Zimmer

It was decided in the Yeas ...... 289 affirmative ...... Nays ..... 142 ¶22.9[Roll No. 103] AYES-289 Franks (NJ) Allard Moran Andrews Frelinghuysen Morella Archer Murtha Frisa Funderburk Armey Mvers Myrick Bachus Gallegly Baesler Ganske Nethercutt Baker (CA) Geren Neumann Baker (LA) Gilchrest Nev Ballenger Gillmor Norwood Gilman Barcia Nussle Barr Goodlatte Ortiz Barrett (NE) Goodling Orton Bartlett Gordon Oxlev Barton Goss Packard Bass Graham Pallone Bateman Parker Green Greenwood Bentsen Paxon Payne (VA) Bereuter Gunderson Bevill Gutknecht Peterson (FL) Bilbray Hall (TX) Peterson (MN) Bilirakis Hancock Petri Bliley Pombo Hansen Blute Harman Pomerov Boehlert Hastert Porter Hastings (WA) Portman Boehner Bonilla Hayes Hayworth Pryce Quillen Bono Borski Hefley Quinn Brewster Heineman Radanovich Browder Herger Rahall Brownback Hilleary Ramstad Bryant (TN) Hobson Regula Riggs Hoekstra Bunn Bunning Roberts Hoke Burr Holden Roemer Burton Rogers Horn Hostettler Rohrabacher Buyer Callahan Calvert Houghton Ros-Lehtinen Roth Hunter Hutchinson Roukema Camp Canady Castle Royce Salmon Hyde Inglis Chabot Istook Sanford Chambliss .Jacobs Saxton Scarborough Johnson (CT) Chapman Christensen Johnson (SD) Schaefer Chrysler Clement Johnson, Sam Schiff Jones Seastrand Clinger Kanjorski Sensenbrenner Coble Kasich Shadegg Kelly Coburn Shaw Collins (GA) Kim Shays Combest King Shuster Condit Sisisky Kingston Cooley Klink Skeen Costello Klug Knollenberg Skelton Smith (MI) Cramer LaHood Smith (NJ) Smith (TX) Crane Largent Cremeans Smith (WA) Cubin LaTourette Solomon Laughlin Souder Danner Davis Lazio Spence de la Garza Leach Spratt Lewis (CA) Deal Stearns DeLay Lewis (KY) Stenholm Deutsch Lightfoot Stump Diaz-Balart Stupak Linder Lipinski Dickey Talent Dicks Livingston Tanner Dooley LoBiondo Tate Doolittle Longley Tauzin Taylor (MS) Dornan Lucas Doyle Luther Tejeda Dreier Manton Thomas Thornberry Duncan Manzullo Dunn Martini Thurman Edwards Mascara Tiahrt Torkildsen Ehlers Matsui Ehrlich McCollum Traficant McCrery Emerson Upton McDade English Volkmer Ensign McHale Vucanovich Everett McHugh Waldholtz McInnis Walker Ewing McIntosh Walsh Fields (TX) Wamp McKeon Flanagan McNulty Weldon (FL) Foley Meyers Weldon (PA) Forbes Mica Weller Miller (FL) Fowler White Molinari Whitfield Frank (MA) Montgomery Wicker Franks (CT) Moorhead

Wise Wolf Young (AK) Young (FL) Wyden NOES-142 Gutierrez Abercrombie Owens Hall (OH) Ackerman Pastor Baldacci Hamilton Payne (NJ) Barrett (WI) Hastings (FL) Pelosi Becerra Hefner Pickett Beilenson Hilliard Poshard Berman Hinchey Rangel Bishop Reed Hoyer Reynolds Richardson Bonior Jackson-Lee Boucher Jefferson Johnson, E.B. Brown (CA) Rivers Brown (FL) Johnston Rose Brown (OH) Roybal-Allard Kaptur Bryant (TX) Kennedy (MA) Rush Cardin Kennedy (RI) Sabo Chenoweth Kennelly Sanders Clay Kildee Sawyer Clayton Kleczka Schroeder Clyburn Kolbe Schumer Coleman LaFalce Scott Collins (IL) Lantos Serrano Collins (MI) Levin Skaggs Lewis (GA) Conyers Slaughter Coyne Lincoln Stark Stockman Lofgren Crapo DeFazio DeLauro Lowey Stokes Maloney Studds Taylor (NC) Dellums Markey Dingell Martinez Thompson Doggett McCarthy Thornton Durbin McDermott Torricelli Engel McKinney Meehan Eshoo Towns Evans Meek Tucker Menendez Farr Velazquez Fattah Metcalf Vento Mfume Miller (CA) Fazio Visclosky Fields (LA) Ward Filner Mineta Waters Minge Flake Watt (NC) Foglietta Mink Watts (OK) Moakley Ford Waxman Frost Mollohan Williams Furse Nadler Woolsey Gejdenson Neal Wynn Gephardt Oberstar Yates Gibbons Obev Gonzalez Olver NOT VOTING-3 Dixon Cunningham Gekas

So the bill was passed.

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

Ordered, That the Clerk request the concurrence of the Senate in said bill.

## $\P 22.10$ Messages from the president

Messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

#### ¶22.11 DEATH PENALTY

The SPEAKER pro tempore, Mr. HOBSON, pursuant to the special order of the House of February 7, 1995, and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 729) to control crime by a more effective death penalty.

The SPEAKER pro tempore, Mr. HOBSON, by unanimous consent, designated Mr. DREIER as Chairman of the Committee of the Whole; and after some time spent therein,

## ¶22.12 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. SCHUMER:

After subtitle B of title I insert the following:

#### Subtitle C-Competent Counsel in Death **Penalty Cases in State Court**

#### SEC. 121. COMPETENT COUNSEL IN STATE COURT.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after the chapter added by section 111 the following:

# "CHAPTER 154A—COMPETENT COUNSEL IN STATE COURT

"Sec

"2263. Competent counsel in State court.

## "§ 2263. Competent counsel in State court

(a) If an action under section 2254 of this title, brought by an applicant under sentence of death, the court determines that

(1) the relevant State has established or identified a counsel authority which meets the requirements of subsections (b) through (e) of this section, to ensure that indigents in capital cases receive competent counsel and support services at trial in State court and on direct review in the appropriate State appellate courts;

(2) if the applicant in the instant case was eligible for the appointment of counsel and did not waive such an appointment, the counsel authority actually appointed an attorney or attorneys to represent the applicant: and

(3) the counsel so appointed met the qualifications and performance standards established by the counsel authority;

then the court shall not apply subsection (f) of this section to the claims presented in the application.

(b) The counsel authority may be-

"(1) the highest State court having jurisdiction over criminal matters;

(2) a committee appointed by the highest State court having jurisdiction over criminal matters; or

(3) a defender organization.

"(c) The counsel authority shall publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing the qualifications, performance, compensation, and support of counsel; and, upon the request of a State court before which a death penalty is pending, shall appoint counsel to represent the client.

(d) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with competent legal representation.

(e) Upon receipt of notice from the counsel authorized that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

(f) Except as provided by subsection (a) of this section, in an action under section 2254 of this title, brought by an applicant under sentence of death, the court shall not decline to consider a claim on the ground that it was not previously raised in State court at the time and in the manner prescribed by State law and, for that reason, the State courts refused or would refuse to entertain it.

(b) CLERICAL AMEMDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by inserting after the item relating to the chapter added by section 111 the following new item: "154A, Competent Counsel in State

Court ..... 2263"

Redesignate succeeding subtitles and sections (and any cross references thereto) ac-

It was decided in the Yeas ...... negative ...... Nays ..... 282

#### ¶22.13[Roll No. 104] AYES-149

Gordon Abercrombie Obey Olver Ackerman Gutierrez Hall (OH) Baldacci Owens Barcia Hamilton Pallone Barrett (WI) Hastings (FL) Payne (NJ) Becerra Hilliard Beilenson Hinchey Pelosi Peterson (FL) Berman Hoyer Jackson-Lee Bishop Pomeroy Jacobs Rangel Bonior Boucher Jefferson Reed Johnson, E. B. Brown (CA) Revnolds Brown (FL) Johnston Richardson Brown (OH) Kaptur Rivers Kennedy (MA) Bryant (TX) Roemer Cardin Kennedy (RI) Roybal-Allard Clay Clayton Kennelly Rush Kildee Sabo Kleczka Clyburn Sanders Coleman LaFalce Sawyer Collins (IL) Schroeder Lantos Conyers Levin Schumer Lewis (GA) Costello Scott Coyne Lipinski Serrano de la Garza Skaggs Slaughter Lofgren Lowey Luther DeFazio DeLauro Spratt Dellums Maloney Stark Dicks Manton Stokes Dingell Markey Studds Dixon Martinez Stupak Doggett Thompson Mascara Durbin Matsui Torres McCarthy Torricelli Engel Eshoo McDermott Towns McHale Evans Tucker McKinney Velazquez Farr Fattah McNulty Vento Meehan Visclosky Meek Menendez Fields (LA) Ward Filner Waters Flake Mfume Watt (NC) Miller (CA) Foglietta Waxman Ford Williams Mineta Wise Frost Mink Furse Moakley Woolsey Gejdenson Mollohan Wyden Gephardt Nadler Wynn Gibbons Neal Yates Gonzalez Oberstar

## NOES-282

Allard Camp Edwards Andrews Canady **Ehlers** Ehrlich Archer Castle Chabot Bachus Chambliss English Baesler Chapman Ensign Baker (CA) Everett Ewing Fawell Baker (LA) Christensen Ballenger Chrysler Barr Clement Fields (TX) Barrett (NE) Clinger Flanagan Bartlett Coble Foley Barton Coburn Forbes Collins (GA) Bass Fowler Fox Bateman Combest Franks (CT) Franks (NJ) Bentsen Condit Bereuter Cooley Bevill Cox Frelinghuysen Frisa Funderburk Bilbray Cramer Bilirakis Crane Bliley Crapo Gallegly Ganske Gekas Blute Cremeans Boehlert Cubin Boehner Cunningham Geren Bonilla Danner Gilchrest Bono Davis Gillmor Borski Deal Gilman Brewster DeLay Goodlatte Goodling Browder Deutsch Brownback Bryant (TN) Diaz-Balart Goss Graham Dickey Bunn Dooley Green Bunning Doolittle Greenwood Burr Dornan Gunderson Burton Doyle Gutknecht Hall (TX) Dreier Callahan Duncan Hancock

Dunn

Harman McDade McHugh Schiff Hastert Hastings (WA) McInnis Seastrand Hayes McIntosh Sensenbrenner Hayworth Shadegg McKeon Hefley Metcalf Hefner Meyers Shays Heineman Shuster Herger Miller (FL) Sisisky Hilleary Minge Molinari Skeen Hobson Skelton Hoekstra Montgomery Smith (MI) Hoke Moorhead Smith (NJ) Holden Moran Smith (TX) Horn Morella Smith (WA) Hostettler Murtha Solomon Houghton Myers Souder Hunter Myrick Spence Hutchinson Nethercutt Stearns Stenholm Neumann Inglis Stockman Ney Norwood Istook Stump Johnson (CT) Nussle Talent Johnson (SD) Ortiz Tanner Johnson, Sam Orton Tate Tauzin Kanjorski Taylor (MS) Packard Taylor (NC) Parker Kasich Kelly Tejeda Payne (VA) Kim Thomas Peterson (MN) Thornberry King Kingston Thornton Klink Pickett Thurman Pombo Tiahrt Klug Knollenberg Torkildsen Porter Kolbe Portman Traficant LaHood Poshard Upton Pryce Quillen Volkmer Largent Vucanovich Latham LaTourette Quinn Waldholtz Laughlin Řahall Walker Walsh Ramstad Lazio Leach Regula Wamp Riggs Roberts Watts (OK) Lewis (CA) Weldon (FL) Lewis (KY) Weldon (PA) Lightfoot Rogers Rohrabacher Lincoln Weller Ros-Lehtinen White Linder Whitfield Livingston Rose LoBiondo Roth Wicker Longley Roukema Wilson Lucas Manzullo Royce Wolf Salmon Young (AK) Sanford Martini Young (FL) McCollum Zeliff

## Scarborough NOT VOTING-3

Zimmer

Collins (MI) Frank (MA) Radanovich

So the amendment was not agreed to. After some further time.

#### ¶22.14 RECORDED VOTE

McCrery

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. WATT of North Caro-

Page 4, line 26, strike the period and insert the following:

"or a substantial showing that credible newly discovered evidence which, had it been presented at trial, would probably have resulted in an acquittal for the offense for which the sentence was imposed or in some sentence other than incarceration.

Page 4, line 26, Strike the entire sentence beginning with the word "The" and ending with "standard."

Page 15, line 7, delete the period and insert

Page 15, after line 7 add:

'(4) the facts underlying the claim consist of credible newly discovered evidence which, had it presented to the trier of fact or sentencing authority at trial, would probably have resulted in an acquittal of the offense for which the death sentence was imposed."

It was decided in the Yeas ...... negative ..... Nays .....

#### $\P 22.15$ [Roll No. 105] AYES-151

Abercrombie Gutierrez Hall (OH) Ortiz Ackerman Owens Baldacci Hamilton Pallone Pastor Payne (NJ) Barrett (WI) Hastings (FL) Hefner Becerra Beilenson Hilliard Pelosi Pomeroy Bentsen Hinchey Rahall Berman Hoyer Bishop Jackson-Lee Rangel Bonior Jacobs Reed Jefferson Boucher Reynolds Brown (CA) Johnson, E. B. Rivers Brown (FL) Johnston Rose Brown (OH) Kanjorski Roybal-Allard Bryant (TX) Rush Kaptur Clay Clayton Kennedy (MA) Kennedy (RI) Sabo Sanders Clement Kennelly Sawyer Schroeder Clyburn Kildee Kleczka Coleman Schumer Collins (IL) LaFalce Scott Collins (MI) Lantos Serrano Conyers Levin Skaggs Lewis (GA) Coyne de la Garza Slaughter Lofgren Spratt DeFazio Lowey Stark DeLauro Luther Stokes Dellums Maloney Studds Dixon Manton Stupak Doggett Markey Tanner Tejeda Durbin Martinez Engel Matsui Thompson McCarthy Eshoo Thornton McDermott Thurman Evans McKinney Fattah McNulty Towns Meehan Tucker Fazio Fields (LA) Meek Velazquez Filner Menendez Vento Visclosky Flake Mfume Foglietta Miller (CA) Ward Ford Mineta Waters Frank (MA) Minge Watt (NC) Frost Mink Waxman Moakley Williams Furse Gejdenson Mollohan Wise Gephardt Gibbons Nadler Woolsey Neal Wvnn Gonzalez Oberstar Yates Obey Gordon Olver Green

NOES-280 Allard Archer Chabot Chambliss English Ensign Armey Chapman Bachus Chenoweth Ewing Fawell Christensen Baesler Fields (TX) Baker (CA) Chrysler Clinger Coble Baker (LA) Flanagan Ballenger Foley Barcia Coburn Forbes Collins (GA) Barr Fowler Fox Barrett (NE) Combest Bartlett Condit Franks (CT) Barton Cooley Franks (N.J) Costello Frelinghuysen Bateman Cox Frisa Funderburk Cramer Bereuter Crane Gallegly Bilbray Crapo Ganske Bilirakis Cremeans Gekas Cubin Bliley Geren Blute Cunningham Gilchrest Boehlert Danner Gillmor Davis Gilman Bonilla Deal Goodlatte DeLay Goodling Bono Borski Deutsch Brewster Diaz-Balart Graham Browder Greenwood Dickey Brownback Dicks Gunderson Bryant (TN) Dingell Gutknecht Hall (TX) Bunn Dooley Bunning Doolittle Hancock Burr Dornan Hansen Burton Harman Doyle Dreier Hastert Buyer Hastings (WA) Callahan Duncan Calvert Dunn Haves Edwards Hayworth Camp Hefley Canady Ehlers Cardin Ehrlich Heineman Castle Emerson Herger