

AMENDMENT TO H. RES. 877

OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, add the following:

SEC. 4. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the resolution (H. Res. 479) to amend the Rules of the House of Representatives to provide for enforcement of clause 9 of rule XXI of the Rules of the House of Representatives. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; (2) the amendment printed in section 5, if offered by Representative Boehner of Ohio or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for forty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 5. The amendment referred to in section 4 is as follows:

Strike all after "That" and insert the following:

(1) Clause 9(a) of rule XXI is amended by striking "or" at the end of subparagraph (3), striking the period at the end of subparagraph (4) and inserting "; or", and adding the following at the end:

"(5) a Senate bill held at the desk, an amendment between the Houses, or an amendment considered as adopted pursuant to an order of the House, unless the Majority Leader or his designee has caused a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill and amendments (and the name of any Member, Delegate, or Resident Commissioner who submitted the request for each respective item in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration."

(2) Clause 9(c) of rule XXI is amended to read as follows:

"(c) As disposition of a point of order under paragraph (a), the Chair shall put the question of consideration with respect to the proposition. The question of consideration shall be debatable for 10 minutes by the Member initiating the point of order and for 10 minutes by an opponent, but shall otherwise be decided without intervening motion except one that the House adjourn."

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House

being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. WELCH of Vermont. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of H. Res. 877, if ordered; and suspending the rules and passing H.R. 3793.

The vote was taken by electronic device, and there were—yeas 220, nays 187, not voting 25, as follows:

[Roll No. 1174]

YEAS—220

Abercrombie	Green, Al	Neal (MA)
Ackerman	Green, Gene	Oberstar
Allen	Grijalva	Obey
Altmire	Hall (NY)	Olver
Andrews	Hare	Pallone
Arcuri	Harman	Pascrell
Baca	Herseht Sandlin	Payne
Baird	Higgins	Perlmutter
Baldwin	Hill	Peterson (MN)
Barrow	Hinojosa	Pomeroy
Bean	Hirono	Price (NC)
Becerra	Hodes	Rahall
Berkley	Holden	Rangel
Berman	Holt	Reyes
Berry	Honda	Richardson
Bishop (GA)	Hoyer	Rodriguez
Bishop (NY)	Insee	Ross
Blumenauer	Israel	Rothman
Boren	Jackson (IL)	Roybal-Allard
Boswell	Jackson-Lee	Ruppersberger
Boucher	(TX)	Rush
Boyd (FL)	Jefferson	Ryan (OH)
Boyda (KS)	Johnson (GA)	Salazar
Brady (PA)	Jones (OH)	Sanchez, Linda
Braleigh (IA)	Kagen	T.
Brown, Corrine	Kanjorski	Sanchez, Loretta
Butterfield	Kaptur	Sarbanes
Capps	Kennedy	Schakowsky
Capuano	Kildee	Schiff
Cardoza	Kilpatrick	Schwartz
Carnahan	Kind	Scott (GA)
Carney	Klein (FL)	Scott (VA)
Castor	Kucinich	Serrano
Chandler	Lampson	Sestak
Clarke	Langevin	Shea-Porter
Clay	Lantos	Sherman
Cleaver	Larsen (WA)	Shuler
Clyburn	Larson (CT)	Sires
Cohen	Lee	Skelton
Conyers	Levin	Slaughter
Cooper	Lewis (GA)	Smith (WA)
Costa	Lipinski	Snyder
Costello	Loeb sack	Solis
Courtney	Lofgren, Zoe	Space
Cramer	Lowey	Spratt
Crowley	Lynch	Stark
Cuellar	Mahoney (FL)	Stupak
Cummings	Maloney (NY)	Sutton
Davis (AL)	Markey	Tanner
Davis (CA)	Marshall	Tauscher
Davis, Lincoln	Matheson	Taylor
DeFazio	Matsui	Thompson (MS)
DeGette	McCarthy (NY)	Tierney
Delahunt	McCollum (MN)	Towns
DeLauro	McDermott	Tsongas
Dicks	McGovern	Udall (CO)
Dingell	McIntyre	Udall (NM)
Doggett	McNerney	Van Hollen
Donnelly	McNulty	Velázquez
Doyle	Meek (FL)	Visclosky
Edwards	Meeks (NY)	Walz (MN)
Ellison	Melancon	Wasserman
Ellsworth	Michaud	Schultz
Emanuel	Miller (NC)	Waters
Engel	Miller, George	Watson
Eshoo	Mitchell	Watt
Etheridge	Mollohan	Waxman
Farr	Moore (KS)	Weiner
Fattah	Moore (WI)	Welch (VT)
Filner	Moran (VA)	Wilson (OH)
Frank (MA)	Murphy (CT)	Wu
Giffords	Murphy, Patrick	Wynn
Gillibrand	Murtha	Yarmuth
Gonzalez	Nadler	
Gordon	Napolitano	

NAYS—187

Aderholt	Brady (TX)	Crenshaw
Akin	Brown (SC)	Davis (KY)
Alexander	Brown-Waite,	Davis, David
Bachmann	Ginny	Davis, Tom
Bachus	Buchanan	Deal (GA)
Baker	Burgess	Dent
Barrett (SC)	Burton (IN)	Diaz-Balart, L.
Bartlett (MD)	Buyer	Diaz-Balart, M.
Barton (TX)	Calvert	Doolittle
Biggert	Camp (MI)	Drake
Billbray	Campbell (CA)	Dreier
Bilirakis	Cantor	Duncan
Blackburn	Capito	Ehlers
Blunt	Carter	Emerson
Boehner	Castle	English (PA)
Bonner	Chabot	Everett
Bono	Coble	Fallin
Boozman	Cole (OK)	Feeney
Boustany	Conaway	Ferguson