

United States Penitentiary at Leavenworth, Kansas. Jack Johnson fought boxing matches after his release from prison, but never regained the heavyweight championship title.

Although this Nation failed him, Jack Johnson remained a patriotic American. He supported this Nation during World War II by encouraging citizens to buy war bonds and by participating in exhibition boxing matches to promote the sale of war bonds. He died in 1946. In 1954, Jack Johnson was finally inducted into the Boxing Hall of Fame, a fitting recognition of the outstanding accomplishments of this great sportsman.

It is time that we also recognize the wrong that was done and do what is in our power to make amends for this wrongful conviction, which destroyed a great boxing career, but not a courageous and indomitable sportsman.

I urge my colleagues to support the measure.

I reserve the balance of my time.

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

The gentlewoman from California has eloquently set forth the facts, the simple facts that relate to why we are here today. This is a profoundly important piece of legislation because it transforms a wrong in American history.

I would just like to say that one of the profoundly important things in our time, one of the things that I am most proud of and most pleased with, in fact one of the things that gives me the greatest pleasure in life, is the fact that we are in a time when a person's ethnicity is less important than his or her capabilities.

I think it is time that we ask the President to pardon Jack Johnson, because he represents some of the difficulty in our past. I am impressed that he was killed in a car accident after he sped away from a restaurant that refused to serve him. Every American today is uncomfortable with that. It was a standard at one point in time. It is not the standard in America today, something that I think is wonderful in our country.

At a time with other crises going on around us, I am pleased to ask for our colleagues to support this bill and do something right, or recognize that some wrong was done in America and do something about that.

I support the passage of House Concurrent Resolution 214, which calls on the President to grant a posthumous pardon to Jack Johnson for a racially motivated conviction for violating the Mann Act.

Jack Johnson was the first African American boxer to become the heavyweight champion of the world. But the Mann Act conviction diminished Mr. Johnson's athletic, cultural, and historic significance and tarnished his reputation.

Jack Johnson was born in Galveston, TX, in 1878. The son of former slaves, Johnson grew up poor. He attended school only until the fifth grade and began boxing as a young teenager.

By 1902, Johnson had won at least 50 fights against both white and black opponents. However, his efforts to win the heavyweight

title were thwarted as world champion Jim Jeffries refused to face him. In 1905, Jeffries retired from the sport rather than give Johnson a title fight.

In 1908, Johnson finally won the heavyweight title when he knocked out Tommy Burns in Sydney, Australia. However, Johnson was not officially recognized as champion until 1910, when he bested Jim Jeffries who came out of retirement specifically for the fight.

Johnson went on to defend his title a number of times. But in 1913, at the height of his career, the boxer was convicted of violating the Mann Act—a law that outlawed the transportation of women across state lines for “any immoral purpose.”

After his conviction, Jack Johnson fled the country and spent several years abroad as a fugitive. In 1915, he lost his title to Jess Willard in Cuba.

Five years later, Johnson returned to the United States, surrendered to authorities, and served 1 year and 1 day in prison. He was never given another shot at the heavyweight title, and he never cleared his name. He died in a traffic accident in 1946 at age 68. He was furiously speeding away from a restaurant that refused to serve him.

In 2004, filmmaker Ken Burns initiated the movement for a pardon after producing a documentary about Jack Johnson's life. That year, the Senate approved Senate Resolution 447, an earlier version of today's resolution, by unanimous consent.

In 2005, a bipartisan group of Senators, led by Senator MCCAIN, wrote a letter to the President to request a pardon. The letter stated that a pardon “would be a strong and necessary symbol to the world of America's continuing resolve to live up to the noble ideals of freedom, opportunity and equal justice for all.”

Although it has been over 90 years since Jack Johnson's conviction and over 50 years since his death, a Presidential pardon would be untimely but still just.

I join my colleagues in supporting this resolution and ask that the President grant a long-awaited pardon to Jack Johnson.

Mr. KING of New York. Mr. Speaker, today I rise in support of H. Con. Res. 214, a resolution granting a posthumous pardon to John Arthur “Jack” Johnson for his 1913 racially motivated conviction. On September 17, 2007, I introduced this resolution with Congressman JESSE JACKSON, and I join today with 40 of my cosponsoring colleagues in urging the House to pass this resolution today.

Jack Johnson became the first black World Heavyweight Boxing Champion in 1908 after defeating Tommy Burns in Australia and kept the title until 1915. He was a flamboyant and controversial figure in American history who paved the way for African-American athletes to participate and succeed in racially integrated professional sports in the United States.

Prompted by his success in the boxing ring and his relationship with a white woman, Jack Johnson was wronged by a racially motivated conviction under the Mann Act. He was convicted in 1913 after fleeing to Canada, Europe and South America and served one year in prison. Being convicted ruined his career and wrongly destroyed his reputation.

Because of this, we believe the President should grant a posthumous pardon to Jack Johnson to clear his name and recognize his athletic and cultural contributions to society. I

am proud to have sponsored this resolution on his behalf

Mr. Speaker, I urge all my colleagues to support this resolution.

Mr. CANNON. Mr. Speaker, I yield back the balance of my time.

Ms. ZOE LOFGREN of California. Mr. Speaker, I urge adoption of this measure. I appreciate Mr. CANNON's comments, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. ZOE LOFGREN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 214.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CANNON. 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 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### EFFECTIVE CHILD PORNOGRAPHY PROSECUTION ACT OF 2007

Ms. ZOE LOFGREN of California. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4120) to amend title 18, United States Code, to provide for more effective prosecution of cases involving child pornography, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

#### SECTION 1. TABLE OF CONTENTS.

*The table of contents for this Act is as follows:*

*Sec. 1. Table of contents.*

#### TITLE I—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION ACT OF 2007

*Sec. 101. Short title.*

*Sec. 102. Findings.*

*Sec. 103. Clarifying ban of child pornography.*

#### TITLE II—ENHANCING THE EFFECTIVE PROSECUTION OF CHILD PORNOGRAPHY ACT OF 2007

*Sec. 201. Short title.*

*Sec. 202. Money laundering predicate.*

*Sec. 203. Knowingly accessing child pornography with the intent to view child pornography.*

#### TITLE I—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION ACT OF 2007

##### SEC. 101. SHORT TITLE.

*This title may be cited as the “Effective Child Pornography Prosecution Act of 2007”.*

##### SEC. 102. FINDINGS.

*Congress finds the following:*

*(1) Child pornography is estimated to be a multibillion dollar industry of global proportions, facilitated by the growth of the Internet.*

*(2) Data has shown that 83 percent of child pornography possessors had images of children*

younger than 12 years old, 39 percent had images of children younger than 6 years old, and 19 percent had images of children younger than 3 years old.

(3) Child pornography is a permanent record of a child's abuse and the distribution of child pornography images revictimizes the child each time the image is viewed.

(4) Child pornography is readily available through virtually every Internet technology, including Web sites, email, instant messaging, Internet Relay Chat, newsgroups, bulletin boards, and peer-to-peer.

(5) The technological ease, lack of expense, and anonymity in obtaining and distributing child pornography over the Internet has resulted in an explosion in the multijurisdictional distribution of child pornography.

(6) The Internet is well recognized as a method of distributing goods and services across State lines.

(7) The transmission of child pornography using the Internet constitutes transportation in interstate commerce.

**SEC. 103. CLARIFYING BAN OF CHILD PORNOGRAPHY.**

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended—

(1) in section 2251—  
(A) in each of subsections (a), (b), and (d), by inserting “using any means or facility of interstate or foreign commerce or” after “be transported”;

(B) in each of subsections (a) and (b), by inserting “using any means or facility of interstate or foreign commerce or” after “been transported”;

(C) in subsection (c), by striking “computer” each place that term appears and inserting “using any means or facility of interstate or foreign commerce”;

(D) in subsection (d), by inserting “using any means or facility of interstate or foreign commerce or” after “is transported”;

(2) in section 2251A(c), by inserting “using any means or facility of interstate or foreign commerce or” after “or transported”;

(3) in section 2252(a)—  
(A) in paragraph (1), by inserting “using any means or facility of interstate or foreign commerce or” after “ships”;

(B) in paragraph (2)—  
(i) by inserting “using any means or facility of interstate or foreign commerce or” after “distributes, any visual depiction”; and  
(ii) by inserting “using any means or facility of interstate or foreign commerce or” after “depiction for distribution”;

(C) in paragraph (3)—  
(i) by inserting “using any means or facility of interstate or foreign commerce” after “so shipped or transported”; and  
(ii) by striking “by any means,”; and  
(D) in paragraph (4), by inserting “using any means or facility of interstate or foreign commerce or” after “has been shipped or transported”; and

(4) in section 2252A(a)—  
(A) in paragraph (1), by inserting “using any means or facility of interstate or foreign commerce or” after “ships”;

(B) in paragraph (2), by inserting “using any means or facility of interstate or foreign commerce” after “mailed, or” each place it appears;

(C) in paragraph (3), by inserting “using any means or facility of interstate or foreign commerce or” after “mails, or” each place it appears;

(D) in each of paragraphs (4) and (5), by inserting “using any means or facility of interstate or foreign commerce or” after “has been mailed, or shipped or transported”; and  
(E) in paragraph (6), by inserting “using any means or facility of interstate or foreign commerce or” after “has been mailed, shipped, or transported”.

(b) AFFECTING INTERSTATE COMMERCE.—Chapter 110 of title 18, United States Code, is

amended in each of sections 2251, 2251A, 2252, and 2252A, by striking “in interstate” each place it appears and inserting “in or affecting interstate”.

(c) CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252(a)(3)(B) of title 18, United States Code, is amended by inserting “, shipped, or transported using any means or facility of interstate or foreign commerce” after “that has been mailed”.

(d) CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(a)(6)(C) of title 18, United States Code, is amended by striking “or by transmitting” and all that follows through “by computer,” and inserting “or any means or facility of interstate or foreign commerce.”

**TITLE II—ENHANCING THE EFFECTIVE PROSECUTION OF CHILD PORNOGRAPHY ACT OF 2007**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Enhancing the Effective Prosecution of Child Pornography Act of 2007”.

**SEC. 202. MONEY LAUNDERING PREDICATE.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting “section 2252A (relating to child pornography) where the child pornography contains a visual depiction of an actual minor engaging in sexually explicit conduct, section 2260 (production of certain child pornography for importation into the United States),” before “section 2280”.

**SEC. 203. KNOWINGLY ACCESSING CHILD PORNOGRAPHY WITH THE INTENT TO VIEW CHILD PORNOGRAPHY.**

(a) MATERIALS INVOLVING SEXUAL EXPLOITATION OF MINORS.—Section 2252(a)(4) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “, or knowingly accesses with intent to view,” after “possesses”; and

(2) in subparagraph (B), by inserting “, or knowingly accesses with intent to view,” after “possesses”.

(b) MATERIALS CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(a)(5) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “, or knowingly accesses with intent to view,” after “possesses”; and

(2) in subparagraph (B), by inserting “, or knowingly accesses with intent to view,” after “possesses”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. ZOE LOFGREN) and the gentleman from Utah (Mr. CANNON) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. ZOE LOFGREN of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. ZOE LOFGREN of California. I yield myself such time as I may consume.

Mr. Speaker, the bill we are considering today combines two bills the House passed last November to strengthen the Justice Department's ability to prosecute child pornography. The first fixes a glaring loophole in the Federal statute prohibiting possession

of child pornography, which a Federal appeals court last year said requires as an essential element of the offense proof that the images, here kept on a computer desk, had actually crossed State lines.

Our colleague, NANCY BOYDA of Kansas, introduced H.R. 4120 to clarify that this statute covers conduct “in or affecting interstate commerce,” not just “in commerce.” This small change will have great legal significance, allowing that statute to reach the full extent of Congress' commerce clause powers.

Trafficking in child pornography is national and international in scope, and even conduct that may appear wholly intrastate necessarily affects interstate commerce. This will ensure that our laws reach to their maximum extent, and it is important, because child pornography is one of the worst things that exists in our culture.

The Senate also inserted another House-passed bill, H.R. 4136, introduced by CHRIS CARNEY of Pennsylvania. It adds child pornography proceeds to the money laundering statutes and fixes another loophole that allowed Internet users to get around the laws against possessing child pornography simply by not downloading or saving the images.

Mr. Speaker, these two combined measures will be a tremendous help in the effort to put a stop to this disgusting, abominable exploitation of children and to bring to justice those who traffic in it.

I want to commend Congresswoman NANCY BOYDA and Congressman CHRISTOPHER CARNEY for their sustained commitment to pursuing this effort so that we can see it enacted into law now.

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

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

I would just like to thank the gentlewoman from California for taking the lead here today on this issue. It is an important issue, and she has laid out the facts behind the need for this today.

We live in a world of very quickly transforming technology. The courts sometimes have difficulty keeping up with that, and we have to act to create the legal environment for the courts to appropriately act. This bill does that. I encourage my colleagues to support it when it comes to a vote.

Mr. Speaker, I rise in support of H.R. 4120, the Effective Child Pornography Prosecution Act of 2007. The House passed this legislation in November of last year to combat the pervasiveness of child pornography on the Internet.

Child abuse and exploitation are among the most heinous crimes committed in this country. And in recent years, the Internet, with its virtually unregulated access to information and to people all over the world, has become a foul source for this type of criminal activity. However, in many instances, Federal prosecutors are prevented from seeking justice.

In a decision by the 10th Circuit United States Court of Appeals in *United States v. Schafer*, the Court ruled the transmission of

child pornography on the Internet did not satisfy the interstate requirement in child pornography laws.

H.R. 4120, the "Effective Child Pornography Prosecution Act of 2007," responds to that decision by expanding jurisdiction for prosecuting Internet child pornography crimes.

This bill allows the government to prosecute cases when child pornography or is transmitted "using any means or facility of interstate or foreign commerce." This is the broadest assertion of interstate commerce power that Congress can make consistent with the Constitution.

H.R. 4120, as passed by the Senate, includes provisions similar to H.R. 4136, the "Enhancing the Effective Prosecution of Child Pornography Act of 2007" which also passed the House last November.

This language closes a loophole used by child pornographers to circumvent the law by expanding current child pornography statutes.

Current law prohibits the "possession" of child pornography. This law pre-dates the prevalence of the Internet in transmitting child pornography images. Today, a pedophile can access child pornography and view it but, under the current statute, may not be criminally liable for possessing it. This provision will prohibit accessing such content with the intent to view it and will no longer require an offender to actually download the material.

It is no longer sufficient to warn our children to not talk to strangers. With the expansion of the Internet and other technologies, we must now find new ways to protect our children from the dangers of the world.

H.R. 4120, the "Effective Child Pornography Prosecution Act of 2007," provides law enforcement important tools for combating these heinous crimes.

I urge my colleagues to support this bill.

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

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Ms. ZOE LOFGREN of California. Mr. Speaker, I appreciate the comments made by the gentleman from Utah. I enjoy working with him, as he knows. I urge Members to support this bill.

Mrs. BOYDA of Kansas. Mr. Speaker, the Department of Justice estimates that, in the last year, one in five children between the ages of 10 and 17 received a sexual solicitation or approach while they were using the Internet. With so many threats out there, Congress must provide a unified message that we, as a society, will not stand for anything less than a safe Internet. We will do that today when we pass five good pieces of legislation that will help keep our children safe. I am proud that my legislation, H.R. 4120, Effective Child Pornography Prosecution Act will be a part of that message.

A man from Kansas, William Schaefer, was found guilty of both "knowingly receiving" and "knowingly possessing" child pornography that had been "transported in interstate commerce, by any means including by computer."

Sadly, the 10th Circuit Court of Appeals overturned this decision and the offender was not prosecuted to the fullest extent of the law. The Court ruled that just because images are obtained on the Internet, does not mean they were transmitted across state lines and issued the following statements:

We decline to assume that Internet use automatically equates with a movement across state lines.

Congress' use of the "in commerce" language, as opposed to phrasing such as "affecting commerce" or "facility of interstate commerce," signals its decision to limit federal jurisdiction and require actual movement between states to satisfy interstate nexus.

The Court essentially asked Congress to clarify its intent that the Internet is in fact Interstate Commerce and we did that with passage of the Effective Child Pornography Prosecution Act of 2007. This legislation closes the jurisdictional loophole that allowed a guilty man to escape punishment.

As concerned citizens, parents, and Members of Congress, we must do all we can to keep our children safe. That means we must make a commitment to being tough on crime—to make sure that those who violate the law are fully prosecuted—to ensure that the law is so clear that it deters such heinous crimes from happening.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. ZOE LOFGREN) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4120.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CANNON. 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 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### CODE TALKERS RECOGNITION ACT OF 2008

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on one motion to suspend the rules previously postponed.

The unfinished business is the question on suspending the rules and passing the bill, H.R. 4544, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. GUTIERREZ) that the House suspend the rules and pass the bill, H.R. 4544, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. ARCURI from the Committee on Rules, submitted a privileged report

(Rept. No. 110-883) on the resolution (H. Res. 1500) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7060, RENEWABLE ENERGY AND JOB CREATION TAX ACT OF 2008

Mr. ARCURI, from the Committee on Rules, submitted a privileged report (Rept. No. 110-884) on the resolution (H. Res. 1501) providing for consideration of the bill (H.R. 7060) to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. ARCURI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1490 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1490

*Resolved*, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on any legislative day through September 27, 2008, providing for consideration or disposition of a measure to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.

The SPEAKER pro tempore. The gentleman from New York is recognized for 1 hour.

Mr. ARCURI. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of this rule is for debate only.

GENERAL LEAVE

Mr. ARCURI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and to insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

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

Mr. Speaker, House Resolution 1490 waives a requirement of clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee. The resolution applies to any rule reported on any legislative day through September 27, 2008, providing for consideration or disposition of a measure to