

RECOGNIZING COL. JASON BOHM

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 21, 2013

Mr. JONES. Mr. Speaker, throughout the journey of life, we meet many people. Some of these people you will know for a lifetime, and some you will only know for a brief period. I have had the pleasure of knowing Colonel Jason Bohm, USMC, for a brief, but meaningful time.

Col. Bohm has served as the director of the Marine Corps liaison office for the U.S. House of Representatives for the past two years. Having the privilege to represent the Marines of Camp Lejeune and Cherry Point MCAS, I have worked with Col. Bohm on numerous occasions.

He has served as a knowledgeable advisor to me and my staff on various issues concerning active-duty Marines, veterans and military families. We have all found Col. Jason Bohm to be a man of integrity, sincerity, and a true friend to the Corps.

He has assisted me greatly with an issue that I have worked on for over 11 years, and I want to thank him for his interest and his tremendous efforts to help me in my mission of clearing the names of two pilots. For his assistance, I will always be grateful.

As a man of faith, I appreciate Col. Bohm's commitment to his faith and his family. His wife, Sonja, has offered unwavering support, along with their children Ashley, Ethan and Emily. I wish them all the best on their new journey to Camp Pendleton, California.

May God continue to bless the Bohm family, our men and women in uniform, and the United States of America.

FOOD ALLERGIES**HON. NITA M. LOWEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 21, 2013

Mrs. LOWEY. Mr. Speaker, approximately 15 million Americans have a food allergy, a life-altering and potentially life-threatening disease that affects one in every 13 children in the U.S. That's roughly two in every classroom. Food allergies among children increased by 50 percent from 1997–99 to 2009–11, according to a new report from the Centers for Disease Control & Prevention, and every three minutes, a food allergy reaction sends someone to the emergency room. The numbers are growing and becoming more serious—but there is no clear answer as to why.

The increased impact of food allergies is being felt in schools, playgrounds, restaurants, workplaces and emergency care facilities, and constitutes a growing public health issue with substantial financial, educational and medical implications. That is why I am speaking today to alert you that this week is Food Allergy Awareness Week.

Unfortunately, resources dedicated to identifying the source and a cure for food allergies has not kept pace with the increasing inci-

dence and its impact. Total governmental support, including the National Institutes of Health, amounts to less than \$30 million in food allergy research. Private sources, like Food Allergy Research and Education—a patient-centered advocacy and support organization—provide limited additional research support. That is less than \$2.00 in annual research funding for every American living with a potentially life-threatening food allergy.

Mr. Speaker, beyond government research support, the risk to individuals, especially children, of severe, life-threatening reactions also needs to be addressed and prepared for. While many children with known food allergies are permitted to bring their epinephrine auto-injectors to school, studies have shown that 25 percent of epinephrine administrations in schools involve individuals without a previously known allergy. Consequently, the availability of stock epinephrine—undesignated devices that are not prescribed to a particular student and that may be used in anaphylactic emergencies—is critical. Many students who will need epinephrine may have no known history of allergy to food, bee stings, latex and other allergens, and therefore would not have a prescription of their own.

As this health crisis continues to grow, other responses are becoming increasingly necessary. In addition to school personnel, restaurants and their staff need to be made aware of the risks, know how to properly prepare food to avoid allergic reactions, and how to respond in an emergency. Emergency responders need to be properly authorized, trained and equipped to recognize and administer treatment. And ultimately, epinephrine needs to become a standard of emergency first aid in public spaces, nationwide.

Mr. Speaker, 19 states have now passed legislation that would allow schools to stock emergency epinephrine auto-injectors for those instances. Congress has had before it legislation that would provide an incentive for states to require the stocking of this emergency medication for the children and staff who may be faced with this life-threatening situation, and I hope that that legislation will be revisited during this session.

It is critical for the public to appreciate the extent of the problem and, importantly, the severity of the disease. It is a health crisis that affects every race, age, income group and geographic area, and is growing dramatically. And what the public increasingly needs to understand is that this is not simply an inconvenient condition. As the recent tragic deaths of children in Utah, New Jersey and Massachusetts show, it is frequently a life-threatening disease. We hope that public understanding and appreciation is enhanced during Food Allergy Awareness Week.

ARIEL ZAGALA

HON. PETE OLSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 21, 2013

Mr. OLSON. Mr. Speaker, I am privileged to interact with some of the brightest students in the 22nd Congressional District who serve on my Congressional Youth Advisory Council. I

have gained much by listening to the high school students who are the future of this great nation. They provide important insight into the concerns of our younger constituents and hopefully get a better sense of the importance of being an active participant in the political process. Many of the students have written short essays on a variety of topics and I am pleased to share these with my House colleagues.

Ariel Zagala is a senior at Needville High School in Fort Bend County, Texas. Her essay topic is: In your opinion, what role should government play in our lives?

WHAT ROLE GOVERNMENT SHOULD HAVE?

George Washington once said, "Government is not a reason; it is not eloquence. It is force." This is relevant to me because I do believe government should show force, but not have power. The main role of the government should be the protection of the citizens rather than the complete dominance over the people. Our leaders need to set forth the rules that our founding fathers created for us to live by, but not hold our hands and walk us through life. One example would be protection. Ideally, the government's protection should consist of having someone available when needed or providing aid. In reality, the government's version of protection is tuning into our conversations and running surveillance on us. Government, appointed by the people, should make the rules and the people of a society should respect and abide by them. The nation's leaders should occasionally check to see how the nation is working and give motivation. However, the government should not dictate and attempt to control every aspect of life. One prime example would be gun control. Currently we have had numerous situations where people use guns to harm and in worse situations, kill as well. Some shootings include the Sandy Hook Shooting and the Theatre Massacre. The government does its job on stepping up and applying force by stopping the situation and persecuting the criminal. What they do not stop to realize is how sometimes they can be controlling in situations like these. By trying to take our weapons, they are stripping us of the Second Amendment and ultimately gaining power over society. There is a noticeable difference between force and power in that force means to influence, whereas power means having control over something. President Washington was right that government is a force, but overtime our government has blindly tried to consume power. Having a government is important for the country. They are a symbol of leadership and a sense of security. They are the voice and examples of who we are as a nation and show that to other nations. In conclusion, our government is a working progress. They provide the force but occasionally want power, but just like us, no one is perfect.

PERSONAL EXPLANATION**HON. JEB HENSARLING**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 21, 2013

Mr. HENSARLING. Mr. Speaker, due to a family issue that required my attention, I missed several votes on May 20, 2013. Had I been present, I would have voted "yea" on rollcall vote 161, "yea" on rollcall vote 162, and "yea" on rollcall vote 163.

OUR UNCONSCIONABLE NATIONAL
DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 21, 2013

Mr. COFFMAN. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was \$10,626,877,048,913.08.

Today, it is \$16,737,294,304,715.52. We've added \$6,110,417,255,802.44 to our debt in 4 years. This is \$6 trillion in debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

ADDRESSING H.R. 3—THE
NORTHERN ROUTE APPROVAL ACT

HON. ALAN GRAYSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 21, 2013

Mr. GRAYSON. Mr. Speaker, I would like to submit the following:

MAY 21, 2013.

Hon. JOHN BOEHNER,
*Speaker, House of Representatives, The Capitol,
Washington, DC.*

DEAR MR. SPEAKER: I write today to address H.R. 3, the 'Northern Route Approval Act', and my resolution raising a question of privilege regarding the matter. Please note that this is a privileged motion and therefore outside the scope of the Rules Committee's jurisdiction regarding "the order of business of the House" (Rule X(1)(o)(1)). This is a question of privilege "affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings" pursuant to Rule IX (1). It is not invoked to "effect a change in the rules . . . or their interpretation" ('House Rules and Manuals' at 420).

Consideration of this bill exceeds 'the rights of the House collectively' and brings into question the 'dignity and the integrity of [the] proceedings' of the House of Representatives (House Rule IX) because: 1) it is unconstitutional, and 2) it is an earmark.

I presented this matter to the full House in H. Res. 225 as a question of privilege last night, and I noticed the question immediately following the only vote series of the day.

Mr. Speaker, pursuant to Rule IX of the House you must now 1) make your determination as to whether or not this is an appropriate 'question of privilege', and 2) hold a vote on the resolution offered before the House. Before that happens, I would like to address the two claims I have made against the bill offered by the gentleman from Nebraska, and then I will outline the reasons why I feel you should find in favor of my question of privilege.

H.R. 3 IS UNCONSTITUTIONAL

"The . . . Constitution does not permit Congress to execute the laws."

The above is taken from the Supreme Court's ruling in *Bowsher v. Synar*. The bill before us violates this principle. Congress creates the law, and the Executive executes it.

Under Section 3 of this bill however, "the final environmental impact statement (FEIS) issued by the Secretary of State on August 26, 2011", and "the Presidential permit required for the pipeline described in the

application filed on May 4, 2012, by TransCanada Keystone Pipeline, L.P. to the Department of State . . . as supplemented to include the Nebraska reroute evaluated in the Final Evaluation Report issued by the Nebraska Department of Environmental Quality in January 2013 and approved by the Nebraska governor" shall "be considered [deemed] to satisfy all requirements of 1) the National Environmental Policy Act of 1969, and 2) the National Historic Preservation Act". This is a clear attempt by this body to execute the law of the land.

Again Mr. Speaker, the Executive must execute the laws. H.R. 3 runs afoul of this requirement. The Supreme Court also held in *Bowsher v. Synar* that "[i]nterpreting a law enacted by Congress to implement the legislative mandate is the very essence of 'execution' of the law", and that is exactly what is being proposed here. The exercise of judgment in the bill before us, concerning facts that affect application of statute, constitutes execution of the law. It is an unconstitutional act that this body should not entertain. It violates separation of powers, and violates the principle underlying the prohibition of bills of attainder.

Statements are deemed by this bill to be in compliance with laws the Executive has been tasked with executing—the National Environmental Policy Act of 1969 (NEPA) and the National Historic Preservation Act (see section 3 of H.R. 3). This is an impermissible execution of the law. Congress, through this bill, is attempting to apply the facts of the Keystone XL Pipeline environmental impact statement to the body of law, and deciding that they comply. This is unconstitutional and brings into question the 'dignity and the integrity of [the] proceedings' of the House.

Apparently, we are no longer satisfied with writing the laws. We have now taken it upon ourselves to execute them as well. This discredits the institution not only within the federal government (complicating our constitutional relationship with both the executive and judicial branches), but also in the eyes of the American people. We must not allow the House to be degraded in such a way.

Even when the facts of the bill are examined, this measure fails. This bill states that the FEIS satisfies NEPA. That FEIS however, was for a different project—the Keystone XL Pipeline as proposed in 2009, a pipeline which would have terminated in the Gulf Coast. The NEPA process for that proposal ended when the State Department denied the Presidential Permit application and issued a Record of Decision pursuant to 40 C.F.R. §1505.2. The current proposal is different. It has a different route, different purpose and need, different NEPA process, and more. This bill, however, deems the (outdated) FEIS for the previous proposal to comply with NEPA for the purposes of approving the current proposal. This leap of logic is untenable, and again, compromises the dignity and integrity of the proceedings of this body.

Finally Mr. Speaker, Section 4 of this bill states: "no Presidential permit shall be required for the pipeline described in the application filed on May 4, 2012 by TransCanada . . .". This section encroaches upon the President's independent constitutional authority over matters of foreign affairs. As a Member of the House Committee on Foreign Affairs, I am intimately familiar with Article II of the Constitution. Today, this body intends to ignore it and trample our Founding Document. I refuse to stand idly by and participate any longer. The Department of State does not issue Presidential permits based on any statutory authority from Congress; rather, the President delegated his inherent constitutional authority over matters

of foreign affairs to the Department of State in Executive Order 13337. The President and Department of State have independent authority to act in this field, not Congress.

For these reasons Mr. Speaker, I feel that H.R. 3 is unconstitutional, and that any consideration of the bill affects the dignity and integrity of the institution.

H.R. 3 IS AN EARMARK

Rule XXI (9)(a)(1) states:

"(a) It shall not be in order to consider—

"(1) a bill or joint resolution reported by a committee unless the report includes a list of congressional earmarks. . . ."

'Congressional earmark' is defined in Rule XXI (9)(e) in the following way:

"(e) For the purpose of this clause, the term "congressional earmark" means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process."

Restated, using only the words of the Rule, in the order in which they appear, a 'congressional earmark' is:

"a provision . . . included primarily at the request of a Member . . . providing [or] authorizing . . . a . . . grant . . . to an entity . . . other than through a statutory or administrative . . . or competitive award process."

Mr. Speaker, Section 6 of H.R. 3 satisfies every one of these criteria. It grants not only a right-of-way, but also a temporary use permit, outside of established statutory, administrative, and competitive award processes, and it does so to only one entity—explicitly named in this bill 'TransCanada Keystone Pipeline, L.P.'.

The requirement that this provision be included 'primarily at the request of a Member' is surely satisfied by the act of a Member drafting and offering this bill. It was a conscious choice of a Member from the state of Nebraska to offer this legislation, as well as explicitly mention Nebraska or Nebraskans six separate times, while no other state receives a single mention.

Clearly Mr. Speaker, this is an earmark.

As such, beyond the determination as to the question of privilege which I have raised, I would also assert that H.R. 3 violates the Rules of the House. Not one of the reports filed by the Committee on Transportation and Infrastructure, the Committee on Energy and Commerce, or the Committee on Natural Resources includes a list containing the congressional earmark that appears in this bill. Rule XXI (9)(a)(1) is violated.

For these reasons (among others) Mr. Speaker, I respectfully request your determination that my question and resolution before the House is privileged. H.R. 3 is unconstitutional, it is an earmark, and it violates the Rules of the House. Therefore, any consideration of this bill is an action which affects the dignity and the integrity of the proceedings of the House pursuant to Rule IX.

If you have any questions regarding this letter, please do not hesitate to contact me or David Bagby of my staff.

Sincerely,

ALAN GRAYSON,
Member of Congress.