

the five-minute rule and shall be considered as read. The modification to the bill printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. All points of order against the bill, as modified, are waived. No amendment to the bill, as modified, shall be in order except the amendment printed in part 2 of the report. The amendment printed in part 2 of the report may be offered only by the named proponent or a designee, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as modified, to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit.

Pending consideration of said resolution,

#### 189.7 POINT OF ORDER

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

"Mr. Speaker, it is a longstanding practice of parliamentary law in this House that an amendment once rejected cannot be considered in identical form to the same bill.

"I cite Cannon's Precedents, volume 8, section 2834, and I quote: 'It is not in order to offer an amendment identical with one previously disagreed to.'

"And, quoting from Deschler's Precedents, volume 9, section 35, 'It is not in order to offer an amendment identical to one previously rejected.'

"And finally, from Procedure in the House, 97th Congress, section 33.1, and again I quote: 'It is not in order to offer an amendment identical to one previously rejected. An amendment once rejected cannot be re-offered in identical form.'

"Mr. Speaker, the pending resolution, House Resolution 226, provides, and I quote: 'The modification to the bill printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole'.

"The so-called modification printed in part 1 of the Rules Committee report on House Resolution 226 proposes to insert at the appropriate place a new section entitled, 'Youth Fair Chance Program.'

"On Thursday, July 22, 1993, the House rejected House Resolution 220, which provided on page 2, beginning at line 10, the following: 'The modification to the bill printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole.'

"And part 1 of the report to accompany that resolution contains an identical modification to that contained in the report on this resolution.

"The report on House Resolution 220 proposed to insert at the appropriate place a new section entitled, 'Youth Fair Chance Program.'

"A careful examination of both reports will reveal that the modifications considered to be adopted in both the House and in the Committee of the Whole are identical—word-for-word.

"This device of having an amendment considered as adopted upon the adoption of the rule is called a self-execution provision. At what point is the modification considered to be adopted? The rule makes clear that it is considered to be adopted in the House and in the Committee of the Whole, and not the reverse.

"We are now in the House, and the adoption of the so-called modification takes place first in the House when we adopt this rule. Then it is considered as adopted in the Committee of the Whole, when the House resolves into Committee. And finally, the language of the rule presumably also extends to the final adoption of the modification when the bill is reported back to the House when it is reported from the Committee of the Whole.

"But the Chair can hardly argue that this rule does not first adopt the modification in the House when the rule is adopted, since the order of adoption is quite clear—first in the House, then in the Committee of the Whole.

"Mr. Speaker, in further support of this, I would cite the ruling of the Chair of February 24, 1993, on a similar point of order brought against the rule on the unemployment compensation bill.

"At page H807, the Chair indicated that, and I quote, 'the amendments are not adopted until such time as the rule is adopted.' In other words, Mr. Speaker, the amendments are considered as adopted in the House upon adoption of the rule.

"By the same token, when House Resolution 220 was rejected by the House last Thursday, the identical amendment to that being offered in this rule, was considered as rejected in the House. And the point of order lies against considering the same amendment once rejected.

"I therefore urge the Chair to follow the logic of its previous ruling regarding the effect of the adoption of a rule by the House by upholding my point of order that this amendment has been previously rejected by the rejection of the prior rule on this bill."

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

"Mr. Speaker, the gentleman from New York [Mr. SOLOMON] makes a point of order that it would be inappropriate to consider legislation identical to that previously rejected by the House, and I have to congratulate the gentleman. He makes a clever argument when he suggests that because H. Res. 220, last week in its entirety, included a self-executing provision that would have considered the Youth Fair Chance Act provision adopted had that rule passed. However, Mr. Speaker, that amendment was not, in fact, rejected by this House of Representatives. What failed to pass was H. Res. 220 in its entirety, and in fact H. Res.

220 included many other provisions besides the Youth Fair Chance Opportunity Act. The legislation that is being considered here today is not identical to the resolution previously reported from the Committee on Rules.

"It is, in fact, true that some of the provisions are similar, however, Mr. Speaker, it is important to note that the general debate time, for instance, has been extended from 60 to 90 minutes, and it this is a substantially different proposition. Therefore, Mr. Speaker, I would urge you to, in fact, be consistent with previous rulings and to reject this point of order."

Mr. SOLOMON was further recognized to speak to the point of order and said:

"Mr. Speaker, the gentleman from Missouri [Mr. WHEAT] is a good friend, and we respect him, but what he just said is that the only difference between this resolution before us now, this rule and the previous one, is the fact that they have extended debate by 30 minutes. That is the only difference between these two rules.

"Therefore, Mr. Speaker, it stands to reason there is no significant difference. It is the identical amendment, the identical rule, that was before this body before, and the Chair should uphold my point of order."

Mr. WHEAT was further recognized to speak to the point of order and said:

"Mr. Speaker, one of the major purposes of the Committee on Rules is to award time, of course time that has to be approved by this entire body, and it is, in fact, what we consider to be a significant difference, to differentiate significantly in the amount of time that is to be awarded on the floor of the House of Representatives. So, the addition of 30 additional minutes for debate on what we consider to be a very significant and substantive matter is, in fact, a significant difference from one rule to the next.

"Mr. Speaker, this is not an identical rule to what was considered last week."

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

"Mr. Speaker, there is a longstanding parliamentary tradition and practice in the House that one cannot do indirectly that which they were not permitted to do directly. That is precisely what the majority is attempting to do in this particular rule.

"In this instance, if they were attempting to do this directly, there is no doubt that the Chair would have to rule that this amendment was not in order, having been previously rejected from the House. The indirect nature of this amendment should not preclude the Chair from ruling that this amendment is not eligible for consideration on the House floor."

The SPEAKER pro tempore, Mr. WISE, overruled the point of order, and said:

"The resolution under consideration involves more than the self-executing adoption of the modification printed in the accompanying report. The pending

resolution waives all points of order against provisions in the bill as modified and provides a different parameter of general debate from that contained in House Resolution 220. Thus House Resolution 226 constitutes a different proposition from House Resolution 220 as a special order of business.

"The rule is more than the self-executing provision within it. It is the entire resolution, and the entire resolution, by virtue of having a different parameter of debate, is sufficiently different.

"Therefore, the gentleman's point of order is overruled."

When said resolution was considered. After debate,

On motion of Mr. WHEAT, the previous question was ordered on the resolution to its adoption or rejection.

The question being put, viva voce,

Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. WISE, 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  $\left\{ \begin{array}{l} \text{Yeas} \dots\dots 224 \\ \text{Nays} \dots\dots 205 \end{array} \right.$

¶89.8 [Roll No. 368] YEAS—224

Abercrombie	Dellums	Kennedy
Ackerman	Dicks	Kennelly
Andrews (ME)	Dingell	Kildee
Andrews (NJ)	Dixon	Klecicka
Andrews (TX)	Durbin	Klein
Applegate	Edwards (CA)	Klink
Bacchus (FL)	Edwards (TX)	Kopetski
Baesler	Engel	Kreidler
Barca	English (AZ)	LaFalce
Barcia	English (OK)	Lambert
Barlow	Eshoo	Lantos
Barrett (WI)	Evans	LaRocco
Becerra	Farr	Laughlin
Beilenson	Fazio	Lehman
Berman	Fields (LA)	Levin
Bevill	Filner	Lewis (GA)
Bilbray	Flake	Lipinski
Bishop	Foglietta	Long
Blackwell	Foley	Lowe
Bonior	Ford (MI)	Maloney
Borski	Ford (TN)	Manton
Boucher	Frank (MA)	Margolies-
Brooks	Frost	Mezvinsky
Browder	Furse	Markey
Brown (CA)	Gejdenson	Martinez
Brown (FL)	Gephardt	Matsui
Brown (OH)	Gibbons	Mazzoli
Bryant	Glickman	McCloskey
Byrne	Gonzalez	McDermott
Cantwell	Gordon	McHale
Cardin	Green	McKinney
Carr	Gutierrez	McNulty
Chapman	Hall (OH)	Meek
Clay	Hamburg	Menendez
Clayton	Hamilton	Mfume
Clement	Harman	Miller (CA)
Clyburn	Hastings	Mineta
Coleman	Hayes	Minge
Collins (IL)	Hefner	Mink
Collins (MI)	Hilliard	Mollohan
Conyers	Hinchey	Montgomery
Cooper	Hoagland	Moran
Coppersmith	Holden	Murtha
Costello	Hoyer	Nadler
Coyne	Hughes	Natcher
Cramer	Jefferson	Neal (MA)
Danner	Johnson (SD)	Neal (NC)
Darden	Johnson, E.B.	Oberstar
de la Garza	Johnston	Obey
DeFazio	Kanjorski	Olver
DeLauro	Kaptur	Ortiz

Owens  
Pallone  
Pastor  
Payne (NJ)  
Pelosi  
Peterson (FL)  
Pickle  
Pomeroy  
Poshard  
Price (NC)  
Rahall  
Rangel  
Reed  
Reynolds  
Richardson  
Rose  
Rostenkowski  
Rowland  
Roybal-Allard  
Rush  
Sabo  
Sanders  
Sangmeister  
Sarpalius

Sawyer  
Schenk  
Schroeder  
Schumer  
Scott  
Serrano  
Smith (IA)  
Spratt  
Stark  
Stokes  
Strickland  
Studds  
Stupak  
Swett  
Swift  
Synar  
Tejeda  
Thompson  
Thornton

Thurman  
Torres  
Torricelli  
Towns  
Traficant  
Tucker  
Unsoeld  
Velazquez  
Vento  
Visclosky  
Volkmer  
Washington  
Waters  
Watt  
Waxman  
Wheat  
Whitten  
Williams  
Wilson  
Wise  
Woolsey  
Wyden  
Wynn  
Yates

NAYS—205

Allard  
Archer  
Armey  
Bachus (AL)  
Baker (CA)  
Baker (LA)  
Ballenger  
Barrett (NE)  
Bartlett  
Barton  
Bateman  
Bentley  
Bereuter  
Bilirakis  
Bliley  
Blute  
Boehler  
Boehner  
Bonilla  
Brewster  
Bunning  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Canady  
Castle  
Clinger  
Coble  
Collins (GA)  
Combust  
Condit  
Cox  
Crane  
Crapo  
Cunningham  
Deal  
DeLay  
Deutsch  
Diaz-Balart  
Dickey  
Doolley  
Doolittle  
Dornan  
Dreier  
Duncan  
Emerson  
Everett  
Ewing  
Fawell  
Fields (TX)  
Fingerhut  
Fish  
Fowler  
Franks (CT)  
Franks (NJ)  
Gallegly  
Gallo  
Gekas  
Geren  
Gilchrest  
Gillmor  
Gilman  
Gingrich  
Goodlatte  
Goodling  
Goss

NOT VOTING—6

Derrick  
Henry  
Hochbrueckner  
McDade  
Moakley  
Packard

So the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

Pending consideration of the bill, H.R. 2667,

¶89.9 POINT OF ORDER

Mr. SOLOMON made a point of order against the modification to the bill (H.R. 2667) making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes, as printed in Part 1 of House Report 103-189 and provided for by House Resolution 226, and said:

"Mr. Speaker, I renew my point of order against the modification printed in part 1 of the Committee on Rules report on the grounds that it is not germane and in violation of clause 7, rule XVI, and constitutes legislating in an appropriations bill in violation of clause 2, rule XXI.

"Mr. Speaker, a point of order was reserved prior to adoption of the rule, since, apparently, that is the point at which the modification was first to be in the House. I have offered this before the bill is called up, since I am aware that all points of order are waived against the bill, as modified, but no points of order are waived in the rule against the modification.

"I would insist on my point of order."

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

"Mr. Speaker, the bill is, obviously, protected by the rule just adopted. For instance, on page 3, Mr. Speaker, it provides in part as follows:

'All points of order against consideration of the bill are waived.'

"In addition, further, 'All points of order against the bill, as modified, are waived.'

"Mr. Speaker, the point raised by my friend, the gentleman from New York, is not a valid point of order."

The SPEAKER pro tempore, Mr. WISE, overruled the point of order, and said:

"The point of order on a recommittal motion would have to be made when that motion is offered.

"Referring to the gentleman's point of order, the gentleman from New York [Mr. SOLOMON] makes a point of order that a certain provision in the bill, as modified, constitutes, as the chairman understands it, a nongermane amendment and is legislation on a general appropriations bill.

"The provision in question is the new section inserted in the bill by operation of House Resolution 226, the special order providing for its consideration. Thus, the bill is now pending consideration in that modified form. Moreover, House Resolution 226 waives all points of order against the bill, as modified. Consequently, the point of order made by the gentleman from New York [Mr. SOLOMON] has been waived.

"Once again, the Chair would refer the gentleman in this question and