



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 152

WASHINGTON, MONDAY, JUNE 26, 2006

No. 84

## House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BOUSTANY).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
June 26, 2006.

I hereby appoint the Honorable CHARLES W. BOUSTANY, Jr., to act as Speaker pro tempore on this day.

DENNIS J. HASTERT,  
*Speaker of the House of Representatives.*

### MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

### FOREIGN LAW IN U.S. COURTS

Mr. STEARNS. Mr. Speaker, with the Fourth of July celebration next week, it is important to again remember why we fought for independence, namely, to free ourselves from foreign domination.

I fear that the Supreme Court's appeal to foreign legal practice has headed us down a slippery slope, down which our rapid descent could hurt the values we hold so dear.

In fact, to measure the standards of our Constitution by foreign opinion is to believe the false premise that other

nations are evolving toward better answers than we are capable of finding ourselves. If we begin thinking that way, surely we will cease to be Americans.

In 2003 in *Lawrence v. Texas*, five Supreme Court justices created a new right to sodomy based largely on legal precedents from the European Convention of Human Rights. In his dissenting opinion on this ruling, Justice Scalia agreed with what I am trying to point out in this speech by saying, he "expects and fears that the court's use of foreign law in the interpretation of our Constitution will continue at an accelerating pace."

Later, in the 2005 *Roper v. Simmons* case, the United States Supreme Court found juvenile execution to be unconstitutional. In deliberations, Justice Sandra Day O'Connor claimed that the United States is the only country in the world that continues to give the juvenile death penalty official sanction. She allowed international law to override her own decisionmaking abilities. In the majority decision, Justice Kennedy stated that using foreign law "does not lessen our fidelity to the Constitution or our pride in its origin to acknowledge that the affirmation of rights by other nations and people simply underscores the centrality of those same rights within our heritage of freedom."

Though it may be proper to acknowledge the weight of foreign opinion against the juvenile death penalty, should it be the basis for American law? Justice Ginsburg, one of the most prominent advocates of using international opinion in U.S. courts, recently delivered a speech at the Constitutional Court of South Africa. She essentially concluded that she and other justices have the authority to change the Constitution as they see fit, deferral to foreign laws and rulings being a key part of their creative process. She insisted that U.S. jurists honor

the Framers' intent to "create a more perfect union," which would allow justices to alter the Constitution, to keep it from being "fixed forever by the 18th century understanding."

My colleagues, the Framers of the Constitution did not give justices the authority to create a more perfect union; in fact, they purposely made changing the Constitution a very difficult process, to ensure that these changes were thoroughly vetted and absolutely necessary. Any amendments require a two-thirds vote of both Houses of Congress and three-fourths of State legislatures to convene constitutional conventions to ratify them. But, as we have seen, some justices believe they have the power to amend the Constitution to suit every whim.

Foreign laws and decisions simply provide a convenient justification for some justices to almost thumb their noses at the Constitution and the legislative branch.

Foreign legal standards can help U.S. courts determine the meaning behind treaties, foreign law might even aid us in interpretation of our Constitution as the Framers were of English descent; but there needs to be a distinction between appropriate and inappropriate consultation, aside from justices' personal opinions.

In an address to the American Enterprise Institute earlier this year, Justice Scalia said, "If there was any thought absolutely foreign to the Founders of our Country, it was the notion that we Americans should be governed the way Europeans are." In the *Federalist Papers* Number 46, to take just what one example, James Madison speaks contemptuously of the governments of Europe, which are afraid to trust the people with arms. Are we now to revise the second amendment because what these other countries think?

During his confirmation, Justice Roberts pointed out, "Looking to foreign law for support is like looking out

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Printed on recycled paper.

H4523

over a crowd and picking out your best friends." A judge relying on foreign law in their decisionmaking can hand-pick a precedent based on a predetermined outcome of their choice.

So, Mr. Speaker, I believe that our courts should rely on our history, our laws, and most importantly our Constitution to help them reach a decision, especially when it comes to domestic issues. That is why we must focus our energies on the other body on confirming quality judges with a healthy respect for the Constitution like Justice Roberts and Justice Alito.

#### ANTI-AMNESTY RESOLUTION

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the gentleman from Michigan (Mr. STUPAK) is recognized during morning hour debates for 5 minutes.

Mr. STUPAK. Mr. Speaker, 11 days ago in this House, we had a partial limited debate on the war in Iraq. The same day, it was reported in a number of the area newspapers that there was consideration of giving amnesty to those Iraqis that killed, maimed, or injured U.S. troops or citizens. A few of us took to the floor during the Iraq debate and raised the issue of amnesty. Is this what we are fighting for in Iraq, the type of democracy that gives people who kill American soldiers amnesty?

Last week, I joined with Democratic leadership, Mr. LARSON, Mr. CLYBURN, Mr. MURTHA, Mr. SKELTON, Mr. ABERCROMBIE, and others, and introduced House Joint Resolution 90, which says: Disapproving the grant of amnesty by the government of Iraq to persons known to have attacked, kidnapped, wounded, or killed members of the Armed Forces of the United States or citizens of the United States in Iraq.

Mr. Speaker, proposing amnesty for Iraqis who have killed our troops is another stunning example of the failure of this administration's handling of the war and their overall policy. I, like the rest of the American people, would like to know, what did the President know about this amnesty and when did he know it? I find it coincidental that the day after the President comes back from his secret trip to Iraq, we start hearing these reports in newspapers about an agreement on amnesty.

In 3 years of war, we have lost more than 2,500 of our best and brightest Americans. The war in Iraq now boils down to amnesty for insurgents who attack and kill U.S. troops? This amnesty proposal appears to have the tacit agreement of the Bush administration and the Iraqi government officials, as they were quoted in the Washington Post as saying, and I quote, "There is some sort of understanding between us and the U.S.-led multinational force in Iraq that there is a patriotic feeling among Iraqi youth and the belief that those attacks are legitimate acts of resistance and defending their homeland. These people will be pardoned definitely, I believe."

So officials in the Iraqi government believe that this is a done deal, and that attacking U.S. troops is a courageous act of self-defense. We could not disagree with it more, and that is why we have our House Joint Resolution 90.

I want to know, who agreed with the Iraqi government? How did they get this understanding that it is part of the policy of the United States that it is okay to kill U.S. troops? Was it someone in the Department of Defense, someone in the Secretary of State, or, again, during the meeting the President had in Iraq a few weeks ago, was that part of it?

The amnesty was reported in the papers the same day that two U.S. troops were found to be tortured and mutilated in Iraq. Do we give their torturers, their killers amnesty? Is this what the Commander-in-Chief does, lead troops into war, and then it develops into a civil war and those who kill U.S. troops get amnesty?

We ask the Republican leadership to bring House Joint Resolution 90 up before this floor. Let's bring it up before the Fourth of July recess, pass this House resolution, it should move quickly, and it should be a bipartisan resolution.

There is a lot of talk in this town, and some people like to use the word cut and run. Let me ask this. If the administration and if this Congress accept a policy that says it is okay to kill U.S. troops, what sort of message are we sending to the Iraqis on the street that it is okay to kill U.S. troops? But, more importantly, what sort of message are we sending to the 130,000 troops that are over there fighting in Iraq? To me, a proposal giving amnesty to those who have murdered Americans is the real definition of cut and run.

I urge the Republican leadership to allow our resolution to come to the floor, House Joint Resolution 90. No amnesty in Iraq, no amnesty for those who kill, maim, torture U.S. troops or our citizens in the country of Iraq.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 41 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOUSTANY) at 2 p.m.

#### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, today we ask Your blessing on the work of so many here on Capitol

Hill. Besides the work of government, familiar to all, accomplished by elected Representatives and many staff, there are hundreds of personnel whose work is hidden.

Lord, here are people in a labor force of manual laborers, carpenters, cooks, kitchen help, gardeners and maintenance workers. Their work is often unnoticed, yet always appreciated. During daylight and night hours, this Capitol is kept clean, in good order and prepared for those who serve here in government.

You, Lord, reward everyone with all our differences for his or her own competency, expertise and daily labor. May the families of the workers and all hardworking Americans be proud of the many laborers who raise a high standard for all citizens by their work on Capitol Hill. Bless them and their work, now and forever. Amen.

#### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. POE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

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

Mr. POE. Mr. 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. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

#### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr. COBLE) come forward and lead the House in the Pledge of Allegiance.

Mr. COBLE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### 55 GUARDSMEN HOLDING OFF INVASION

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, news from the front. The border war continues.

Generalissimo Fox and the Mexican media have taken a setback in the illegal invasion of the United States. Illegal border crossings and detentions