Skeen Skelton

Smith (MI)

Smith (NJ) Smith (TX)

Smith (WA)

Solomon Souder

Spence

Stearns

Stump Stupak

Talent

Tanner

Tauzin

Tejeda

Taylor (MS)

Taylor (NC)

Tate

Stenholm

Stockman

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

NOT VOTING-3

Andrews Sisisky

Talent

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

The Committee rose informally to receive a message from the President.

The SPEAKER pro tempore, Mr. LIGHTFOOT, assumed the Chair.

¶22.16 MESSAGE FROM THE PRESIDENT

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

The Committee resumed its sitting; and after some further time spent therein,

¶22.17 RECORDED VOTE

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

Strike section 104 and insert the following: SEC. 104. EFFECT OF PRIOR STATE CONSIDER-ATION.

- (a) EXHAUSTION of Remedies.—Section 2254(b) of title 28, United States Code, is amended to read as follows:
- (b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect

the rights of the applicant. An application be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State. A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless through its counsel it waives the requirement expressly.

- (b) STANDARD OF DEFERENCE TO STATE JU-DICIAL DECISIONS.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:
- (g) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was decided on the merits in State proceedings unless the adjudication of
- "(1) resulted in a decision that was based on an arbitrary or unreasonable interpretation of clearly established Federal law as articulated in the decisions of the Supreme Court of the United States:
- '(2) resulted in a decision that was based on an arbitrary or unreasonable application to the facts of clearly established Federal law as articulated in the decisions of the Supreme Court of the United States; or

'(3) resulted in a decision that was based on an arbitrary or unreasonable determination of the facts in light of the evidence presented in the State proceeding.

In the proposed new section 2259(b) of title 28, United States Code, added by section 111, strike "section 2254(d)" and insert "subsections (d) and (g) of section 2254"

It was decided in the Yeas affirmative Nays 140

¶22.18[Roll No. 106]

AYES-291

Allard Coburn Ganske Archer Coleman Gekas Collins (GA) Armey Geren Gilchrest Bachus Combest Baesler Condit Gillmor Baker (CA) Cooley Costello Gilman Baker (LA) Goodlatte Ballenger Goodling Cox Cramer Barcia Gordon Crane Goss Barrett (NE) Crapo Graham Cremeans Bartlett Green Greenwood Barton Cubin Cunningham Gunderson Bass Bateman Gutknecht Danner Bereuter Davis Hall (OH) Bevill Deal Hall (TX) Bilbray Hancock DeLay Bilirakis Deutsch Hansen Diaz-Balart Blilev Harman Blute Dickey Hastert Hastings (WA) Boehlert Dooley Boehner Doolittle Hayes Bonilla Hayworth Dornan Doyle Hefley Bono Borski Dreier Heineman Boucher Duncan Herger Brewster Dunn Hilleary Edwards Browder Hobson Ehlers Brownback Hoekstra Bryant (TN) Ehrlich Hoke Holden Bunn Emerson Bunning English Horn Hostettler Burr Ensign Burton Everett Hunter Ewing Fawell Hutchinson Callahan Hyde Fields (TX) Inglis Calvert Camp Flanagan Istook Folley Canady Jefferson Castle Johnson (SD) Chabot Fowler Johnson, Sam Chambliss Fox Jones Franks (CT) Chapman Kanjorski Chenoweth Franks (NJ) Kaptur Frelinghuysen Christensen Kasich Kelly Chrysler Frisa Clement Frost Kim Funderburk Clinger King

Klink Neumann Klug Nev Knollenberg Norwood Kolbe Nussle LaHood Ortiz Lantos Orton Largent Latham Oxley Packard LaTourette Parker Laughlin Paxon Payne (VA) Lazio Leach Peterson (FL) Lewis (CA) Peterson (MN) Lewis (KY) Petri Lightfoot Pickett Lincoln Pombo Linder Porter Lipinski Portman Livingston Poshard LoBiondo Pryce Longley Quillen Lucas Quinn Manzullo Radanovich Martini Ramstad Mascara Regula McCollum Richardson McCrery Riggs Roberts McDade McHale Roemer McHugh Rogers Rohrabacher McInnis McIntosh Ros-Lehtinen McKeon Roth Roukema Menendez Meyers Royce Mica Salmon Miller (FL) Sanford Minge Saxton Molinari Scarborough Montgomery Schaefer Moorhead Seastrand Sensenbrenner Moran Morella Shadegg Murtha Shaw Shavs Mvers Shuster Nethercutt Sisisky

Thomas Thornberry Tiahrt Torkildsen Torricelli Traficant Upton Vucanovich Waldholtz Walker Walsh Wamp Watts (OK) Weldon (FL) Weldon (PA) Weller White Whitfield Wicker Wilson Wolf Wyden Young (AK) Young (FL) Zeliff

Zimmer

NOES-140

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

Clay

Farr

NOT VOTING-3

Andrews Collins (MI) Metcalf So the amendment was agreed to.

Kingston

Gallegly

After some further time,

¶22.19 RECORDED VOTE

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

In the matter proposed to be inserted in section 3593(e) of title 18, United States Code, by section 201, insert "or a sentence of life imprisonment without the possibility of release" after "shall recommend a sentence of death'

Strike subsection (b) of section 201 and eliminate the subsection designation and heading of subsection (a).

It was decided in the Yeas 139 negative Nays 291

¶22.20[Roll No. 107] AYES-139

Abercrombie Gutknecht Payne (NJ) Ackerman Hamilton Pelosi Barrett (WI) Hastings (FL) Pomeroy Becerra Hefner Rahall Hilliard Beilenson Rangel Reynolds Bentsen Hinchey Berman Hoyer Rivers Bishop Jacobs Roemer Jefferson Bonion Johnson, E. B. Boucher Roth Johnston Roybal-Allard Brewster Kennedy (MA) Brown (CA) Rush Brown (FL) Kennelly Sabo Brown (OH) Kildee Sanders Chapman Kleczka Sawyer Clay LaFalce Schroeder Clayton LaTourette Scott Clyburn Laughlin Serrano Collins (IL) Levin Shays Lewis (GA) Conyers Skaggs Coyne de la Garza Lofgren Slaughter Smith (MI) Lowey Luther DeFazio Spratt Dellums Maloney Stark Dingell Markey Stokes Dixon Martinez Studds Doggett Matsui Thompson McCarthy Duncan Thornton Durbin McDermott Thurman Edwards McKinney Torkildsen McNulty Torres Engel Towns Evans Mfume Tucker Farr Miller (CA) Velazquez Fattah Mineta Vento Visclosky Fazio Minge Mink Fields (LA) Ward Moakley Waters Watt (NC) Flake Mollohan Foglietta Nadler Waxman Williams Neal Frank (MA) Oberstar Wise Woolsey Furse Obey Gejdenson Olver Wynn Gonzalez Owens Yates Pallone Green Gutierrez Pastor

NOES-291

Allard Bonilla Clinger Archer Bono Borski Coble Coburn Armey Bachus Browder Coleman Collins (GA) Baesler Brownback Baker (CA) Bryant (TN) Combest Bryant (TX) Baker (LA) Condit Cooley Costello Baldacci Bunn Ballenger Bunning Barcia Burr Cox Barr Burton Cramer Barrett (NE) Buver Crane Callahan Bartlett Crapo Barton Calvert Cremeans Cubin Bass Camp Bateman Canady Cunningham Bereuter Cardin Danner Bevill Castle Davis Bilbray Chabot Chambliss Deal Bilirakis DeLauro Bliley Chenoweth DeLay Blute Christensen Deutsch Boehlert Diaz-Balart Chrysler Boehner Clement Dickey

Kanjorski Kaptur Kasich Dicks Dooley Pryce Quillen Doolittle Quinn Radanovich Ramstad Dornan Kelly Doyle Kennedy (RI) Reed Dunn King Regula Richardson Ehlers Kingston Ehrlich Klink Riggs Roberts Emerson Klug Knollenberg English Rogers Ensign Kolbe Rohrabacher LaHood Everett Ros-Lehtinen Ewing Roukema Lantos Fawell Largent Royce Fields (TX) Latham Salmon Sanford Flanagan Lazio Foley Leach Saxton Lewis (CA) Scarborough Forbes Lewis (KY) Schaefer Fowler Fox Lightfoot Schiff Franks (CT) Lincoln Schumer Franks (NJ) Linder Seastrand Frelinghuysen Lipinski Sensenbrenner Frisa Livingston Shadegg LoBiondo Shaw Funderburk Longley Shuster Sisisky Gallegly Lucas Ganske Manton Skeen Gekas Manzullo Skelton Gephardt Smith (NJ) Martini Mascara McCollum Smith (TX) Gibbons Smith (WA) Solomon Gilchrest McCrery Gillmor McDade Souder Gilman McHale Spence Goodlatte McHugh Stearns Goodling McInnis Stenholm Gordon McIntosh Stockman Goss McKeon Stump Graham Meehan Stupak Greenwood Talent Menendez Gunderson Meyers Tanner Mica Miller (FL) Hall (OH) Tate Hall (TX) Tauzin Hancock Molinari Taylor (MS) Hansen Montgomery Taylor (NC) Tejeda Harman Moorhead Hastert Moran Thomas Hastings (WA) Morella Thornberry Haves Murtha Tiahrt Hayworth Torricelli Myers Hefley Heineman Myrick Traficant Nethercutt Upton Herger Hilleary Volkmer Neumann Vucanovich Ney Norwood Waldholtz Hobson Hoekstra Nussle Walker Hoke Ortiz Walsh Holden Orton Wamp Horn Oxley Packard Watts (OK) Hostettler Weldon (FL) Weldon (PA) Houghton Parker Hunter Hutchinson Paxon Weller Payne (VA) White Peterson (FL) Hyde Whitfield Inglis Peterson (MN) Wicker Istook Petri Wolf Jackson-Lee Pickett Wyden Young (AK) Young (FL) Johnson (CT) Pombo Johnson (SD) Porter Johnson, Sam Zeliff Poshard **Z**immer

NOT VOTING-4

Andrews Metcalf Collins (MI) Wilson

Jones

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

¶22.21 RECORDED VOTE

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

Proposed section 2257 of title 28, United States Code, in section 111 of H.R. 729, is amended-

(1) in subsection (b)-

(A) by striking ", or fails to make a timely application for court of appeals review following the denial of such a petition by a district court" in paragraph (1);

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2);

(D) by striking the period at the end of paragraph (2) as so designated and inserting

(E) by adding a new paragraph (3) as fol-

(3) a State prisoner files a habeas corpus petition under section 2254 within the time required in section 2258 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review."

(2) in subsection (c), by striking "If one of the conditions in subsection (b) has occurred, no Federal court thereafter" and inserting 'On a second or later habeas corpus petition under section 2254, no Federal court

Proposed section 2260 of title 28, United States Code, in section 111 of H.R. 729, is amended to read as follows:

"§ 2260. Certificate of probable cause

"An appeal may not be taken to the court of appeals from the final order of a district court denying relief in a habeas corpus proceeding that is subject to the provisions of this chapter unless a circuit justice or judge issues a certificate of probable cause. A certificate of probable cause may only issue if the petitioner has made a substantial showing of the denial of a Federal right. The certificate of probable cause must indicate which specific issue or issues satisfy this standard.'

In the table of sections for proposed chapter 154 of title 28, United States Code, in section 111 of H.R. 729, the item relating to proposed section 2260 of title 28, United States Code, is amended by striking ''inapplicable''.

It was decided in the Yeas 241 affirmative Nays 189

¶22.22[Roll No. 108] AYES-241

Hayworth Hefley Allard Cremeans Cubin Archer Armey Cunningham Heineman Bachus Davis Herger Hilleary Baesler Deal Baker (CA) DeLay Hobson Diaz-Balart Baker (LA) Ballenger Hoekstra Dickey Hoke Doolittle Holden Barr Barrett (NE) Horn Hostettler Dornan Bartlett Doyle Barton Dreier Hunter Bass Duncan Hutchinson Bateman Hyde Dunn Inglis Ehrlich Bereuter Bilbray Bilirakis Istook Johnson (CT) Emerson English Bliley Ensign Johnson, Sam Blute Everett Jones Kasich Boehlert Ewing Boehner Fawell Kelly Fields (TX) Bonilla Kim King Bono Flanagan Foley Brewster Kingston Brownback Forbes Klink Bryant (TN) Fowler Klug Knollenberg Bunn Fox Franks (CT) Bunning Kolbe Franks (NJ) LaHood Burton Frelinghuysen Largent Buyer Frisa Latham Callahan Funderburk LaTourette Calvert Gallegly Lazio Leach Ganske Camp Canady Gekas Lewis (CA) Castle Geren Lewis (KY) Gilchrest Lightfoot Chabot Chambliss Gillmor Linder Goodlatte Livingston Chenoweth Christensen Goodling LoBiondo Chrysler Longley Goss Coble Graham Lucas Coburn Martini Green Collins (GA) Greenwood McCollum Combest Gutknecht McCrerv Hall (TX) Condit McDade Cooley Hancock McHugh Cox Hansen McInnis Crane McIntosh Hastert Crapo Hastings (WA) McKeon