



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 110<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, FRIDAY, AUGUST 3, 2007

No. 127

## House of Representatives

The House met at a 9 a.m. and was called to order by the Speaker pro tempore (Mr. MURTHA).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC.

August 3, 2007.

I hereby appoint the Honorable JOHN P. MURTHA to act as Speaker pro tempore on this day.

NANCY PELOSI,

*Speaker of the House of Representatives.*

### PRAYER

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

Lord God, as Infinite Being, You have no beginning. In You there is no end. Have mercy on us who are so bound by time. You know us better than we know ourselves. You are aware how differently we act when we are near the final hour.

Whether it is the end of a lifetime or final moments before a performance or surgery or simply pondering a grave decision, all Your people need Your help at such critical moments. Be with the 110th Congress as it nears the end of this summer session.

The ancients called it final causality. We might refer to: the end product, the ultimate goal, final score or simply the end. Each calls forth judgment and draws us into its own abrupt closure.

As Americans we say, "In God We Trust." So prepare us, strengthen us, and enable us to embrace all endings with grace and finally say with free abandon, "So be it."

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. SENSENBRENNER. 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. SENSENBRENNER. Mr. Speaker, on that I demand a division.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

### PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. SENSENBRENNER. Mr. Speaker, could the Chair tell me how many Members rose to request the recorded vote and the total number of Members present in the House upon which the Chair made his decision?

The SPEAKER pro tempore. It's up to the Chair. And let me tell you this: The vote will show that the approval would be approved by the House, as it has been.

That is not a parliamentary inquiry. Mr. SENSENBRENNER. Mr. Speaker, further parliamentary inquiry.

Mr. Speaker, does not the Constitution require that in order to get a yea and nay vote there has to be one-sixth of the Members present requesting a yea and nay vote?

The SPEAKER pro tempore. One-fifth.

Mr. SENSENBRENNER. Excuse me, one-fifth.

The SPEAKER pro tempore. The gentleman is correct.

Mr. SENSENBRENNER. Further parliamentary inquiry. Does not a recorded vote in the House require the second of 44 Members?

The SPEAKER pro tempore. One-fifth of a quorum is required.

Mr. SENSENBRENNER. Further parliamentary inquiry. Did one-fifth of the Members present stand? And, if so, how is it possible to challenge the call of the Speaker on the accuracy of the count of the Members present?

The SPEAKER pro tempore. The Chair's decision is not subject to question.

### POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I make the point of order that one-fifth of the Members present did not support the demand for a recorded vote or a yea or nay vote.

The SPEAKER pro tempore. The gentleman's point of order is not in order.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Texas (Ms. GRANGER) come forward and lead the House in the Pledge of Allegiance.

Ms. GRANGER 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.

### ORDERING COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO IMMEDIATELY REVIEW EVENTS SURROUNDING VOTE ON H.R. 3161

Mr. HOYER. Mr. Speaker, I have a resolution at the desk.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

□ 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.

H9659

*Resolved*, That the Committee on Standards of Official Conduct shall immediately review the regularity of events surrounding the vote on the motion to recommit on H.R. 3161, which occurred on August 2, 2007, and report back to the House.

The SPEAKER pro tempore. Under rule IX, on this question of the privileges of the House, the party leaders will control 30 minutes each.

The Chair recognizes the gentleman from Maryland, the majority leader.

Mr. HOYER. Thank you very much, Mr. Speaker.

Mr. Speaker, on Tuesday night I said this was going to be an unhappy week for all of us. I did not expect what happened last night, however; and I regret what happened last night. Mr. MCNULTY is going to speak as well.

The vote was called. During the course of that vote, eight Members changed their votes after the vote was called 214-214, but the board, as everybody knows, at that point in time had reflected one of the Members who had changed their vote. There were at all times 428 Members voting. The vote went from 214-214, and then 215-213, and then 212-216. Obviously, the 214-214 would have had the motion fail. The 215-213 would have had it to prevail. And then the 212-216 would have had the motion fail. The minority, having been in that place, was understandably angry. I won't use the word "upset", understandably angry. If that happened to us, we would have been angry; I would have been angry.

At that point in time, I clearly believe that what had happened gave the impression that clearly, correctly would have been my impression that this was unfair; and, as a result, as the Members will recall, I asked to vacate the vote. That was objected to. So I then moved to reconsider the vote by which the motion to recommit offered by Mr. LEWIS had failed.

I thought it appropriate that that vote be retaken because of the confusion that occurred during the course of that vote and having three separate tallies indicated. I thought that was appropriate. In fact, that motion prevailed. We did reconsider that vote, and the vote passed, at that point in time, by voice vote, and then final passage of the bill. And the bill passed, the Agriculture appropriation bill.

But, clearly, people were angry. Words were said on this floor, unfortunately, that were not, I think, designed, as I said on Tuesday night, to maintain civility. But I don't blame the minority for being angry at what clearly appeared to them, which would have been the impression that I would have had, that they were being treated in a way that they thought was not fair.

It does no good to this discussion to repeat what has happened over the last 12 years, where we felt aggrieved. But when you feel aggrieved, it is justifiable grievement.

Therefore, Mr. Speaker, in the interest of having this matter reviewed by

the Ethics Committee to ensure that nothing was done that should not have been done, this motion simply refers this matter to the Ethics Committee.

This is no aspersion, I want to say, on the presiding officer. When he called the vote, that was the vote on the board, but it changed almost instantaneously at that time and clearly would have been something that correctly was interpreted as what's going on here.

We need to know what's going on here. My view is, because eight people change their votes, during the course of that, three Republicans changed their vote, five Democrats changed their vote. There have been a lot of questions about changing votes in the past, so we think it is appropriate that this matter be reviewed.

At this time, Mr. Speaker, I would like to yield 1 minute to my friend, the gentleman from New York (Mr. MCNULTY), someone who has served in this body long and honorably and whose integrity, I think, is unquestioned by Members who have served with him on the Ways and Means Committee and in this House.

Mr. MCNULTY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I believe the majority leader's recounting of what happened last night is correct; and I wish to express my apology to all of the Members of the House for calling the vote prematurely. I called the vote at 214-214. Subsequently, Members of both parties changed their votes.

The majority leader is correct. Very soon after that the board showed a different vote, which was, I believe, in favor of the motion to recommit. And then when all of the Members had been counted, it was 212 in favor and 216 opposed. All of those numbers in those various iterations add up to 428. So all Members had voted, but Members of both parties had changed their votes.

I just want to express regret to all the Members of the House, and especially the minority, for any role that I had in causing that confusion by calling the vote prematurely. The Members who have been around for a long time, and staff, know that I have presided over the House many, many times since 1989, when Jim Wright first put me in the Chair. And all during that time, I have always strived to be scrupulously fair, to the extent where a number of Members of my party in the old days used to criticize me for calling voice votes in favor of the minority when the minority had more Members in the room than the majority did. And Members of the minority party mentioned that to me many times through the years, as did Members of the minority staff.

And so I just want to reiterate that I regret any role that I played in causing the confusion.

□ 0915

I just want to pledge to all of the Members of the House that I will con-

tinue to go out of my way to be fair when I am given the privilege of serving as Speaker pro tempore to all Members of the House and to both parties.

Mr. HOYER. Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in January, when this Congress began, there were promises of the most open and ethical Congress in the history of our country. Over the last several weeks, I have been up on numerous occasions talking about the problems of how I believe the minority had been treated, only asking for fairness.

What happened last night not only disenfranchised minority Members, it disenfranchised Members of the majority party as well who had an interest in voting for that measure. I regret what happened last night. I think that it is very unfortunate. But it has been a pattern of activity that has gone on all year.

I think my colleagues on the majority side understand what I am saying. There were promises made, there were commitments made; and not only has none of it happened, but some of the actions taken by the majority over the last 7 months were actions that had never even been contemplated during the 12 years of Republican rule.

Now, I understand there were times when Republicans did things that were heavy-handed, and, in fact, I can understand why the minority was aggrieved at the time. But when you think about the opening several weeks, when we had one rule covering six bills, no amendments, one motion to recommit for six bills, things that we would have never even dreamt of doing have happened. But it has been time after time after time.

When we look at the activities of the State Children's Health Insurance Program, how there were no hearings, the size of the bill and then the conditions under which it was going to be brought to the floor, I think it was the straw that broke the camel's back. At least, I thought it was the straw that broke the camel's back, until last night.

The resolution that we are debating takes this issue and sends it to the Ethics Committee. As we all know, that is the Committee on Standards of Official Conduct that is referred to. Now, that, to me, does not appear, on the surface, to be the right place to send this issue. We all know about the problems of the Ethics Committee. Sending it to the Ethics Committee is sending it into what most people would describe as a "black hole."

Back in January, I suggested in a private meeting with the Speaker that I wanted the Ethics Committee to work, and the only way it was going to work was that if she and I locked arms and told our Members and told the American people that we are going to ensure that the Ethics Committee work.

That hasn't happened. The fact is, the productivity, I don't know whether

there is productivity or lack of productivity in the Ethics Committee, because we have not seen anything out of the Ethics Committee thus far this year.

I would suggest to the gentleman that if you are serious about getting to the bottom of what happened and serious about preserving the integrity of the House and ensuring that there is no disenfranchisement of Members on either side of the aisle, that a conversation between the two of us, or the two leaderships, might be a better course of action for the entire House.

I have a privileged resolution that I have drawn up that would set up a select committee of Members to deal with only this issue. It may be, I think, a wiser course of action. I would be happy to discuss this with the gentleman.

I would say to my colleagues on both sides of the aisle that what happened last night happened last night, and that if we could have a commitment of getting to the bottom of what happened last night, that we ought to proceed with the business that the American people sent us here to deal with.

Now, I know that there are those on my side of the aisle, and probably some on the other side of the aisle, who would rather fight all day. But at the end of the day, our responsibility is to the American people. This is the people's House.

I accept the regrets offered by my friend from New York. Having been in the chair myself, I understand how it can happen. He and I are friends. In fact, he is one of the fairest Members who could ever be in the chair. But we need to have some understanding early today, if in fact we are going to proceed today in an orderly fashion, that we are going to do it in a way that dignifies this institution and dignifies our responsibility to the American people to do their work.

So I would ask my friend if he would consider withdrawing the resolution that he has on the floor, allow us an opportunity to sit down and discuss this, and see if we can't come to some mutually agreeable way to proceed on the issue of what happened and how we preserve the integrity of the House and the rights of all Members.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. BOEHNER. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank my friend. I thank my friend for the tone of his remarks, the focus of the substance of those remarks in terms of ensuring that the House runs in a fashion that Members certainly are given full consideration in terms of casting of their votes, and I will certainly look forward to discussing with the gentleman that issue.

Mr. Speaker, the gentleman and I have had an opportunity to discuss various issues in a way that I think was positive. I think the remarks hopefully that both of us are making indicate

that we have the ability to continue to do that and want to do that.

I would say to my friend that I, when we complete this action, would look forward to visiting with him in his office or he in mine to discuss that. My suggestion would be that we perhaps unanimously adopt this resolution so that the Ethics Committee can look at it, but not exclusively, as the gentleman indicates and proceed.

Mr. BOEHNER. Mr. Speaker, reclaiming my time, the whole point of the suggestion that I made that we withdraw this to go into a conversation or negotiation where the gentleman has 10 cards in his hand and I have one clearly would put me and my colleagues at a disadvantage.

Mr. HOYER. Mr. Speaker, we don't want to do that. If the gentleman is indicating that he would prefer not to offer any resolutions at this time, I would certainly, at this point in time, if that is our understanding, be prepared to withdraw this resolution.

Mr. BOEHNER. I would be happy to hold off on the resolution that I was planning on offering and look forward to our conversations.

Mr. HOYER. Mr. Speaker, I ask unanimous consent to withdraw the resolution.

The SPEAKER pro tempore. In the House, a proposition may be withdrawn before any action thereon as a matter of right.

The resolution is withdrawn.

#### LEGISLATIVE PROGRAM

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

Mr. BOEHNER. Mr. Speaker, I rise today to ask all of my colleagues on both sides of the aisle to proceed with caution. We all know that it has been a tough week. We all know that we are right up against the August recess. And we all know there is a lot of passion in the room.

I don't know what the order of the House will be today. I heard some discussion about going to the Defense appropriation bill. But I would ask my colleagues that we do our work in a businesslike fashion, that we treat each other with respect, and that we proceed in a way that the American people would be proud of.

Mr. Speaker, I would be happy to yield to the gentleman for an update on the schedule.

Mr. HOYER. Mr. Speaker, I thank my friend for that comment, and I share his view.

Mr. Speaker, we have not yet had a meeting of the Rules Committee. I expect the Rules Committee will be meeting as soon as we leave here. I am not sure the exact time that it is scheduled. But we will be providing for rules. We intend to do a number of pieces of legislation. The gentleman has mentioned the Department of Defense bill.

Rules is not yet scheduled, but I presume it will be scheduled shortly.

The Department of Defense appropriation bill is a critical bill. We intend to consider that today. We also intend to consider Foreign Intelligence Surveillance Act legislation to enhance the ability of the Director of National Intelligence and those with whom he works to pursue those who might harm our country.

We also intend, Mr. Leader, to have on the floor a bill which is an emergency bill to respond to the bridge falling in Minneapolis, Minnesota. We also intend to consider an energy bill.

As I said on Tuesday, if we can complete that legislation today, we will do so. If not, we will complete it tomorrow. If we cannot complete it tomorrow, we will complete it on Monday. That is the order of business that we have contemplated.

Mr. BOEHNER. Mr. Speaker, reclaiming my time, is the gentleman planning on having legislation on the floor tomorrow?

Mr. HOYER. As I said on Tuesday night, the legislation that I just mentioned, and there may be some other suspension bills, we intend to finish that business. I would hope it would not take us until Monday. We are going to have a discussion, and perhaps we can pursue that.

Mr. BOEHNER. Mr. Speaker, reclaiming my time, if I could suggest to the majority leader that in the interest of the House and in the interest of trying to find a way to proceed today, that we might recess the House for a few minutes so that we can have this discussion that we have been referring to.

Mr. HOYER. If the gentleman would yield, we will have this discussion as soon as we leave the floor. But there are a number of Members who wanted to do 1-minute. I suggest we proceed with those at this time, if that is agreeable.

Mr. BOEHNER. Fine.

□ 0930

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PASTOR). The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

#### CHAMP ACT

(Mr. HARE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARE. Mr. Speaker, on Wednesday, this House passed the Children's Health and Medicare Protection (CHAMP) Act. This bill demonstrates the values that freshmen Members like me and others were elected to bring to this Congress. By reauthorizing the State Children's Health Insurance Program, we expand coverage to an additional 5 million children.

Additionally, the CHAMP Act takes care of America's seniors and the disabled by assisting Medicare recipients