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PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

JUNE 25 (legislative day, JUNE 26), 2003.—Referred to the House Calendar and ordered to be printed

Mr. LINDER, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 297]

The Committee on Rules, having had under consideration House Resolution 297, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides that during the remainder of the One Hundred Eighth Congress, the Speaker may entertain motions that the House suspend the rules on Wednesdays as though under clause 1 of rule XV.

HISTORY OF THE STANDING ORDER

On January 7, 2003, the House of Representatives adopted House Resolution 5, its Rules for the 108th Congress. Clause 1 of rule XV makes in order motions to suspend the rules and pass certain legislation on Mondays, Tuesdays, and the last six days of the congressional session. Also, on that day, the House approved a separate standing order that authorized the Speaker to entertain motions to suspend the rules on Wednesdays, through the second Wednesday in April. On April 30, 2003, the House adopted a unanimous consent agreement that authorized the Speaker to entertain motions to suspend the rules until June 25, 2003.

RULES COMMITTEE ACTION

On June 23, 2003 the Rules Committee held an original jurisdiction hearing to solicit testimony from the witnesses and the views of the Subcommittee's members on a proposal to extend this standing order for the remainder of the 108th Congress. The witnesses included the Chairman of the Rules Committee David Dreier (R–

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CA), the Minority Whip Steny Hoyer (D–MD), and the Honorable Barney Frank (D–MA).

WRITTEN STATEMENTS OF JUNE 23 SUBCOMMITTEE HEARING

OPENING STATEMENT OF RULES SUBCOMMITTEE ON TECHNOLOGY AND THE HOUSE CHAIRMAN JOHN LINDER

As the members know, this Subcommittee has jurisdiction over a number of matters including the Rules of the House, relations between the two Houses of Congress, relations between the legislative branch, judicial branch, and the executive branch, and the internal operations of the House, including committee structure and jurisdiction.

In that capacity, the Subcommittee on Technology and the House is meeting this afternoon to discuss a standing order that would authorize the Speaker to entertain motions to suspend the rules on Wednesday for the remainder of the 108th Congress.

When the House convened on January 7, 2003, we adopted House Resolution 5, the House Rules for the 108th Congress. Specifically, clause 1 of rule XV provides that it is in order for the House to entertain a motion to suspend the rules on Mondays, Tuesdays, and in the last six days of session of Congress.

That very same day, the House also approved a standing order that authorized the Speaker to entertain motions to suspend the rules on Wednesdays, through the second Wednesday in April.

On April 30, 2003, the House adopted a unanimous consent agreement that extended the authority of the Speaker to entertain motions to suspend the rules through June 25th, this coming Wednesday.

Through last week, there have been a total of 15 Wednesdays this year on which the House could have considered legislation under "suspension of the rules." This authority has been exercised 12 times so far this year.

Entertaining motions to suspend the rules on Wednesdays has been a valuable and helpful tool for the House Leadership in its ongoing efforts to effectively manage the flow of legislation through the House. As such, we should welcome an extension of this authority for the remainder of the 108th Congress. Today's hearing is designed to solicit testimony from the witnesses and the views of the Subcommittee's members on this original jurisdiction matter, before any further action is taken. I look forward to the debate.

Before yielding to the Chairman of the full Committee, Mr. Dreier, for his statement, I want to yield to the Subcommittee's Ranking Minority Member, Mr. McGovern, for any comments that he may have.

STATEMENT OF RULES SUBCOMMITTEE ON TECHNOLOGY AND THE HOUSE RANKING MEMBER JAMES P. MCGOVERN

Mr. Chairman, I want to thank you for holding this hearing today and I want to thank the witnesses—the Chairman of the Rules Committee, Mr. Dreier, the Minority Whip, Mr. Hoyer, and the Ranking Member of the Financial Services Committee, Mr. Frank—for taking time out of their busy schedules to be here today.

Current rules allow the House to consider suspension bills on Mondays and Tuesdays. A special provision in the rules allows the Majority to place items on the suspension calendar on Wednesday, as well. That special provision expires soon, and it is my understanding that the Majority would like to extend it through the rest of this year.

Mr. Chairman, I have serious concerns about not only the suspension process, but about the way this House is being managed.

The suspension calendar should be reserved for non-controversial items that do not require lengthy debate by the full House. Bills that rename post office buildings; resolution congratulating Mr. Rogers or the NCAA hockey champions; measures to allow a charity to use the Capitol grounds for an event—all of these items have their proper place, and all of us have sponsored them.

But I am concerned that this House is becoming a place where trivial issues get debated passionately and important issues not at all.

The Majority in this House already allows far too little debate on critical issues facing the American people.

For example, the other body has been debating the amending and working on legislation to provide prescription drug coverage to seniors. For many of the families I represent in Massachusetts, this is the number one issue facing the country.

The other body has spent a week on this bill, and their work is continuing.

In the House, however, the issue of prescription drugs for seniors will get less than a day. Less than a day!

Prescription drug coverage for seniors will be squeezed in among a bunch of suspensions, two major appropriations bills, perhaps a bill on medical savings accounts and who knows what else.

Thus it is already clear, Mr. Chairman, that the Republican leadership has no intention of allowing enough time for full debate, full discussion, and the full consideration of relevant amendments. It just isn't possible to do all of that in a few hours.

The question is quite simple: Rather than naming more post offices on Wednesday, why don't we have more debate. What's wrong, for example, with the House spending a few days or even a week on the Medicare prescription drug bill? Why not let more Members—Democrats and Republicans—have an opportunity to be heard? We obviously

have the time—otherwise you wouldn't be asking for more suspensions to be scheduled.

I understand that the majority has the responsibility to run the House, to move legislation through the process.

The Rules Committee can be a tool in that effort. But under this Republican leadership, the Rules Committee has become not a tool, but a weapon. A weapon that stifles debate, shuts members and their constituents out of the legislative process, destroys the committee process, and harms the public interest—all behind closed doors and often in the middle of the night.

As Members of this Committee know, and the American people are noticing, the Rules Committee is where the sausage gets made, and it's not pretty.

The facts speak for themselves. Two-thirds of the rules reported by this Committee in the 106th Congress were closed or restrictive. That increased to almost three-fourths in the 107th Congress. In fact, less than 30 percent of the rules reported by this Committee in the 107th Congress were open.

And so far this year, of the 47 rules reported by the Rules Committee, 4 have been open rules. 4 for 47. That's a batting average of .085, which would get you kicked off of my five-year old's T–Ball team.

All of this may sound like inside baseball to most Americans, but this stuff matters. In the House of Representatives, process determines a great deal. And lately, Mr. Chairman, the process around here has been lousy.

When they were in the Minority, Republicans consistently complained about their treatment by the then-Democratic Majority. So if this is payback for the way Democrats ran the House, than call it payback. But please don't claim that this is fair and balanced, when it's clearly not.

Americans are better served with an open, democratic process. It's in the public interest to allow a full and free debate, and to have many different points of view heard and considered by the Members of the People's House.

In 1994, while still in the Minority, Chairman Dreier gave a speech about the undemocratic nature of the Rules Committee. In that speech, he said that "the arrogance of power with which they prevent Members, rank-and-file Democrats and Republicans, from being able to offer amendments, that is what really creates the outrage here." (Congressional Record, p. H4871, 6/22/94, during Special Order on Congressional Reform)

The wisdom of his words still apply today. The arrogance of power is indeed a dangerous thing.

So I look forward to the testimony here today. I am interested in hearing how extending the suspension calendar will make the House a more open, democratic place; how extending the suspension calendar will make the people's House more responsive to the people's concerns.

I thank the Chairman for the time and I yield back.

STATEMENT OF RULES COMMITTEE CHAIRMAN DAVID DREIER

Thank you, Chairman Linder.

We are having this hearing today to provide the minority the opportunity to address our plan to extend the current order of the House allowing the Speaker to entertain motions to suspend the rules and consider legislation on Wednesdays. This order, if adopted by the full House, would remain in place for the remainder of this Congress.

There will be much discussion about statistic regarding percentages, substitutes, and waivers. I suspect we will hear many complaints about too few open rules, form versus substance on suspensions and too few amendments and substitutes.

We will hear many of the same arguments and the same complaints that we voiced when we were in the minority.

This hearing, however, is not about substitutes or open rules or amendments made in order.

So, let me bring the discussion back to the center. At the risk of repeating myself, this is simply and only a resolution to give the Speaker the authority to entertain motions to suspend the rules on Wednesdays. This isn't about politics. It is about managing the legislative agenda.

The Leadership clearly wants and needs this authority to conduct the business of the House. We have a lot of work to do and a sufficient amount of that work is noncontroversial enough that another day of suspensions is reasonable and warranted. This change will provide what a former leader of the House described as "a more even distribution of workload on the Floor." Those were the words of then House majority leader Tip O'Neill in 1973, in justifying the Democratic majority's doubling of the days of suspension.

Rules Chairman Dick Bolling of Missouri said, when asked whether this was in the best interests of the House: "I believe this procedure will be beneficial because it hews to the fundamental question: the degree of controversialness, the degree of opposition to a piece of legislation should have something to do with how it is considered and if there is major opposition to any matter it can be defeated on suspension."

Our record on the distribution of suspensions is actually quite good in a historical context. So far this year, 71 percent of the bills under suspension have been Republican sponsored bills and 29 percent Democratic. Compare this with the last Congress in which the Democrats controlled the House. Then the sponsorship of suspensions were 89 percent Democratic and 11 percent Republican.

We have been good stewards of the process. The minority clearly doesn't like everything we do, but it is just as clear that making this simple change in the process does not represent or portend any ominous new power or any abuse of existing power. In fact, when the Democrats ex-

panded the suspension calendar they were in far better shape to win suspension votes than we are today.

The Democratic leadership undertook the last major expansion of suspension days in the 95th Congress when they enjoyed a majority of 292, more than the two-thirds needed to win any suspension vote. Today, we have only 229 in our narrow majority, nowhere near enough. We require 61 Democrats to put us over on any suspension. What kind of risk is there for the minority when legislation is considered by suspending the rules?

For me there is only one numerical fact that cannot be in dispute, but carries the most significance in any debate regarding the House of Representatives. That most important statistic is the number of Republicans and Democrats elected to the House. It determines who is the majority party and what is the margin of the majority over the minority.

Republicians have averaged a seventeen-vote margin over the Democrats while we have controlled both Houses of Congress during the Presidency of George Bush. This compares with an average margin of control by the Democrats during Carter's Presidency of 134 and during Clinton a margin of 91 more members.

You had massive majorities and you still found it difficult to run the House so one of the steps you took on two occasions was to expand the suspension calendar. You had the kind of control that we can only dream of. And what you did with those massive majorities? You didn't govern well enough.

We do not want to make that mistake. We want to get done what needs to be done.

The Democratic minority today has the votes to defeat any question considered under suspension of the rules. You have flexed that muscle when you recently defeated a couple of suspensions proposed by the National Resources Committee. You have made the case for us that you stop any legislative proposal considered under these procedures. When Republicans were in the minority, as I said, we didn't have that luxury.

But we all know that for the Democratic minority this hearing and this debate isn't just about the Suspension Calendar, or about the mechanics of governing.

So let's be sure that everyone within earshot of this hearing knows exactly what is going on. This is really about the nature of minority vs. majority politics. This is about the distribution of power and the exercise of that power.

This is about obstructing our ability to govern and strengthening yours. It is a tug of war that is as old as the partisan divisions in the House.

And, hopefully, the country is better for it. It is, after all, the contest for power between minority and majority that produces the best government, the best result.

When Democrats controlled the House, their leaders found reason to limit debate, modify rules and control the

time of the House in order to get the business of the nation done. We couldn't get substitutes. We couldn't get motions to recommit. We couldn't get debate time. We couldn't even get copy machines and bathroom keys.

House Speakers from Sam Rayburn to Tom Foley all engaged in the traditions of denying the minority and the minority complained. But governance demands discipline and sound management in an area filled with 435 independent contractors, all of whom are building to their own blueprint. Republicans chafed under Democratic control for 40 long years. Do the Democrats now deny that era in history and condemn those great Speakers who used their majority status to conduct the nation's business?

When Republicans have controlled the House, their leaders, too, have embraced styles of governance designed to get the work done. That is the case today, and today, we, too, stand in conflict with some of the things we said about Democratic control. We could argue that times were different, that circumstances were not the same, that you were more arbitrary and autocratic than we. But I will leave those arguments to you. It is time for us to demonstrate our ability to govern to the American people.

We have a very thin margin within which to govern. We have to make the most efficient use of time and the rules. We don't have a margin of error. The American people expect nothing less and we do not intend to disappoint them.

Let me finish by quoting once more one of the greatest reformers of the Democratic party—my most esteemed predecessor in this chair, Mr. Bolling of Missouri. This was when he was doubling the number of suspension days:

"I am sure that it would be relatively safe to say that if the shoe were on the other foot, that our friends on the other side of the aisle might well be proposing these . . . controversial items and we on this side might, in the interests of preserving to the minority, its greater ability to delay, might be saying essentially what the minority is saying about these propositions."

STATEMENT OF RULES COMMITTEE RANKING MEMBER MARTIN FROST

Mr. Chairman, thank you for allowing me to make a few comments today. The purpose of this hearing, as you have said, is to consider a proposal to allow the House to consider bills under suspension of the rules on Wednesdays through the end of this Congress. Bringing bills to the floor under suspension of the rules is a useful tool to conduct the routine and non-controversial business of the House. However, I believe the Republican majority is using this tool as yet another means to stifle debate in the House and to close down the opportunity for Members to fully participate in the legislative process.

And how might that be the case if, in fact, bills considered under suspension of the rules are routine and non-controversial? The answer is not a simple one, but if I dis-

till it to its essence, the answer is this: clogging the legislative calendar for three days of a work-week with innumerable bills naming and renaming post offices and other federal buildings limits the time available to debate important legislation that deserves extended debate in the House. By filling our days with consideration of bills that congratulate one group or another, or which extend sympathies or support or commendation, limits how much time we have to devote to pressing issues.

Now, don't get me wrong. It isn't that I object to congratulating or sympathizing or commending. Today, for example we were to debate a resolution expressing support for freedom in Hong Kong—an important and laudable goal but that bill has now been moved to Wednesday. We have expressed sympathy for the victims of the Algerian earthquake—a terrible tragedy to be sure. We have congratulated the people of Kenya for their recent free and fair elections—a seminal event that moves that country further down the road to entrenched democracy. We also have commended the signing of the United States-Adriatic Charter. Most importantly, we debated a bill which extends bankruptcy relief to farmers, an issue that this body has passed nearly unanimously year after year after year. Tomorrow's schedule promises more of the same.

But what is also promised for tomorrow is the possibility that a very important appropriations bill, funding for the Department of Homeland Security, will be considered under a restrictive rule. I suspect the full docket of suspensions has had little influence on the decision to consider Homeland Security under a restrictive rule, but it merely points out how suspensions can crowd out time to fully air, debate and amend legislation brought to the floor. In fact, I suspect this week we will spend more time debating and voting on bills considered under suspension of the rules than we will on any of the major legislative matters that are scheduled for the week—including two major appropriations bills, prescription drugs, and the authorization for the intelligence activities of the United States.

In the years leading up to the election of 1994, the Republican party in the House of Representatives complained loudly and vociferously that the then Democratic majority ruled the House with an autocratic iron fist. The Members of the Rules Committee heard this complaint on a daily basis. Democrats were accused of stifling debate and gagging the House.

After eight and a half years of a Republican-controlled House, the Democratic Members of the Rules Committee can report that the House of Representatives is less democratic and more autocratic than ever before. Instead of reforming the House, the Republican majority has taken stifling debate and gagging the House to new heights.

The Democratic Members of this Committee, as do the other Members of our Caucus, believe the Republican majority has, in the years since it took control of this institution, made a concerted effort to shut down debate and sti-

fle those voices, on both sides of the aisle, who believe that alternative viewpoints are deserving of consideration and debate in this democratic institution. We believe this effort by the Republican leadership is contrary to the public interest and contrary to the pledges made by a host of Republican Members in the years leading up to the 1994 election.

Earlier this year, we submitted dissenting views to the committee's oversight report to the Committee on Government Reform. In that report we outlined a number of issues we believe point to the fact that the Republican majority has systematically shut down the ability of Members of this body—Republican and Democrat alike—to offer amendments and to fully air their views when legislation is brought to the floor.

STATEMENT OF MINORITY WHIP STENY HOYER

Chairman Linder, Ranking Member McGovern, and Members of the Subcommittee: Thank you for calling this hearing on an issue that strikes at the very heart of the American legislative process and the long, proud tradition in this House of Representatives—the commitment of Members who serve here to engage in free and fair debates on the most important issues of the day.

From the time of Speaker Henry Clay and the great orator Daniel Webster through the service in more recent years of outstanding Members such as Barbara Jordan, Claude Pepper, Bob Michel and Barber Conable, the history of this House has been marked by open and robust debate, informed by reason, in the pursuit of sound, wise and democratic decision making that serves the best interests of our nation and the American people.

Thomas Jefferson remarked once (and I quote): "Difference of opinion leads to inquiry, and inquiry to truth." And so it remains today.

Mr. Chairman, shortly before the current House Majority obtained that status in January 1995, the incoming Chair of this Rules Committee—the late Gerald Solomon—said (and I quote):

"The guiding principles will be openness and fairness. . . . The Rules Committee will no longer rig the procedure to contrive a predetermined outcome. From now on, the Rules Committee will clear the stage for debate, and let the House work its will."

Sadly, Mr. Chairman, despite repeated commitments by Republicans to run an open and deliberative process, the current House Majority has not lived up to its oft-quoted principles and commitments.

Today, in this, the People's House, discussion is too often perfunctory, dissent is too often stifled, and "debate" has become a euphemism for a rigged process that is designed solely to allow the current Majority to achieve whatever result it desires.

As the Chairman of the full Rules Committee told The Washington Post in an article published one week ago today: "Our number one priority is to move our agenda."

The American people may not know it, but today in this House 130 million citizens—the approximate number of citizens who are represented by Members who are in the Minority—are effectively having their voices silenced.

Since 1995, the Republican Majority increasingly has passed procedural rules that limit debate, as well as the opportunity of the Minority to offer substitutes and amendments.

In the 108th Congress, for example, we dedicate almost as much time to non-controversial bills on the suspension calendar naming Federal office buildings and post offices as we did to the House Resolution tax plan—a crucial debate for our nation, a debate in which the Republican Majority denied the Democratic Minority any opportunity to offer our alternative plan.

We provided more time for debate on a Resolution naming Room 236 in the Capitol for former Majority Leader Dick Armey than we did to the momentous act of increasing the statutory debt ceiling by $984 billion—an amount that roughly equals the entire national debt in 1980, and which is the largest increase in the debt limit in American history.

Mr. Chairman, the lack of a free and fair debate on such important matters is an embarrassment to the Members who are privileged to serve here; it demeans this House; it cheats the American people; and it offends our democratic traditions.

Unfortunately, tactics designed to shut down debate are not an aberration. They are becoming the norm.

In addition to the two examples noted above, the Republican leadership in this Session has denied Democrats the opportunity to offer amendments to legislation extending unemployment insurance benefits—not once, but twice.

The Republican leadership provided Members just a few hours to read thousands of pages of legislation that incorporated 11 of the 13 annual appropriations bills.

That was not only humanly impossible, it was a sorry introduction to the new Members in this body who had no idea what they were being asked to vote on.

Not content with denying the Minority the opportunity to offer amendments and substitutes, the Republican Majority has even refused to permit Democrats the chance to vote on the Majority's own bills.

That is precisely what happened on June 12th when the Republican leadership reported a self-executing rule providing for adoption of the GOP's $82 billion bill accelerating the increase in the child tax credit for low-income families.

I would be remiss if I failed to note that barely one hour later, the House passed, on a bipartisan vote, a non-binding Motion to Instruct conferees to accept the substantially more responsible Senate version of that bill.

House Democrats, of course, had tried to offer the same Senate bill as a substitute. But the Republican Majority blocked us from doing so.

Mr. Chairman, clearly we can do better. And we owe the American people, this institution, and ourselves more.

In these discussions on legislative process, I have always been forthright: When Democrats controlled the House, we did not always provide for fair debates. We should neither excuse those past practices, nor countenance the current ones.

No one expects every rule to be open. But we do expect that the opportunity to debate legislation be the norm, not the exception.

Allow me to offer a few thoughts on how we may improve the legislative process and ensure fairness to both the Majority and Minority.

First, bills should be developed following full hearings, open subcommittee markups, with appropriate referrals to other committees.

Second, bills should generally come to the Floor under rules providing time for debate, as well as the opportunity to offer amendments, commensurate with the importance and consequences of the bill under consideration.

Third, Members should have at least 24 hours to examine bill text prior to Floor consideration. And rules should be reported before 9 p.m. for a bill to be considered the following day.

Fourth, the suspension calendar should be restricted to non-controversial legislation, with minority availability in relation to party ratio in the House.

Mr. Chairman, these are just a few suggestions that would permit this House to run in a more fair and efficient manner, while also respecting the democratic tradition that has been the hallmark in this body for more than 200 years.

Let me close by quoting a friend of mine, the current Chairman of the Rules Committee,

Mr. Dreier: "Frankly, it seems to me that the process of representative government means that a person who represents 600,000 people here should have the right to stand up and put forth an amendment and then have it voted down if it is irresponsible. We are simply asking that we comply with the standard operating rules of this House."

David Dreier made that statement on the House Floor on March 30, 1993, when his party was in the Minority. He was correct then. He is no less correct today.

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