

It was decided in the affirmative { Yeas 289
Nays 142

Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

¶22.9

[Roll No. 103]

AYES—289

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Cremeans
Cubin
Danner
Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)

NOES—142
Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chenoweth
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Crapo
DeFazio
DeLauro
Dellums
Dingell
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Finler
Flake
Hunter
Foglietta
Ford
Frost
Furse
Gedjenson
Gepphardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E.B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klecza
Kolbe
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowe
Maloney
Markey
Martinez
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Metcalf
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Oliver

NOT VOTING—3

Cunningham
Dixon
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.

¶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 AMENDMENT.—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) accordingly.

It was decided in the negative { Yeas 149 Nays 282

¶22.13 [Roll No. 104] AYES—149

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

NOES—282

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

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

NOT VOTING—3

- Collins (MI), Frank (MA), Radanovich

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

¶22.14 RECORDED VOTE

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

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 “; or”

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 negative { Yeas 151 Nays 280

¶22.15 [Roll No. 105] AYES—151

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

NOES—280

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