

150.5 AMERICAN FOLKLIFE CENTER

The SPEAKER, pursuant to the provisions of section 4(b) of Public Law 94-201, reappointed to the Board of Trustees of the American Folklife Center in the Library of Congress, Mrs. Nina M. Archabal of St. Paul, Minnesota, and Mrs. Judith McCulloh of Champaign, Illinois, from private life, on the part of the House.

Ordered, That the Clerk notify the Senate of the foregoing appointments.

150.6 PROVIDING FOR THE CONSIDERATION OF H.R. 4990

Mr. DERRICK, by direction of the Committee on Rules, called up the following resolution (H. Res. 447):

Resolved, That at any time after adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4990) rescinding certain budget authority, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the bill and against its consideration are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be considered as having been read for amendment under the five-minute rule. The amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted. No amendment to the bill shall be in order except the amendments printed in part 2 of the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report of the Committee on Rules, and shall be considered as having been read. Each shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a member opposed thereto. Said amendments shall not be subject to amendment. All points of order against the amendments printed in the report of the Committee on Rules are hereby waived. If both amendments in part 2 of the report of the Committee on Rules are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit which shall not contain instructions.

SEC. 2. The provisions of section 1017 of the Impoundment Control Act of 1974 shall not apply to a bill or joint resolution introduced with respect to any special message transmitted under section 1012 of that Act on March 10, 1992, March 20, 1992, or April 8, 1992.

Pending consideration of said resolution,

150.7 POINT OF ORDER

Mr. SOLOMON made a point of order against the resolution, and said:

"Mr. Speaker, House Resolution 447 provides in the last sentence of section 1:

and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit which—

"And this is the point I wish to make—

which shall not contain instructions.

"Mr. Speaker, the language prohibiting any instructions in the motion to recommit clearly violates clause 4(b) of House rule XI which prohibits the Rules Committee from reporting "any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI" of the rules that we live under in this House.

"And clause 4 of rule XVI provides at the relevant part that—

After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker—you—shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.

"Mr. Speaker, I will not take your time or the time of this House to recount the detailed history of these two rules and the precedents behind them. I have previously given that to you and to the Members of this House in the form of a 48-page, documented historical report, which you have, so I will not bother repeating it.

"Suffice to say, prior to 1909, the House already had a motion to recommit, with or without instructions, contained in at that time rule XVII. Clauses 4 of rule XI and XVI were added to the rules by a minority party member, a Democrat from New York, my State, to give the minority a right to get a last vote on its proposition through recommittal instructions.

"That is clear from the author of that amendment to the rules and numerous Speakers upholding that right in the following years.

"The key phrase in clause 4(b) of rule XI is 'as provided in clause 4 of rule XVI,' since what was being provided for in that new rule was the right of the minority to offer a final amendment in the form of instructions.

"If the Speaker will consider logic alone, for the majority to dictate in a rule such as this what form the motion to recommit should take—in this case only a straight motion to recommit—is to truly deny the opponent of the bill recognized under the rule, a motion of his or her choosing. This now becomes a majority motion, and not a minority motion.

"And that is what is happening here today.

"When I previously raised similar points of order, the Chair has referred to a 1934 ruling of Speaker Rainey that the Rules Committee need only allow for a straight motion to recommit to satisfy that rule.

"And as I previously argued, Mr. Speaker, and argue again today, that ruling, and all subsequent rulings of this and previous Speakers which relied on it, were wrongly decided.

"And any logical person would come to that conclusion.

"To limit the minority to a straight motion to recommit, to deny it the original intent of the rule, guts that right and nullifies the original intent of the rule. There is no longer a need for two motions to recommit under our rules.

"It was my understanding that the Speaker was at least willing to consider that ruling and had agreed to have the Rules Committee—that I serve on—look into the matter further. Ironically, that long-promised hearing was held just yesterday, the very same day that this rule, this unfair rule depriving the minority, was reported. The Rules Committee has not yet issued a final report on its study, and yet here we are again today being denied our traditional right to offer instructions. We are being disenfranchised.

"Mr. Speaker, instead of quoting Speaker Gillett or any number of other Speakers who have upheld our rights, or your rights if you were in the minority, to offer instructions in the past, let me close by quoting to you from Thomas Jefferson in his Manual, which is still a part of our rules. He said: 'So far the maxim is certainly true and is founded in good sense, that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons, the only weapon by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceedings which have been adopted as they were found necessary from time to time, and are become the law of the House,' the law of the House, 'by a strict adherence to which the weaker party can only be protected from those irregularities and abuses,' and I will repeat those words, 'be protected from those irregularities and abuses which these forms were intended to check,' and have been intended to check for over 200 years in this House, 'and which the wantonness of power is but too often apt to suggest to large and successful majorities,' which you have the privilege of having 101 more Members than we have on this side.

"Mr. Speaker, the rule before us strips the minority of all of its rights and does not allow us to offer even one amendment which we had requested—not in the Committee of the Whole and not in the motion to recommit. This is exactly the kind of example against which Jefferson warned us in which the minority has been stripped of the only weapon and protections we have to defend against attempts by those in power, and I will repeat again, 'irregularities and abuses,' which in recent years seems to be the norm around here and is one of the reasons I am ashamed to say that this House is held in such low esteem by the American people. Ten percent approval or something like that in the latest polls.

"If you take away this last ounce of protection that the minority has under

our rules to offer even one amendment, even one amendment through the motion to recommit, you have rendered us helpless and you have rendered the value of any rules in this House absolutely meaningless.

"Now, Mr. Speaker, you are the Speaker of this House, you represent the majority, and as you should because you are a Member of that party, but you also have an obligation, a constitutional obligation, to represent the minority as well, and I strongly urge you to take a courageous step, Mr. Speaker—we have great respect for you—and to rule in our favor under this point of order. It means a lot to the American people, and it certainly means a lot to minority interests around this country."

Mr. DERRICK was recognized to speak to the point of order, and said:

"Mr. Speaker, the gentleman from New York makes the point of order that the rule limits the motion to recommit and, therefore, according to the minority, the rule violates clause 4(b) of rule XI.

"Mr. Speaker, I respectfully disagree. Rule XI prohibits the Rules Committee from reporting a rule that: 'Would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.'

"Clause 4 of rule XVI addresses the simple motion to recommit a bill or joint resolution and requires the Speaker to give preference in recognition to a Member of the minority who is opposed to the measure. Nowhere are instructions mentioned.

"The Rules Committee, therefore, may report a rule that limits but does not prohibit the motion to recommit—without violating clause 4(b) of rule XI.

"Mr. Speaker, so long as a simple motion to recommit can be offered, a rule does not 'prevent the motion to recommit from being made as provided in clause 4 of rule XVI.' This is a well-established parliamentary point since Speaker Rainey's decision in 1934.

"In fact, Mr. Speaker, the parliamentary point was reaffirmed by recent rulings of the Chair on October 16, 1990, on June 4, 1991, on November 25, 1991, and on February 26, 1992. On those occasions certain Members sought to appeal the ruling of the Chair. The House then voted, on each occasion, to sustain the ruling by tabling the appeal. The House thereby strengthened the precedents in this interpretation of the rule.

"Without an intervening change in the rule, there can be no question of the interpretation. Mr. Speaker, the precedents are clear and unequivocal. Moreover, the House has spoken on several recent occasions to reaffirm this position. I urge the point of order be overruled."

The SPEAKER overruled the point of order, and said:

"The Chair is ready to rule.

"The Chair notes that the gentleman from New York has pointed out that there have been repeated objections to

rules which have not contained, as a matter of right, a motion to recommit with instructions, that the matter has been undertaken for review by the Committee on Rules, that a hearing has been held but a final study or report from the Committee on Rules has not yet been concluded.

"Because of the pendency of such a review, but because of the lack of any other conclusion thereon which might recommend against the existing line of precedents, the Chair is constrained to rule, as he has ruled before, that under the precedents of October 16, 1990, and February 26, 1992, both of which the gentleman correctly points out stem from a precedent of January 11, 1934, by Speaker Rainey, the Chair is constrained to overrule the point of order."

Mr. SOLOMON appealed the ruling of the Chair.

Mr. DERRICK moved to lay the appeal on the table.

The question being put, viva voce, Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER announced that the yeas had it.

Mr. SOLOMON objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas 253
Nays 161

¶50.8

[Roll No. 109]

YEAS—253

Abercrombie	Darden	Hayes (IL)
Ackerman	de la Garza	Hayes (LA)
Alexander	DeFazio	Hefner
Anderson	DeLauro	Hertel
Andrews (ME)	Dellums	Hoagland
Andrews (NJ)	Derrick	Hochbrueckner
Andrews (TX)	Dicks	Horn
Annunzio	Dingell	Hoyer
Anthony	Dixon	Hubbard
Applegate	Donnelly	Huckaby
Aspin	Dooley	Hughes
Atkins	Dorgan (ND)	Hutto
Bacchus	Downey	Jacobs
Barnard	Durbin	Jefferson
Beilenson	Dwyer	Jenkins
Bennett	Dymally	Johnson (SD)
Berman	Early	Johnston
Bevill	Eckart	Jones (GA)
Bilbray	Edwards (CA)	Jones (NC)
Blackwell	Edwards (TX)	Jontz
Bonior	Engel	Kanjorski
Borski	English	Kaptur
Boucher	Erdreich	Kennedy
Brewster	Espy	Kennelly
Brooks	Evans	Kildee
Browder	Fascell	Kleczka
Brown	Fazio	Kopetski
Bruce	Foglietta	Kostmayer
Bryant	Ford (MI)	LaFalce
Bustamante	Ford (TN)	Lancaster
Campbell (CO)	Frank (MA)	Lantos
Cardin	Frost	LaRocco
Carper	Gaydos	Laughlin
Carr	Gejdenson	Lehman (CA)
Chapman	Gephardt	Levin (MI)
Clay	Geren	Lewis (GA)
Clement	Gibbons	Lipinski
Coleman (TX)	Glickman	Lloyd
Collins (MI)	Gonzalez	Long
Condit	Gordon	Lowey (NY)
Conyers	Guarini	Luken
Cooper	Hall (OH)	Manton
Costello	Hall (TX)	Markey
Cox (IL)	Hamilton	Martinez
Coyne	Harris	Matsui
Cramer	Hatcher	Mavroules

Mazzoli	Pelosi	Solarz
McCloskey	Penny	Spratt
McCurdy	Perkins	Staggers
McDermott	Peterson (FL)	Stallings
McHugh	Peterson (MN)	Stark
McMillen (MD)	Pickett	Stenholm
McNulty	Pickle	Stokes
Mfume	Poshard	Studds
Miller (CA)	Price	Sweet
Mineta	Rahall	Swift
Mink	Rangel	Synar
Mollohan	Ray	Tallon
Montgomery	Reed	Tanner
Moody	Richardson	Tauzin
Moran	Roe	Taylor (MS)
Mrazek	Roemer	Thomas (GA)
Murphy	Rose	Thornton
Murtha	Rostenkowski	Torres
Nagle	Rowland	Torricelli
Natcher	Roybal	Towns
Neal (MA)	Sabo	Trafficant
Neal (NC)	Sanders	Traxler
Nowak	Sangmeister	Unsoeld
Oakar	Sarpalius	Vento
Oberstar	Savage	Visclosky
Obey	Sawyer	Volkmer
Olin	Scheuer	Washington
Olver	Schroeder	Waxman
Ortiz	Schumer	Weiss
Orton	Serrano	Wheat
Owens (NY)	Sharp	Whitten
Owens (UT)	Sikorski	Williams
Pallone	Sisisky	Wilson
Panetta	Skaggs	Wise
Parker	Skelton	Wolpe
Patterson	Slattery	Wyden
Payne (NJ)	Slaughter	Yates
Payne (VA)	Smith (FL)	
Pease	Smith (IA)	

NAYS—161

Allard	Green	Paxon
Allen	Gunderson	Petri
Archer	Hammerschmidt	Porter
Army	Hancock	Pursell
Baker	Hansen	Quillen
Ballenger	Hastert	Ramstad
Barrett	Hefley	Ravenel
Barton	Henry	Regula
Bateman	Herger	Rhodes
Bentley	Hobson	Ridge
Bereuter	Hopkins	Riggs
Bilirakis	Horton	Rinaldo
Bliley	Houghton	Ritter
Boehlert	Hunter	Roberts
Boehner	Hyde	Rogers
Broomfield	Inhofe	Rohrabacher
Bunning	Ireland	Ros-Lehtinen
Burton	James	Roth
Callahan	Johnson (CT)	Roukema
Camp	Johnson (TX)	Santorum
Chandler	Kasich	Saxton
Clinger	Klug	Schaefer
Coble	Kolbe	Schiff
Coleman (MO)	Kyl	Schulze
Combest	Lagomarsino	Sensenbrenner
Coughlin	Leach	Shaw
Cox (CA)	Lent	Shays
Crane	Lewis (CA)	Shuster
Cunningham	Lewis (FL)	Skeen
Davis	Lightfoot	Smith (NJ)
DeLay	Livingston	Smith (OR)
Dickinson	Lowery (CA)	Smith (TX)
Doolittle	Machtley	Snowe
Dornan (CA)	Marlenee	Solomon
Dreier	Martin	Spence
Duncan	McCandless	Stearns
Edwards (OK)	McCollum	Stump
Emerson	McCrery	Sundquist
Ewing	McDade	Taylor (NC)
Fawell	McEwen	Thomas (CA)
Fields	McGrath	Thomas (WY)
Fish	McMillan (NC)	Upton
Franks (CT)	Meyers	Vander Jagt
Galleghy	Michel	Vucanovich
Gallo	Miller (OH)	Walker
Gekas	Molinar	Walsh
Gilchrist	Moorhead	Weldon
Gillmor	Morella	Wolf
Gilman	Morrison	Wylie
Gingrich	Myers	Young (AK)
Goodling	Nichols	Young (FL)
Goss	Nussle	Zeliff
Gradison	Oxley	Zimmer
Grandy	Packard	

NOT VOTING—20

AuCoin	Campbell (CA)	Feighan
Boxer	Collins (IL)	Flake
Byron	Dannemeyer	Holloway