorization;

1           (2) killing American citizens in the United  
2 States or abroad who are not then engaged in active  
3 hostilities against the United States without due  
4 process (unless the citizen was then under indict-  
5 ment for a felony and the killing was necessary to  
6 prevent imminent serious physical danger to third  
7 parties);

8           (3) failing to superintend subordinates guilty of  
9 chronic constitutional abuses;

10          (4) expending money in violation of conditions  
11 imposed for the expenditure of appropriated funds;

12          (5) intentionally lying to Congress to obtain an  
13 authorization for war;

14          (6) failing to take care that the laws be faith-  
15 fully executed through signing statements or system-  
16 atic policies of non-enforcement;

17          (7) substituting executive agreements for trea-  
18 ties;

19          (8) intentionally lying under oath to a Federal  
20 judge or grand jury;

21          (9) misusing Federal agencies to advance a par-  
22 tisan political agenda; and

23          (10) refusing to comply with a congressional  
24 subpoena for documents or testimony issued for a le-  
25 gitimate legislative purpose.

1 **SEC. 2. EFFECTIVE DATE.**

2       This Resolution shall take effect on January 20,  
3 2017.

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