

Ford	LoBiondo	Roybal-Allard
Fossella	Lofgren	Royce
Frank	Lucas (KY)	Rush
Frelinghuysen	Lucas (OK)	Ryan (WI)
Frost	Luther	Ryun (KS)
Galleghy	Lynch	Sabo
Ganske	Maloney (CT)	Sanchez
Gekas	Maloney (NY)	Sandlin
Gephardt	Manzullo	Sawyer
Gibbons	Mascara	Saxton
Gillmor	Matheson	Schaffer
Gilman	McCarthy (MO)	Schakowsky
Gonzalez	McCarthy (NY)	Schiff
Goode	McCollum	Schrock
Goodlatte	McCrery	Scott
Graham	McGovern	Sensenbrenner
Granger	McHugh	Serrano
Graves	McInnis	Sessions
Green (TX)	McIntyre	Shadegg
Green (WI)	McKeon	Shaw
Greenwood	McKinney	Shays
Grucci	Meehan	Sherman
Gutknecht	Meeks (NY)	Sherwood
Hall (OH)	Menendez	Shimkus
Hall (TX)	Mica	Shows
Hansen	Millender-	Shuster
Harman	McDonald	Simpson
Hart	Miller, Dan	Skeen
Hastings (WA)	Miller, Gary	Skelton
Hayes	Miller, Jeff	Slaughter
Hayworth	Mollohan	Smith (MI)
Hefley	Moore	Smith (NJ)
Herger	Moran (KS)	Smith (TX)
Hill	Morella	Smith (WA)
Hilliard	Murtha	Snyder
Hinojosa	Myrick	Solis
Hobson	Nadler	Souder
Hoefel	Napolitano	Spratt
Hoekstra	Neal	Stark
Holden	Nethercutt	Stearns
Holt	Ney	Stenholm
Hooley	Northup	Strickland
Horn	Norwood	Stump
Hostettler	Nussle	Sullivan
Hoyer	Oberstar	Sununu
Hulshof	Obey	Sweeney
Hunter	Ortiz	Tancredo
Hyde	Osborne	Tanner
Inslee	Ose	Tauscher
Isakson	Otter	Tauzin
Israel	Owens	Taylor (MS)
Issa	Oxley	Taylor (NC)
Istook	Pallone	Terry
Jackson (IL)	Pascrell	Thomas
Jackson-Lee	Pastor	Thompson (CA)
(TX)	Paul	Thompson (MS)
Jenkins	Payne	Thornberry
John	Pelosi	Thune
Johnson (CT)	Pence	Thurman
Johnson (IL)	Peterson (MN)	Tiahrt
Johnson, Sam	Peterson (PA)	Tiberi
Jones (NC)	Petri	Toomey
Kanjorski	Phelps	Turner
Keller	Pickering	Udall (CO)
Kelly	Pitts	Udall (NM)
Kennedy (MN)	Platts	Upton
Kerns	Pombo	Visclosky
Kildee	Pomeroy	Vitter
Kilpatrick	Portman	Walden
Kind (WI)	Price (NC)	Wamp
King (NY)	Pryce (OH)	Watkins (OK)
Kingston	Putnam	Watson (CA)
Kleczka	Quinn	Watt (NC)
Knollenberg	Radanovich	Waxman
LaFalce	Ramstad	Weiner
LaHood	Regula	Weldon (FL)
Lampson	Rehberg	Weldon (PA)
Larsen (WA)	Reyes	Weller
Larson (CT)	Rivers	Whitfield
Latham	Roemer	Wicker
LaTourette	Rogers (KY)	Wilson (NM)
Leach	Rogers (MI)	Wilson (SC)
Levin	Rohrabacher	Wolf
Lewis (CA)	Ros-Lehtinen	Wu
Lewis (KY)	Ross	Wynn
Linder	Rothman	Young (FL)
Lipinski	Roukema	

Towns	Walsh	Wexler
Traficant	Watts (OK)	Young (AK)

□ 1028

Messrs. GILMAN, DAN MILLER of Florida, LARSON of Connecticut, POMEROY, UDALL of New Mexico, QUINN, KILDEE, AKIN, BERRY, BOEHLERT, SHAW and Mrs. CAPPS changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Ms. KAPTUR. Mr. Speaker, the following Members were unavailable for rollcall vote 213 this morning, on the Motion to Adjourn, due to a meeting we were holding with President of Egypt Hosni Mubarak at Blair House relating to the Middle East Peace Process:

The gentleman from Alabama (Mr. CALLAHAN), the gentleman from Arizona (Mr. KOLBE), the gentleman from Florida (Mr. GOSS), the gentleman from California (Mr. LANTOS), myself, the gentlewoman from Ohio (Ms. KAPTUR), the gentleman from West Virginia (Mr. RAHALL), the gentleman from Virginia (Mr. MORAN), and the gentlewoman from New York (Mrs. LOWEY).

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair announces that 1-minute will be postponed until the end of the day.

□ 1030

## PRIVILEGES OF THE HOUSE

Mr. KUCINICH. Mr. Speaker, under rule IX, I rise to a question of the privileges of the House, and I offer a resolution.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

Whereas the President's constitutional duty is to faithfully execute the laws of the United States, and

Whereas, under the Constitution, treaties have the status of "supreme law of the land," equally with other laws, and

Whereas, the President does not have the authority to repeal laws, and

Whereas, the President is not authorized to withdraw unilaterally from treaties in general, and the Anti-Ballistic Missile Treaty in particular, without the consent of Congress, and

Whereas, the President unilaterally withdrew the United States of America from the Anti-Ballistic Missile Treaty of 1972 without seeking or obtaining the consent of either house of Congress; therefore be it

*Resolved*, That the President should respect the Constitutional role of Congress and seek the approval of Congress for the withdrawal

of the United States of America from the Anti-Ballistic Missile Treaty.

POINT OF ORDER

Mr. HYDE. Mr. Speaker, I make a point of order that the resolution does not constitute a question of privilege under rule IX of the rules of the House.

Mr. Speaker, I would like to speak specifically to the parliamentary issue before the House, whether the resolution offered by the gentleman from Ohio constitutes a question of privilege. The starting point for this inquiry is the rules of this institution, and in particular rule IX which governs questions of privilege.

Rule IX states that in order for a resolution to constitute a question of privilege of the House, it must deal with matters "affecting the rights of the House collectively, its safety, dignity and the integrity of its proceedings" or "affecting the rights, reputation and conduct of the Members, Delegate or the Resident Commissioner, individually, in their representative capacity only."

An important clarification of this rule is set forth in section 702 of the House Rules and Manual. That section states that, under applicable House precedents, "rule IX is concerned not with the privileges of the Congress, as a legislative branch, but only with the privileges of the House, as a House."

Mr. Speaker, in this connection I think it is important to emphasize the gentleman's resolution relates to the termination of a treaty. As we all know, the Constitution gives the House of Representatives no role in the approval of treaties. Under article 2, section 2, clause 2 of the Constitution, the Senate alone has the prerogative to review treaties and approve their ratification by the President. Until the Senate grants its approval, a treaty may not be ratified and enter into force.

In the case of the antiballistic missile, or ABM, treaty, which is the subject of this resolution, the Senate approved ratification of the treaty on August 3, 1972, and President Nixon ratified it 2 months later. Once this happened, the ABM treaty became the supreme law of the land pursuant to article 6, clause 2 of the Constitution. All of this happened without any involvement by the House of Representatives, which is as it should be under the Constitution. In addition, the treaty itself under article 15 states that "each party shall, in exercising its national sovereignty, have the right to withdraw from this treaty."

The sponsor of this resolution argues that even though the House of Representatives had no role in bringing the ABM treaty into force, we somehow have an indispensable constitutional role in deciding whether to approve the termination of the treaty. I could understand someone in the Senate making such an argument about the prerogative of the Senate in such matters, but I am mystified how anyone could read such a prerogative into the Constitution for the House of Representatives.

## NOT VOTING—34

Andrews	Engel	Lantos
Army	Gilchrest	Lewis (GA)
Barton	Gordon	Lowe
Blunt	Goss	Meek (FL)
Callahan	Gutierrez	Moran (VA)
Combust	Hilleary	Rahall
Cooksey	Houghton	Reynolds
Cubin	Kaptur	Riley
DeLay	Kirk	
Ehrlich	Kolbe	

More to the point, the Supreme Court has told us that not even the Senate has such a prerogative. In 1979 in the case of *Goldwater v. Carter*, the Supreme Court rejected a claim by former Senator Goldwater that President Carter had acted unconstitutionally by abrogating our mutual defense pact with Taiwan without first obtaining the Senate's permission to do so. I happen to share some of Senator Goldwater's reservations about President Carter's action with regard to our commitments to Taiwan. But disagreeing with the substance of the action is very different from claiming that the action itself was unconstitutional. That is in effect what the Supreme Court told Senator Goldwater when it threw his case out of court.

I would urge the sponsor of this resolution to take that lesson to heart. He certainly has the right to disagree with President Bush's decision, and I would welcome a debate on any properly framed legislation he might want to offer addressing that decision, or questions of missile defense more generally. But it ill serves this institution, to say nothing of the Constitution, to accuse the President of violating the Constitution when Supreme Court precedent and 215 years of practice make clear that the President was fully within his rights to act as he did.

Out of respect for this institution and our Constitution, I would urge the gentleman to withdraw his resolution. Failing that, I would urge the Chair to rule the resolution out of order, and I would urge my colleagues to sustain that ruling if appealed.

The SPEAKER pro tempore. Does the gentleman from Ohio wish to be heard?

Mr. KUCINICH. Mr. Speaker, I wish to be heard on the point of order.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. KUCINICH. Mr. Speaker, I would like to begin by thanking my good friend from Illinois and letting him know that this is not about the ABM treaty. This is really about the role that this institution has in a democracy. Mr. Speaker, almost 226 years ago, the Founders of this great Nation cast off the yoke of imperialism and declared their independence from the tyranny of King George III. Soon after, these United States weaved from the sturdy threads of justice and democracy a Constitution to serve as the ultimate guardian of rule by the people and for the people. Over two centuries later, these documents still comprise the fabric of our Republic.

Unfortunately, Mr. Speaker, this fabric is today being steadily frayed by an executive that does not respect the constitutionally protected role of this Congress in the governance of our Nation. The President insists that he has the unilateral authority to terminate treaties; but article 1, section 1 of our Constitution clearly states, quote, "all legislative powers shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives."

The Constitution empowers Congress to establish laws and charges the President with carrying out these laws. Nowhere in this Constitution does it give the President the authority to repeal laws. Only Congress has the authority to undo its legislative work. Yet this is exactly what the President has done, unilaterally repeal a law, the ABM treaty, that was constitutionally enacted by joint action of the legislature and executive, Senate ratification and Presidential signature.

The Constitution sets up the legislature and the executive as coequal and separate branches of government. Allowing the President to execute only those laws he agrees with obliterates our carefully constructed system of checks and balances. If the President acts both as the maker and the executor of laws, why have a Congress at all? Such action was so offensive to liberty that Thomas Jefferson cited it in the Declaration as a grievance warranting disaffiliation with Britain. Thomas Jefferson chafed at the actions of King George and others, quote, "suspending our legislatures and declaring themselves vested with power to legislate for us in all cases whatsoever."

Mr. Speaker, your decision today to grant privilege to this motion should take into consideration the grave challenge to the Constitution the President has made in his unilateral withdrawal from a treaty; but your decision, Mr. Speaker, will and must turn on House precedent. My motion to raise a question as to the privileges of this House under rule IX falls under section 702 of the rule and, Mr. Speaker, section 702 of this rule, which I have highlighted here in green in the Jefferson manual, and I would ask my colleagues to look at this because these are the rules that we play by. Section 702 of this rule states, "The constitutional prerogatives of the House also include its function with respect to treaties." I am going to read that again. The constitutional prerogatives of the House, of the House, also include its function with respect to treaties.

Hind's notations in this book contains 36 precedents. Thirty-five of them do not have any bearing on this issue today, but one of them does, Mr. Speaker, and I believe that one establishes the precedent for my motion today. I refer specifically to notation 1505. On March 2, 1835, the House agreed to the following resolution which read in part, "Resolved, that in the opinion of this House, the treaty with France of the 4th of July, 1831, should be maintained."

Why did the House pass a resolution stating that a treaty should be maintained? The treaty with France was done to settle claims by the U.S. against France for the confiscation of American vessels and cargo. At the time France confiscated American property, our two countries were hostile towards each other. The treaty of 1831, then, was an act of diplomacy intended to prevent the resumption of

hostilities through the diplomatic resolution of claims. President Andrew Jackson was unhappy with French compliance with the treaty, which in his opinion was too slow. President Jackson, according to "A Diplomatic History of the American People" by Thomas Bailey, was thoroughly aroused. "The French," he was reported to have shouted, "won't pay unless they're made to." He declared that Congress should authorize the Federal Government to seize French property.

According to another source, "A Diplomatic History of the United States" by Samuel Flagg Bemis, "Further negotiation," Jackson declared, "was out of the question." In other words, Mr. Speaker, President Jackson wanted to withdraw from the treaty with France. The House, wanting to support the President, gave the President the authority to make contingency preparations to meet any emergency growing out of relations with France. But, and this is a critical point, Mr. Speaker, the House did not authorize the President to withdraw from the treaty. Rather, the House asserted the opposite, that the treaty should be maintained. Congress insisted that the President not rule out of question further negotiation with France as his rhetoric and actions suggested he wanted to.

□ 1045

Instead, Congress in effect told him he had to continue negotiating with France.

Now, I ask my colleagues today, who here has the courage, like our vaunted predecessors in this hallowed body, to assert Congressional prerogative? Who here will challenge a power grab by the chief executive?

The world's geopolitical trash bin is already littered with treaties and agreements unilaterally discarded by the United States under this administration. Congressional requests for testimony and information are routinely ignored. Our insistence on our oversight role is scoffed at. We must assert our role in this treaty withdrawal in order to prevent further erosion of constitutional authority.

Mr. Speaker, in 1835 the House of Representatives asserted its prerogative with respect to treaties, and that law is why this reference is in this manual. It did not permit the President to unilaterally withdraw from the treaty with France as he clearly intended to do so. Instead, through action in this House, Congress affirmed that the treaty with France be maintained. This episode, Mr. Speaker, set a precedent for this House that bears directly on this resolution today.

My resolution states, "Resolved, that the President should respect the constitutional role of Congress and seek the approval of Congress for the withdrawal of the United States of America from the Antibalistic Missile Treaty." In other words, before the President

unilaterally withdraws the United States from a treaty, he should seek approval of the Congress, as the Congress of 1835 asserted.

Mr. Speaker, it is my belief that the privileges of this House as set forth by a precedent in 1835 have been violated by the President. My motion claims that a privilege of this House has been violated, and it is a privilege that sits on 167 years of precedent.

Mr. Speaker, indeed, in more than two centuries, only a handful of treaties have been unilaterally terminated by the President. In the vast majority of those cases, one or both of the Houses of Congress consented.

My motion, Mr. Speaker, deserves to be heard today. Supreme Court Justice Frankfurter ruled 50 years ago, "The accretion of dangerous power does not come in a day. It does come, however, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority."

Mr. Speaker, at issue today are not the specifics of the ABM treaty, the merits of missile defense or any other policy considerations. At issue is whether this House of Representatives, this Congress, will stand up to an imperial President.

"The history of the present king of Great Britain," wrote Thomas Jefferson in this declaration, "is a history of repeated injuries and usurpations."

How many injuries and usurpations must this Congress endure before it fights back? How much longer will we allow this executive to trample on our Constitution? I urge the Speaker to allow this motion to be heard, and I urge my colleagues to defend this document, our Constitution of the United States, which establishes the centrality of the role of this Congress.

The SPEAKER pro tempore (Mr. LAHOOD). Does the gentleman from Illinois (Mr. HYDE) wish to be heard further on the point of order?

Mr. HYDE. I would like to be heard further on my point of order.

Mr. Speaker, if the gentleman from Ohio, who is my good friend and someone for whom I have the utmost respect, but if his theory has any substance, then the Mutual Defense Treaty with Taiwan which President Carter abrogated unilaterally must have undergone resurrection. It was improperly terminated then, and how many treaties over the years have been terminated without the involvement of the House that have now experienced Easter?

Now, it is a matter of fact that the treaty itself provided a means for revocation and the Senate ratified the treaty in all of its verbiage in all the four corners of the document, and article 15, section 2, as ratified by the United States Senate pursuant to the Constitution, says, "Each party shall in exercising its national sovereignty have the right to withdraw from this treaty," et cetera, et cetera.

The President was required to give 6 months notice, he did give 6 months

notice, and June 13 of this year equals the 6-month period where the revocation becomes final.

So the Congress was involved in the treaty ratification pursuant to the Constitution, which gives the House no role in ratifying treaties. The rule the gentleman referred to talks about the House's role in implementing treaties through legislation. Yes, we have that role, we always have. But that is a far cry from saying we must approve a termination of a treaty which, by its terms, provided a process for revocation by the President.

Mr. KUCINICH. Mr. Speaker, may I respond.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. KUCINICH. Mr. Speaker, my good friend from Illinois would be interested to hear the words of a constitutional law scholar who wrote in the New York Times on August 29, 2001, and this is from Professor Bruce Ackerman, he said, "Presidents can't terminate statutes they don't like. They must persuade both houses of Congress to join in a repeal. Should the termination of treaties operate any differently? The question first came up in 1798. As war intensified in Europe, America found itself in an entangling alliance with the French under treaties made during our own revolution. But President John Adams did not terminate these treaties unilaterally. He signed an act of Congress to declare the treaties heretofore concluded with France no longer obligatory on the United States. The next case was in 1846. As the country struggled to define its northern boundary with Canada, President James Polk specifically asked Congress for authority to withdraw from the Oregon Territory Treaty with Great Britain and Congress obliged with a joint resolution. Cooperation of the legislative and executive branches remained the norm, despite some exceptions, during the next 125 years."

That is from constitutional scholar Bruce Ackerman.

Furthermore, citing my good friend from Illinois who spoke of Goldwater versus Carter, another constitutional scholar, Peter Weiss, said in a work called *The President, the Constitution and the ABM Treaty*, "It is generally believed that Congress lost this case, Goldwater versus Carter, precluding further challenges to unilateral presidential termination. But as a vast number of commentators have pointed out and as the following analysis will show, this is a vast oversimplification of the extraordinary complex set of judicial rulings. In fact, Congress' role in treaty termination is very much alive. As Chief Judge Wright of the D.C. Circuit, quoted with approval by Justice Rehnquist of the Supreme Court, said in the Goldwater case, Congress has a variety of powerful tools for influencing foreign policy decisions that bear on treaty matters. In the first stage of the constitutional debate be-

tween 24 members of Congress and President Carter, Judge Oliver Gasch of the District Court of the District of Columbia District found that the plaintiffs had standing to invoke the aid of his court and their suit was not barred by the political question doctrine. In approaching the substantive question of treaty termination authority, on which the Constitution is silent, Judge Gasch first reviewed the history of two centuries of treaty termination. He found that, while there have been some apparently unchallenged instances of unilateral termination by the President, most of these involved 'commercial situations where the need for the treaty or the efficacy of it was no longer apparent.'"

More significantly, Mr. Speaker, he found out that "The great majority of the historical precedents involved some form of mutual action whereby the President's notice of termination received the affirmative approval of the Senate or of the entire Congress."

I want to conclude by stating this. He says, "The President invoked his foreign affairs power in support of his position," citing the famous, or infamous, depending on one's views, dictum in *Curtiss-Wright*, that he is "the sole organ of the Federal Government in the field of international relations."

But that case involved an executive agreement, not a treaty, and Judge Gasch dismissed the argument in the following terms: "While the President may be the sole organ of communication with foreign government, he is clearly not the sole maker of foreign policy. In short, the conduct of foreign relations is not a plenary executive power."

Mr. HYDE. Mr. Speaker, may I be heard further?

The SPEAKER pro tempore. The gentleman is recognized.

Mr. HYDE. Mr. Speaker, the Constitution, section 2, says he shall have the power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

I have looked through this document. It does not say a single blessed thing about revocation or termination of treaties. It talks about the making of them, and it is the Senate who advises and consents, with two-thirds in support.

Now, I would like to ask my dear friend if there is any merit or substance to his position, how many votes of the House will it take to ratify a termination and where do you find that?

The SPEAKER pro tempore. The Chair will hear the gentleman from Illinois, but Members should not be yielding back and forth.

Do any other Members wish to be heard?

Mr. KUCINICH. Mr. Speaker, I would like to answer the gentleman from Illinois.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. KUCINICH. Mr. Speaker, the gentleman from Illinois speaks to the Senate's ability to make treaties.

Mr. HYDE. Ratify.

Mr. KUCINICH. Ratify treaties. But it does not speak to the President's authority to break treaties which he has no authority to do, as the treaty is a law.

Mr. HYDE. Mr. Speaker, if I may be heard further, but the treaty itself, Mr. Speaker, provides a mechanism for terminating the treaty, and that treaty was ratified by a two-thirds vote of the Senate, which involved the House constitutionally. So, I just do not see what the gentleman's complaint is.

The SPEAKER pro tempore. The Chair would remind Members that they are to make their points to the Chair.

Mr. KUCINICH. Mr. Speaker, my good friend, the gentleman from Michigan (Mr. KILDEE), points out that in article VI it says, "This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made," and all treaties made, "or which shall be made under the authority of the United States, shall be the supreme law of the land."

It is a law and the President cannot unilaterally break a law. It is not his right under the Constitution.

The SPEAKER pro tempore. Does the gentleman from Illinois wish to be recognized?

Mr. KIRK. Mr. Speaker, I seek to be recognized on the point of order.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. KIRK. Mr. Speaker, I rise to support the gentleman from Illinois (Chairman HYDE) in his objection on this motion.

The gentleman from Ohio refers to House rule 9 preserving the integrity of the House, but he does not refer to article II of the Constitution, which clearly places the power to ratify treaties not in this body, but in the Senate.

□ 1100

He does not refer to the text of the ABM treaty, which reads as follows, in article 15, part 1: "Each party shall, exercising its national sovereignty, have the right to withdraw from this treaty if it decides that extraordinary events related to the subject matter of the treaty have jeopardized its supreme interest. It shall give notice of its decision to the other party 6 months prior to the withdrawal from the treaty," which the President has done.

This power is given directly to the President to respond to increased threats from missiles by withdrawing from the outdated 1970s document.

This motion by the gentleman from Ohio (Mr. KUCINICH) ignores settled Supreme Court decisions regarding the abrogation of the treaty with Taiwan. This motion does not refer to the SHAHAB III Iranian missile program, the Iraqi Scud program, the North Korea No Dong missile program, all pointed at the U.S. Armed Forces. It makes no reference to the 39 Scud missiles that fell on Israel and the growing missile threat to our Israeli allies.

Under the terms of the Constitution, giving this power to the Senate, not to

the House, in a treaty which specifically allows the President to withdraw from it, and relevant Supreme Court decisions regarding the abrogation of the treaty, and in light of the growing missile threat from rogue nations to the United States and our allies, the President has duly executed this authority and the House has no role.

In sum, Mr. Speaker, this is a treaty, not a law. A treaty should be regarded as a statute, especially with regard to implementing legislation requiring House action. That is not present here, and the motion should be ruled out of order.

The SPEAKER pro tempore (Mr. LAHOOD). Does any other Member wish to be heard?

Mr. NADLER. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, this is a very, very important debate. I want to commend the gentleman from Ohio (Mr. KUCINICH) for bringing this resolution before the House.

I would direct my remarks particularly to my friend, the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on International Relations.

There are two texts that are key here. One is the provision in article 6 of the Constitution that the gentleman from Ohio read a few minutes ago: "The Constitution and the laws of the United States, which should be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land."

A treaty is a law, in exactly the same sense as any other law made pursuant to the Constitution of the United States. It is treated exactly the same. That is the first point.

The gentleman from Illinois read from the ABM treaty, and he read a sentence that says, and I do not have the exact words, and the gentleman from Illinois may wish to give me the exact words, but the parties shall have the authority to withdraw from the treaty. I think that is what the gentleman read, that the "parties" shall have the authority to withdraw from the treaty.

But who are the parties? The party is the United States, not the President. Indeed, the President, who signed it, Richard Nixon, I think, would say that only Richard Nixon has the authority to withdraw from the treaty, or Richard Nixon's successors? No, the parties to the treaty are a country. The United States signs the treaty. Someone may sign on behalf of the United States, but the United States is the party to a treaty; so the United States may, according to its constitutional processes, whatever they may be, and that is what we are discussing here, withdraw from a treaty.

So that language in the treaty is not particularized to the President. The question is: How does the United

States withdraw from a treaty? I submit this is a very important debate and should not be ruled out of order. It may be the resolution, it may be that we need further study of this.

Maybe one could make a case, I do not think so, but maybe one could make a case that rather than a vote of both Houses to withdraw from the treaty, we should need a two-thirds vote of the Senate, because that is how we got into it. I would not think so, but it may be.

But the fact is, it is the law. The Constitution in article 6 says that the treaty which shall be made under the authority of the United States shall be the supreme law of the land. We cannot permit, in a democratic society, the President by himself or any other person by himself to repeal a law. That is not our system.

It is, frankly, puzzling to me, it has been puzzling for a long time, and I think this opens a number of questions, that we have various trade treaties which do not get two-thirds votes in the Senate and require votes in the House and Senate. I do not understand why they are not treaties. There are provisions in the Constitution that we seem to have conveniently forgotten about.

I think that this provision is very clear: a treaty is a law, exactly the same as any other law. It can be repealed in the same way, and the language of the gentleman from Illinois, that the distinguished chairman cited in the treaty itself, simply says the parties may withdraw from the treaty; but the party in this case is the United States.

The parties it refers to are the United States and Russia and China; China did not sign it, but France, and whoever else signed the treaty. A party to a treaty has always been held in law to be the country, not the individual who signed on behalf of the country.

The SPEAKER pro tempore. The gentleman recognizes the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, the gentleman reminds us that a treaty is the supreme law of the land, and then says that the President cannot abrogate the law unilaterally without some legislative action.

I suggest that the President has followed the law to the letter. The law is in the treaty. The treaty itself provides a mechanism for withdrawing from the treaty: "Each party shall, in exercising its national sovereignty. . . ." How do we exercise our national sovereignty? The gentleman would suggest a plebiscite throughout the country.

The very words of the treaty, which are the supreme law of the land, have been observed by the President. So that argument is a nullity.

Secondly, do all Members, and I am asking this rhetorically, do all Members concede the Taiwan defense treaty as still valid and that President Carter's termination of it was illegal, and of no force and effect? They have

to hold that position if they hold the position they are arguing today.

I submit this is not a privilege of the House.

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me acknowledge the distinguished gentleman from Illinois (Mr. HYDE) for his recounting of the past history with the Taiwan agreement. I might not be quoting specifically from the Constitution, but past errors do not suffice for allowing us to continue in that path.

What we have not done, Mr. Speaker, is to focus on the language that the distinguished gentleman from Ohio (Mr. KUCINICH) has offered. The language specifically said: "Resolved, that the President should respect the constitutional role of Congress and seek the approval of Congress for the withdrawal of the United States of America from the antiballistic missile treaty." Nowhere does it distinguish between House and Senate. The gentleman is only asking that the President not unilaterally withdraw from the ABM treaty.

If we look to the Constitution, we will find that there are three articles that begin our Constitution: article I, the legislative branch; article II, the executive branch; and article 3, the judicial branch. None of those branches are elevated higher than the next branch. These are three equal branches of government.

What we argue today is section 9 does allow a privileged resolution, if I might use the quote from rule IX of the privileged motion, ". . . must deal with the rights of the House and the dignity of the House."

The House is a reflection of the American people. The right of the House is to be part of a Congress that, in joint collaboration with the executive, then makes a determination as to whether the people of the United States withdraw from the ABM treaty.

The resolution does not ask for the House to act. It simply says it seeks the approval of Congress. We are asking that the President seek the approval of Congress; that before he moves forward with the final decision on the ABM treaty, he does not make a unilateral decision.

I believe, Mr. Speaker, this comes within the privileged motion. It comes within the rights of the House, the House being a reflection of the American people. I believe that it is clear that between the three branches of government, there is no superior branch.

As we know, those who escaped persecution and came to found the 13 Colonies in the United States of America decided to try to escape despotism and the oppression of a single ruler. Specifically, the Founding Fathers established three equal branches of government.

I believe we are abdicating our responsibilities as a House of Representa-

tives, and therefore, the Congress of the United States, by suggesting that a President can unilaterally withdraw from a treaty as important as the Antiballistic Missile Treaty.

I would argue that rule IX does stand and does comply, or at least the motion of the gentleman from Ohio (Mr. KUCINICH) does comply with rule IX. It is a privileged motion. It protects the rights of the House. It should be adhered to, and we should be allowed to debate this very important statement and resolution on behalf of the dignity of the House, on behalf of the rights of the House, on behalf of the rights of the people of the United States of America and in reflection of the Constitution of the United States that indicates article 1, 2, and 3 are equal; and that, if by some error, we allow an erroneous action to take place under President Carter, that we should not continue such and we should begin to turn the tide by suggesting that the Congress has a viable role in ensuring that a unilateral decision as important as the ABM treaty should not be made by a single branch of the government, and that is the executive.

The SPEAKER pro tempore. Are there other Members who wish to be heard?

The Chair intends to recognize the gentleman from Pennsylvania (Mr. WELDON), the gentlewoman from California (Ms. LEE), and the gentleman from Ohio (Mr. KUCINICH), and the gentleman from Illinois (Mr. HYDE). That should conclude debate on the point of order and the Chair will be prepared to rule.

The Chair recognizes the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, I support the position of the distinguished chairman. He is absolutely correct.

I would be happy to debate the merits of the President's decision in this body any day under an open process. But the gentlewoman from Texas just said that this House has the prerogative and that no one of our three branches is, in fact, greater than the other. I agree with her.

In fact, let us look at our constitutional history. When a Senator, a Member of the other body, challenged the actions of President Carter in his abrogation of the treaty with Taiwan, a Senator, who was part of the ratification of that treaty, went to the Supreme Court.

Now, the Supreme Court is the third branch of our government. As the gentlewoman said, none of the three branches are above the other. The Supreme Court would not even hear the case. The Supreme Court said that there is no standing of the Senator.

The Supreme Court is that third branch of our government that interprets the Constitution, not some scholar from Harvard, not some independence analyst. The Supreme Court issued an order saying to a Member of the other body: You have no standing.

You have no standing to bring an action against the President, even though he in fact abrogated a treaty, which was allowed within the terms of the treaty.

So this debate has no basis. It has no substance. In fact, my colleagues on the other side have not even answered the question if they would in fact agree with what the gentleman from Illinois (Mr. HYDE) said, that, therefore, the treaty of Taiwan is still in place, because this issue is about the substance of the ABM treaty.

Let us have that debate. The gentleman can offer a bill, and we will debate it on the floor of the House as a sense of the Congress. But there is no standing, as determined by the Supreme Court.

Mr. Speaker, I include for the RECORD this brief one-paragraph statement by the Supreme Court in their opinion that the Senator had no standing in objecting to what President Carter did.

The SPEAKER pro tempore. Members may insert materials in the RECORD following disposition of the point of order.

The SPEAKER pro tempore. The gentlewoman from California (Ms. LEE) is recognized briefly.

Ms. LEE. Mr. Speaker, I want to commend the gentleman from Ohio for this very important debate with regard to our constitutional duties and our responsibilities.

Of course, I rise in support of the question of the privileged resolution, for this resolution. The rules actually state that a motion may be considered as a privilege when the integrity of the House is in question, so this integrity, I believe, is at stake when the President seeks to unilaterally revoke the laws of this Nation by single-handedly withdrawing from the ABM treaty.

The Constitution, and we have heard the debate this morning, it does not give the President the authority to repeal laws. That is a congressional function.

Article 1, section 1 of the Constitution says: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." Foreign policy is not the exclusive domain of the executive. Congress has the right and the duty to fulfill its share of the balance of powers. That is what this is about.

I strongly support this privileged resolution to uphold the ABM treaty to protect American citizens and to uphold congressional authority. This is central to our democracy. The privileges of the House also reinforce these principles. Rule IX states that the constitutional prerogatives of the House also include its function with respect to treaties.

The treaty with France of July 4, 1835, and the House resolution stating that the treaty should be maintained is also precedent for today's motion. So we must stand up for these rights and

for the public interest. That is what this debate is about.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. KUCINICH) is recognized briefly.

Mr. KUCINICH. Mr. Speaker, I want to thank the Speaker for his indulgence in this extremely important debate.

If my colleagues' arguments are correct, then the House of Representatives in 1835 acted unconstitutionally when it passed the resolution stating that the Treaty of France "should be maintained." But, Mr. Speaker, in fact, no court has ever found that, in 167 years, that the House acted unconstitutionally in 1835. It is, therefore, not for opponents to say that the House has no role in treaty termination today.

My motion is therefore both constitutional, Mr. Speaker, and within the rules of the House. A party to a treaty is the country, not a specific President. In a democracy, a President is not sovereign. In America, the people are sovereign.

The SPEAKER pro tempore. The Chair is prepared to rule on whether the resolution offered by the gentleman from Ohio (Mr. KUCINICH) presents a question of the privileges of the House under rule IX.

The resolution offered by the gentleman from Ohio asserts a congressional prerogative over withdrawal from treaties by the United States and resolves that the President should not withdraw from a certain treaty absent the approval of the Congress.

The gentleman from Ohio argues that the Constitution has delegated to the Congress specific responsibility with regard to treaties. As argued by the gentleman from Illinois (Mr. HYDE) and as stated in section 702 of the House Rules and Manual, however, rule IX does not support a resolution as a question of privilege when the constitutional prerogatives of the Congress, as a legislative branch, are involved. Rather, it is properly involved only with regard to the privileges of the House, as a House.

□ 1115

The Chair was presented with an analogous situation on May 6, 1921. On that occasion, Speaker Gillett held that a resolution presenting a legislative proposition as a question of constitutional privilege under the 14th Amendment did not qualify as a question of the privileges of the House.

Speaker Gillett's rationale bears repeating: "The whole question of a constitutional privilege being superior to the rules of the House is a subject which the Chair has for many years considered and thought unreasonable. It seems to the Chair that where the Constitution orders the House to do a thing, the Constitution still gives the House the right to make its own rules and do it at such time and in such manner as it may choose. And it is a strained construction, it seems to the Chair, to say that because the Con-

stitution gives a mandate that a thing shall be done, it therefore follows that any Member can insist that it shall be brought up at some particular time and in the particular way which he chooses."

Before Speaker Gillett's ruling in 1921, Speaker Reed in 1898 had also ruled that the ordinary rights and functions of the House under the Constitution are exercised in accordance with the rules, without precedence as matters of privilege.

The Chair has evaluated similar resolutions in more recent years and determined in each case that a question of privilege was not presented. On February 7, 1995, a resolution invoking several Constitutionally-derived Congressional powers and prerogatives and resolving that an investigation be undertaken into Presidential actions allegedly infringing on such powers was offered as a question of privilege. In ruling that the resolution did not present a question of privilege, Speaker Gingrich stated: "Although the resolution may address the aspect of the legislative power under the Constitution, it does not involve a constitutional privilege of the House. Were the Chair to rule otherwise, then any alleged infringement by the executive branch, even, for example, through the regulatory process, on a legislative power conferred on Congress by the Constitution would give rise to a question of the privileges of the House."

On November 4, 1999, the Chair again ruled that a resolution alleging a certain imbalance in trade, invoking the Constitutionally-derived Congressional power to regulate interstate and foreign commerce, and resolving that the President act to alleviate the imbalance did not present a question of the privileges of the House.

Thus the Chair will continue today to adhere to the same principles enunciated by Speaker Gillett. The Chair holds that an assertion that the Constitution has reserved for Congress certain power with respect to treaties does not render a measure purporting to address the executive branch's exercise of such power a question of the privileges of the House.

The gentleman from Ohio (Mr. KUCINICH) has cited page 400 of the House Rules and Manual in support of his argument that resolutions invoking constitutional prerogatives with respect to treaties involve questions of the privileges of the House. The citations listed on page 400 of the Manual are from the second volume of Hind's Precedents at sections 1502 through 1537. The Chair would note that these examples, including section 1505, are merely instances where the House voted on or debated its proper or desired role in certain matters arising under the Constitution with respect to treaties. They are not occasions where resolutions on such topics were presented as questions of privilege. In particular, the example recorded in section 1505 involved a joint resolution re-

ported by the Committee on Foreign Affairs and not considered as privileged on the floor.

The Chair would also note that the relief sought in the resolution offered by the gentleman from Ohio (Mr. KUCINICH) is in the nature of a desired policy objective. It does not seek to vindicate "the rights of the House collectively, its safety, dignity, or the integrity of the proceedings."

Accordingly, the Chair rules that the resolution offered by the gentleman from Ohio (Mr. KUCINICH) does not constitute a question of privileges of the House under rule IX, and may not be considered at this time.

Mr. KUCINICH. Mr. Speaker, I respectfully appeal the ruling of the Chair.

The SPEAKER pro tempore (Mr. LAHOOD). The question is: Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. HYDE

Mr. HYDE. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Illinois (Mr. HYDE).

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

RECORDED VOTE

Mr. KUCINICH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 254, noes 169, not voting 11, as follows:

[Roll No. 214]

AYES—254

Aderholt	Costello	Granger
Akin	Cox	Graves
Armey	Cramer	Green (WI)
Bachus	Crane	Grucci
Baird	Crenshaw	Gutknecht
Baker	Cubin	Hall (TX)
Ballenger	Culberson	Hansen
Barr	Cunningham	Hart
Bartlett	Davis (FL)	Hastings (WA)
Barton	Davis, Jo Ann	Hayes
Bass	Davis, Tom	Hayworth
Bereuter	Deal	Hefley
Berman	DeLay	Herger
Biggert	DeMint	Hilleary
Bilirakis	Diaz-Balart	Hobson
Bishop	Doolittle	Hoekstra
Blumenauer	Dreier	Holden
Blunt	Duncan	Horn
Boehlert	Dunn	Hostettler
Boehner	Edwards	Hulshof
Bonilla	Ehlers	Hunter
Bono	Ehrlich	Hyde
Boozman	Emerson	Isakson
Brady (TX)	English	Issa
Brown (SC)	Everett	Istook
Bryant	Ferguson	Jenkins
Burr	Flake	John
Burton	Fletcher	Johnson (CT)
Buyer	Foley	Johnson (IL)
Callahan	Forbes	Johnson, Sam
Calvert	Fossella	Jones (NC)
Camp	Frank	Kanjorski
Cannon	Frelinghuysen	Keller
Cantor	Galleghy	Kelly
Capito	Ganske	Kennedy (MN)
Capuano	Gekas	Kerns
Carson (OK)	Gibbons	King (NY)
Castle	Gillmor	Kirk
Chabot	Gilman	Knollenberg
Chambliss	Goode	Kolbe
Coble	Goodlatte	LaHood
Collins	Goss	Latham
Cooksey	Graham	LaTourette

Leach  
Lewis (CA)  
Lewis (KY)  
Linder  
LoBiondo  
Lucas (KY)  
Lucas (OK)  
Manzullo  
Matheson  
McCarthy (NY)  
McCrery  
McHugh  
McInnis  
McIntyre  
McKeon  
Meehan  
Menendez  
Mica  
Miller, Dan  
Miller, Gary  
Miller, Jeff  
Mollohan  
Moore  
Moran (KS)  
Moran (VA)  
Morella  
Murtha  
Myrick  
Nethercutt  
Ney  
Northup  
Norwood  
Nussle  
Obey  
Ortiz  
Osborne  
Ose  
Otter  
Oxley  
Paul  
Pence  
Peterson (PA)

## NOES—169

Abercrombie  
Ackerman  
Allen  
Andrews  
Baca  
Baldacci  
Baldwin  
Barcia  
Barrett  
Becerra  
Bentsen  
Berkley  
Berry  
Blagojevich  
Bonior  
Borski  
Boswell  
Boyd  
Brady (PA)  
Brown (FL)  
Brown (OH)  
Capps  
Cardin  
Carson (IN)  
Clay  
Clayton  
Clement  
Clyburn  
Condit  
Conyers  
Coyne  
Crowley  
Cummings  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Deutsch  
Dicks  
Dingell  
Doggett  
Dooley  
Doyle  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Filner  
Ford  
Frost  
Gephardt

Gonzalez  
Gordon  
Green (TX)  
Gutierrez  
Hall (OH)  
Harman  
Hastings (FL)  
Hill  
Hilliard  
Hinchee  
Hinojosa  
Hoeffel  
Holt  
Honda  
Hoolley  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
Johnson, E. B.  
Jones (OH)  
Kaptur  
Kennedy (RI)  
Kildee  
Kilpatrick  
Kind (WI)  
Klecicka  
Kucinich  
LaFalce  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Lee  
Levin  
Lipinski  
Lofgren  
Lowey  
Luther  
Lynch  
Maloney (CT)  
Maloney (NY)  
Markey  
Mascara  
Matsui  
McCarthy (MO)  
McCollum  
McDermott  
McGovern  
McKinney  
McNulty

Smith (NJ)  
Smith (TX)  
Snyder  
Souder  
Spratt  
Stearns  
Stenholm  
Stump  
Sullivan  
Sununu  
Sweeney  
Tancredo  
Tauzin  
Taylor (NC)  
Terry  
Thomas  
Thornberry  
Thune  
Tiahrt  
Tiberi  
Toomey  
Turner  
Upton  
Vitter  
Walden  
Walsh  
Wamp  
Watkins (OK)  
Watt (NC)  
Watts (OK)  
Weiner  
Weldon (FL)  
Weldon (PA)  
Weller  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Young (AK)  
Young (FL)

Meek (FL)  
Meeks (NY)  
Millender-  
McDonald  
Miller, George  
Mink  
Nadler  
Napolitano  
Neal  
Oberstar  
Olver  
Owens  
Pallone  
Pascrell  
Pastor  
Payne  
Pelosi  
Peterson (MN)  
Phelps  
Pomeroy  
Price (NC)  
Rangel  
Rivers  
Rodriguez  
Ross  
Rothman  
Roybal-Allard  
Rush  
Sabo  
Sanchez  
Sanders  
Sawyer  
Schakowsky  
Scott  
Sherman  
Shows  
Skelton  
Slaughter  
Solis  
Stark  
Strickland  
Stupak  
Tanner  
Tauscher  
Taylor (MS)  
Thompson (CA)  
Thompson (MS)  
Thurman  
Tierney  
Towns  
Udall (CO)  
Udall (NM)  
Velazquez  
Visclosky  
Waters

Watson (CA)  
Waxman  
Boucher  
Combest  
Gilchrest  
Greenwood

Wexler  
Woolsey  
Houghton  
Kingston  
Lewis (GA)  
Riley

Wu  
Wynn  
Serrano  
Smith (WA)  
Traficant

## NOT VOTING—11

□ 1143

Mr. WYNN and Ms. SCHAKOWSKY changed their vote from “aye” to “no.” Messrs. SANDLIN, COSTELLO, OTTER, BLUMENAUER, BAIRD and MOORE changed their vote from “no” to “aye.”

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WELDON of Pennsylvania. Mr. Speaker, I include for the RECORD this brief one-paragraph statement by the Supreme Court in their opinion that the Senator had no standing in objecting to what President Carter did.

[GOLDWATER ET AL. V. CARTER, PRESIDENT OF THE UNITED STATES, ET AL.]

[444 U.S. 996; 100 S. Ct. 533; 62 L. Ed. 2d 428; 1979 U.S. Lexis 4144]

[\*\*533] Certiorari granted, judgment vacated, and case remanded with directions to dismiss the complaint. Mr. Justice Marshall concurs in the result. Mr. Justice Powell concurs in the judgment [\*997] and filed a statement. Mr. Justice Rehnquist concurs in the judgment and filed a statement in which The Chief Justice, Mr. Justice Stewart, and Mr. Justice Stevens join. Mr. Justice White and Mr. Justice Blackmun join in the grant of the petition for writ of certiorari but would set the case for argument and give it plenary consideration. Mr. Justice Blackmun filed a statement in which Mr. Justice White joins. Mr. Justice Brennan would grant the petition for writ of certiorari and affirm the judgment of the Court of Appeals and filed a statement. Reported below.—U.S. App. D.C. , F.2d .

□ 1145

## GENERAL LEAVE

Mr. KUCINICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks with respect to the debate on the point of order just concluded.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, those remarks will appear after the proceedings in the RECORD.

There was no objection.

## PERMANENT DEATH TAX REPEAL ACT OF 2002

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 435 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 435

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2143) to make the repeal of the estate tax permanent. The bill

shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Rangel of New York or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS); pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 435 is a modified closed rule providing for the consideration of H.R. 2143, the Permanent Death Tax Repeal Act of 2001. The rule provides 1 hour of debate to be equally divided between the chairman and ranking minority member of the Committee on Ways and Means. The rule provides for consideration of the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying the resolution, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered as read and shall be debatable for 1 hour equally divided by a proponent and an opponent.

The rule waives all points of order against the substitute and provides for one motion to recommit with or without instructions.

Mr. Speaker, when Congress passed the Economic Growth and Tax Relief Reconciliation Act of 2001, providing for the phaseout and eventual repeal of Federal death taxes on American families, an arcane rule applicable only in the other body required that these long overdue reforms be abandoned after 10 years, in 2011.

The original version of the legislation, passed here in this Chamber, contained no such time limitation, and for good reason. That is because the ability of a family or business to plan for the future is seriously undermined whenever major uncertainty exists about the likely tax impact of important financial decisions. In truth, the net effect of the other body's decision to “sunset” the death tax repeal is to tell anyone planning to die 10 or more years from now that they might want to reconsider speeding things up. That