## [Roll No. 10]

## AYES-236

Nunes

Olson

Paul

Palazzo

Paulsen

Pence

Petri

Pitts

Platts

Poe (TX)

Pompeo

Price (GA)

Posey

Quavle

Rehberg

Reichert

Renacci

Ribble

Rigell

Rivera.

Roe (TN)

Rogers (AL)

Rogers (KY)

Rogers (MI)

Rohrabacher

Ros-Lehtinen

Rokita.

Rooney

Roskam

Ross (AR)

Ross (FL)

Rvan (WI)

Royce

Runyan

Scalise

Schilling

Schmidt

Schweikert

Scott Austin

Sensenbrenner

Scott (SC)

Shimkus

Shuster

Simpson

Stearns

Stivers

Stutzman

Thompson (PA)

Thornberry

Sullivan

Terry

Tiberi

Tipton

Turner

Unton

Walberg

Walden

Webster

Whitfield

Wittman

Womack

Woodall

Young (AK)

Young (FL)

Young (IN)

Yoder

Wolf

Wilson (SC)

West

Walsh (IL)

Westmoreland

Smith (NJ)

Smith (TX)

Southerland

Schock

Roby

Reed

Nunnelee

Adams Gowdy Aderholt Granger Graves (GA) Akin Alexander Graves (MO) Griffin (AR) Amash Bachmann Griffith (VA) Bachus Grimm Barletta Guinta Bartlett Guthrie Bass (NH) Hall Benishek Hanna Berg Harper Biggert Harris Bilbray Hartzler Hastings (WA) Bilirakis Bishop (UT) Heck Black Blackburn Heller Hensarling Bonner Herger Bono Mack Herrera Beutler Huelskamp Boren Boustany Huizenga (MI) Brady (TX) Hultgren Brooks Hunter Broun (GA) Hurt Buchanan Issa. Jenkins Bucshon Buerkle Johnson (IL) Burgess Johnson (OH) Burton (IN) Johnson, Sam Calvert Jordan Camp Kellv King (IA) Campbell Canseco King (NY) Cantor Kingston Kinzinger (IL) Capito Carter Kissell Kline Cassidy Labrador Chabot Chaffetz Lamborn Coble Lance Coffman (CO) Landry Cole Lankford Conaway Latham Cravaack LaTourette Crawford Latta Lee (NY) Crenshaw Culberson Lewis (CA) Davis (KY) LoBiondo Denham Long Lucas Dent DesJarlais Luetkemever Diaz-Balart Lummis Dreier Lungren, Daniel Duffv E. Duncan (SC) Mack Duncan (TN) Manzullo Ellmers Marchant Emerson Marino McCarthy (CA) Farenthold McCaul Fincher McClintock Flake Fleischmann McCotter McHenry Fleming Flores McIntyre Forbes McKeon Fortenberry McKinley Foxx McMorris Franks (AZ) Rodgers Meehan Frelinghuysen Gallegly Mica Miller (FL) Gardner Miller (MI) Garrett Gerlach Miller, Gary Gibbs Mulvanev Murphy (PA) Gibson Gingrey (GA) Myrick Neugebauer Gohmert

#### NOES-181

Noem

Nugent

Ackerman Braley (IA) Altmire Brown (FL) Andrews Butterfield Baca Capps Baldwin Capuano Barrow Cardoza Bass (CA) Carnahan Becerra Carney Berklev Carson (IN) Berman Castor (FL) Bishop (GA) Chandler Bishop (NY) Chu Blumenauer Brady (PA) Clarke (NY) Clay

Goodlatte

Gosar

Cleaver Clyburn Cohen Connolly (VA) Convers Cooper Costa Costello Courtney Critz Crowley Cuellar Cummings Davis (CA)

Richmond DeFazio Langevin DeGette Larsen (WA) Rothman (NJ) DeLauro Larson (CT) Ruppersberger Deutch Lee (CA) Rush Dicks Levin Ryan (OH) Lewis (GA) Dingell Sánchez, Linda Doggett Lipinski Т. Donnelly (IN) Loebsack Sanchez, Loretta Doyle Lofgren, Zoe Sarbanes Edwards Lowey Schakowsky Ellison Luján Schiff Engel Lynch Schrader Markey Eshoo Schwartz Matheson Farr Scott (VA) Fa.t.ta.h Matsui McCarthy (NY) Scott, David Filner Frank (MA) McCollum Serrano Sewell Fudge McDermott Sherman Giffords McGovern Gonzalez McNerney Shuler Green, Al Meeks Sires Slaughter Green, Gene Michaud Grijalva Miller (NC) Smith (WA) Gutierrez Miller George Speier Hanabusa Moore Stark Harman Moran Sutton Hastings (FL) Murphy (CT) Thompson (CA) Heinrich Nadler Thompson (MS) Higgins Napolitano Tiernev Himes Neal Tonko Hinchey Olver Towns Hinojosa Owens Tsongas Pallone Hirono Van Hollen Holden Pascrell Velázquez Holt Pastor (AZ) Visclosky Hover Pavne Walz (MN) Inslee Pelosi Wasserman Israel Perlmutter Schultz Jackson (IL) Peters Waters Jackson Lee Peterson Watt Pingree (ME) (TX) Waxman Johnson (GA) Polis Price (NC) Weiner Johnson, E. B Kaptur Quigley Rahall Wilson (FL) Keating Kildee Woolsey Rangel Wu Kind Reves Kucinich Richardson Yarmuth ANSWERED "PRESENT"-2

Sessions Fitzpatrick

## NOT VOTING-15

Davis (IL) Austria Jones Barton (TX) Dold Maloney Boswell Garamendi Pearce Roybal-Allard Cicilline Hayworth Clarke (MI) Honda Smith (NE)

### □ 1104

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### PARLIAMENTARY INQUIRY

Mr. McGOVERN. Madam Speaker, I am standing on the floor of the House of Representatives where Members of Congress get sworn in, and I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. McGOVERN. Madam Speaker, under the rules of the House and the United States Constitution, can a committee of the House be presided over by someone who is not a Member of the House of Representatives and who is not a member of that committee?

The SPEAKER pro tempore. No. Only sworn Members may serve on committees.

RELATING TO THE STATUS OF CERTAIN ACTIONS TAKEN BY MEMBERS-ELECT

Mr. DREIER. Madam Speaker, pursuant to House Resolution 26, I send to

the desk as the designee of the majority leader a resolution and ask for its immediate consideration.

Mr. WEINER. I reserve a point of order, Madam Speaker.

The SPEAKER pro tempore. A point of order is reserved.

The Clerk will report the resolution. The Clerk read as follows:

#### H RES 27

Whereas, Representative-elect Sessions and Representative-elect Fitzpatrick were not administered the oath of office pursuant to the third clause in article VI of the Constitution until after the completion of legislative business on January 6, 2011; and

Whereas, the votes cast by Representativeelect Sessions and Representative-elect Fitzpatrick on rollcalls 3 through 8 therefore were nullities: Now, therefore, be it

Resolved. That-

(1) the votes recorded for Representativeelect Sessions and Representative-elect Fitzpatrick on rollcalls 3 through 8 be deleted and the vote-totals for each of those rollcalls be adjusted accordingly, both in the Journal and in the Congressional Record;

 $(2) \quad the \quad election \quad of \quad Representative\text{-}elect$ Sessions to a standing committee and his participation in its proceedings be ratified;

(3) the measures delivered to the Speaker for referral by Representative-elect Sessions be considered as introduced and retain the numbers assigned:

(4) any submissions to the Congressional Record by Representative-elect Sessions or Representative-elect Fitzpatrick be considered as valid;

(5) any cosponsor lists naming Representative-elect Sessions or Representative-elect Fitzpatrick be considered as valid; and

(6) any non-voting participation by Representative-elect Sessions or Representativeelect Fitzpatrick in proceedings on the floor be ratified.

#### POINT OF ORDER

Mr. WEINER. Madam Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WEINER. Madam Speaker, make a point of order that the consideration of this resolution is in violation of the House rules that we just passed in which a new section was created to rule XXI that required at least 3 days' notice to consider legislation, that it be posted on the Internet and we have a chance to review it. It is particularly important in this case since we're dealing with a constitutional issue, one that is without precedent, and I insist on the point of order.

The SPEAKER pro tempore. Chair must observe that the rule cited applies to bills and joint resolutions; and pursuant to House Resolution 26, all points of order are waived.

## PARLIAMENTARY INQUIRY

Mr. WEINER. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WEINER. Am I to understand that under the rules that were just passed, they are already exempting this resolution, which is of a question of the interpretation of the Constitution of the United States, that it is already being waived, that that new rule requiring 3 days is already being waived?

The SPEAKER pro tempore. The rule that the gentleman cites applies only to bills and joint resolutions.

□ 1110

The SPEAKER pro tempore. Pursuant to section 3 of House Resolution 26, the gentleman from California (Mr. Dreier) and the gentleman from New York (Mr. Weiner) each will control 2 minutes.

The Chair recognizes the gentleman from California.

Mr. DREIER. Madam Speaker, I am the only speaker on my side, so I will reserve the balance of my time.

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

I thought that the chairman was going to say that he was going to be brief. Well, he had no choice with this rule. It's a pretty short one.

I just want to say in the brief 2 minutes that we have here that this is a pretty important issue that we are faced with. And I should say just at the outset that I have the greatest respect for my friend, Mr. Sessions. I consider him to be a friend. I hope to get to know Mr. FITZPATRICK as well and to call him a friend as well. But what we are dealing with today is perhaps the most basic test that we have of whether we're going to take legislation seriously.

To the great credit of the maker of this resolution, which we just got, it stipulates right in the first couple of sections, we violated the Constitution on our very first day. The constitutional requirement for oath was violated. And I give you great credit for recognizing that in the resolution.

Now you do say that it created nullities, which is, frankly, a way of saying we operated outside this document on the same day we were reading it. When Mr. SESSIONS and Mr. FITZPATRICK stood up in front of a television set and held their right hand up-not unlike about 2,000 of my constituents, I suspect-they were violating a very important part of these proceedings, and yet we have a grand total of 2 minutes on each side, Mr. DREIER, and to my colleagues, in which to debate how to fix that infirmity.

Mr. SESSIONS presided over the Rules Committee during a large portion in which he was not even a duly sworn Member of the United States Congress. Yet we are doing nothing to go back and see would that participation influence proceedings at all.

I strongly urge my colleagues to vote against this resolution, not because Mr. FITZPATRICK and Mr. SESSIONS are not Members of Congress, they clearly are and I congratulate them, but because for the first time in American history, the first time in the history of this body, we are going to pass a fix of a constitutional infirmity with—wait for it—4 minutes of debate when we didn't have the bill until just now. I strongly urge my colleagues to think about the precedent this sets.

I ask the consent of the chairman for answere an additional 1 minute so we can have follows: an understanding.

Mr. DREIER. I have no authority to do that. We are living under this rule that was passed by the House.

Mr. WEINER. The gentleman may yield to a unanimous consent request.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. WEINER. Only does Mr. DREIER have the ability to accede to a unanimous consent request.

The SPEAKER pro tempore. Does the gentleman from California yield for such a request?

Mr. DREIER. I have my time, and I will be utilizing that, Madam Speaker.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

The Chair recognizes the gentleman from California.

Mr. DREIER. Madam Speaker, I appreciate the fact that my friend from New York has stated his respect for Mr. SESSIONS and Mr. FITZPATRICK.

These two individuals were in this Capitol. They were in this Capitol when they took the oath of office. They didn't happen to be in this exact room. Under the standard of collegiality in Jefferson's Manual, it is indicated that they have to be within the proximity of the Speaker.

Madam Speaker, any Member who does not vote in favor of this resolution is allowing the problem to persist. This resolution rectifies the problem which we all realize has happened. I believe that we have a responsibility to this institution, we have a responsibility to the Constitution, we have a responsibility to the American people, and this resolution rectifies a problem that has existed

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

PARLIAMENTARY INQUIRY

Mr. WEINER. Parliamentary inquiry, Madam Speaker

The SPEAKER pro tempore. The gentleman will state it.

Mr. WEINER. Madam Speaker, under the rules of the House, are the Members of Congress who are not duly sworn entitled to be paid for the days of service in which they were here and were not sworn in?

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

Pursuant to section 3 of House Resolution 26, the previous question is ordered on the resolution.

The question is on the resolution.

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

RECORDED VOTE

Mr. WEINER. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 159,

answered "present" 3, not voting 15, as follows:

[Roll No. 11] AYES—257

Adams Gibbs Neugebauer Aderholt Gibson Noem Gingrey (GA) Akin Nugent Alexander Gohmert Nunes Altmire Goodlatte Nunnelee Amash Gosar Olson Bachmann Gowdy Palazzo Bachus Granger Paulsen Barletta Graves (GA) Pence Graves (MO) Barrow Peterson Bartlett Green, Al Petri Griffin (AR) Bass (NH) Pitts Benishek Griffith (VA) Platts Grimm Berg Poe (TX) Biggert Guinta Polis Bilbray Guthrie Pompeo Bilirakis ноп Posey Bishop (UT) Hanna Price (GA) Black Harper Quayle Blackburn Harris Reed Bonner Hartzler Rehberg Bono Mack Hastings (WA) Reichert Boren Havworth Renacci Boustany Heck Ribble Brady (PA) Heller Rigell Brady (TX) Hensarling Rivera Brooks Herger Roby Broun (GA) Herrera Beutler Roe (TN) Buchanan Himes Holden Rogers (AL) Bucshon Buerkle Huelskamp Rogers (KY) Rogers (MI) Huizenga (MI) Burgess Rohrabacher Burton (IN) Hultgren Hunter Rokita Calvert Camp Hurt Rooney Jenkins Campbell Ros-Lehtinen Canseco Johnson (IL) Roskam Ross (AR) Cantor Johnson (OH) Capito Johnson, E. B. Ross (FL) Cardoza Johnson, Sam Rothman (NJ) Carter Jordan Rovce Cassidy Kellv Runvan Castor (FL) King (IA) Ryan (WI) King (NY) Chabot Schilling Chaffetz Kingston Schmidt Chandler Kinzinger (IL) Schock Coble Kline Schwartz Coffman (CO) Labrador Schweikert Cole Lamborn Scott (SC) Conaway Lance Scott, Austin Landry Costa Sensenbrenner Costello Lankford Shimkus Cravaack Latham Shuler Crawford LaTourette Shuster Crenshaw Latta Simpson Lee (NY) Critz Smith (N.I) Cuellar Lewis (CA) Smith (TX) Culberson Lipinski Southerland Davis (KY) LoBiondo Stearns Denham Long Stivers Dent Lucas Stutzman DesJarlais Luetkemeyer Sullivan Diaz-Balart Lummis Terry Lungren, Daniel Dold Donnelly (IN) Thompson (PA) E. Manzullo Thornberry Dreier Tiberi Duffy Marchant Duncan (SC) Marino Tipton Turner McCarthy (CA) Duncan (TN) Upton McCaul Ellmers Walberg McClintock Walden Farenthold McCotter Walsh (IL) McHenry Fattah Watt Fincher McKeon Webster Flake McKinley West Fleischmann McMorris Westmoreland Fleming Rodgers Whitfield Flores Meehan Wilson (SC) Forbes Mica Fortenberry Michaud Wittman Wolf Miller (FL) Foxx Womack Franks (AZ) Miller (MI) Frelinghuysen Miller, Garv Woodall Yoder Gallegly Mulvanev Murphy (CT) Young (AK) Gardner Garrett Murphy (PA) Young (FL) Young (IN) Gerlach Myrick

NOES-159

Ackerman Bass (CA)
Andrews Becerra
Baca Berkley
Baldwin Berman

Bishop (GA) Bishop (NY) Blumenauer Braley (IA)

Brown (FL) Holt Peters Butterfield Hoyer Pingree (ME) Capps Inslee Price (NC) Capuano Israel Quigley Jackson (IL) Carnahan Rahall Carney Jackson Lee Rangel Carson (IN) (TX) Reves Johnson (GA) Richardson Chu Clarke (MJ) Kaptur Richmond Clarke (NY) Roybal-Allard Keating Clay Kildee Ruppersberger Cleaver Kind Rush Ryan (OH) Clyburn Kissell Kucinich Sánchez, Linda Cohen Connolly (VA) Langevin т Larsen (WA) Sanchez, Loretta Convers Cooper Larson (CT) Sarbanes Courtney Lee (CA) Schakowsky Levin Schiff Crowley Cummings Lewis (GA) Schrader Davis (CA) Loebsack Scott (VA) Lofgren, Zoe Scott, David DeGette DeLauro Lowey Serrano Deutch Luián Sewell. Dicks Lynch Sherman Dingell Markey Sires Slaughter Doggett Matheson Matsui Smith (WA) Doyle McCarthy (NY) Edwards Stark Ellison McCollum Sutton Engel McDermott Thompson (CA) Eshoo McGovern Thompson (MS) McIntvre Farr Tiernev Filner McNerney Tonko Meeks Frank (MA) Towns Miller (NC) Tsongas Fudge Van Hollen Garamendi Miller, George Giffords Moore Velázquez Gonzalez Visclosky Moran Green, Gene Nadler Walz (MN) Grijalya. Napolitano Wasserman Gutierrez Neal Schultz Waters Hanabusa Olver Harman Owens Waxman Hastings (FL) Pallone Weiner Heinrich Pascrell Welch Wilson (FL) Pastor (AZ) Higgins Hinchey Payne Woolsey Hinojosa Pelosi Wu Perlmutter Yarmuth Hirono

### ANSWERED "PRESENT"—3

DeFazio Fitzpatrick Sessions

## NOT VOTING—15

AustriaHondaPaulBarton (TX)IssaPearceBoswellJonesScaliseCicillineMackSmith (NE)Davis (IL)MaloneySpeier

#### □ 1132

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### PERSONAL EXPLANATION

Mr. AUSTRIA. Madam Speaker, had I been present for votes, I would have voted for the previous question and for adoption of the rule to repeal the Democrats' job-killing health care law, and for H. Res. 27.

## PERSONAL EXPLANATION

Mr. HONDA. Madam Speaker, on Friday, January 7th, I was unavoidably detained on account of official business in California and was not present for three rollcall votes on that day.

Had I been present I would have voted: "Nay" on rollcall No. 9 on ordering the previous question on H. Res. 26; "nay" on rollcall No. 10 on passage of H. Res. 26, rule providing for consideration of H.R. 2, Patients Rights Repeal Act, H. Res. 9, Instructing certain committees to report legislation replacing the Affordable Care Act, and H. Res. 27, Ses-

sion/Fitzpatrick Clean up Resolution; and "nay" on rollcall No. 11 on passage of H. Res. 27, Session/Fitzpatrick Clean up Resolution.

## PERSONAL EXPLANATION

Mr. BOSWELL. Mr. Speaker, I regret my absence in the House today as I was in my district attending to personal business. Had I been present, I would have voted "no" on roll-call votes 9, 10, and 11.

# COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK, HOUSE OF REPRESENTATIVES, Washington, DC, January 7, 2011.

Hon. John Boehner, Speaker, House of Representatives,

Washington, DC.

DEAR MR. SPEAKER: Under Clause 2(g) of Rule II of the Rules of the U.S. House of Representatives, I herewith designate Robert Reeves, Deputy Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which they would be authorized to do by virtue of this designation, except such as are provided by statute, in case of my temporary absence or disability.

This designation shall remain in effect for the 112th Congress or until modified by me. With best wishes, I am

Sincerely.

KAREN L. HAAS, Clerk of the House.

## LEGISLATIVE PROGRAM

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

Mr. HOYER. Madam Speaker, I congratulate the gentleman from Virginia on his election as majority leader of his party. He and I have had the opportunity to work together over the recent years. It's been a positive relationship, and I look forward to continuing that positive relationship, albeit in my diminished status.

I yield to my friend.

Mr. CANTOR. Madam Speaker, I thank the gentleman from Maryland for those kind remarks. I want to also reiterate my pleasure of being able to develop a positive working relationship with him, understanding full well there will be disagreements, but there is probably a lot more that we can agree on, and I look forward to exploring those avenues. I want to congratulate him on his election to the position of Democratic whip, and I look forward to working in this relationship. I know that these roles have been reversed now in these colloquies, so I look forward to that as well.

Madam Speaker, on Monday, the House is not in session. On Tuesday, the House will meet at 12 p.m. for morning-hour debate and 2 p.m. for legislative business, with votes postponed until 6:30 p.m. On Wednesday, the House will meet at 9 a.m. for legisla-

tive business. On Thursday and Friday, the House will not be in session to accommodate the Republican retreat.

On Tuesday, we will consider at least one bill under suspension of the rules, which will be announced later today. We will also begin consideration of H.R. 2, the Repealing the Job-Killing Health Care Law Act. I expect the House to complete debate on H.R. 2 Wednesday afternoon.

Also, on Wednesday, Madam Speaker, the House will consider H. Res. 9, instructing certain committees to report legislation replacing the job-killing health care law.

Mr. HOYER. I thank the gentleman for outlining the schedule. There was an interesting article in The Washington Post today about your job-killing comments always being attached to the health care bill. There are obviously some of us who know full well that was not part of the title, as I'm sure the gentleman would admit, and that in fact it does not do that at all. In fact, we think it creates jobs. But, in any event, I thank the gentleman for announcing the schedule.

I want to say we're disappointed, however, as he was when he was in my position, that we don't have a committee process for this very important piece of legislation. I think it's important from your perspective and it's important from our perspective, although we may have different perspectives on whether it should pass or fail. But it is an important piece of legislation. There was no committee process and no hearings; no opportunity for the public to be heard on the bill: no opportunity for the Members to testify with respect to that bill; no witnesses were heard. Furthermore, under the rule, of course we have been given no opportunity to amend.

The gentleman, when he was in my position, repeatedly indicated how disappointed he was that there were no amendments allowed on certain bills. I want to reiterate that concern. And given the lack of amendments, I want to clarify when he believes will be the finishing of votes on Wednesday. I understand debate will begin on Tuesday and it will conclude on Wednesday.

Mr. CANTOR. I would ask the gentleman to repeat the question.

Mr. HOYER. What time do you expect to conclude business on Wednesday?

Mr. CANTOR. I would say to the gentleman, Madam Speaker, that it is our intention to conclude by 7 p.m. on Wednesday.

Mr. HOYER. I thank the gentleman for that response.

In light of the fact that your side has made a pledge to allow ample time for Members to read and consider it, and notwithstanding that they have already not pursued that as vigorously as I think you would have hoped and perhaps we would have hoped as well in the 112th Congress, I was wondering if the gentleman can enlighten us on what he expects to consider the rest of January, after next week, so that