

§ 5. Adoption of Rules; General Parliamentary Law

As described in Section 1, above, one of the most important items of business that the House undertakes on opening day of a new Congress is the adoption of the standing rules.⁽¹⁾ The resolution adopting the standing rules is highly privileged, and the only matters that the House addresses prior to the adoption of rules are typically the initial quorum call of Members-elect, the election of officers, and the swearing-in of Members-elect (along with notifications to the Senate and President of these actions). As the adoption of rules presents a question of the privileges of the House,⁽²⁾ it takes precedence over less privileged matters. When the resolution adopting the standing rules is called up, and a Member raises another matter that itself constitutes a question of privilege, the Chair may exercise discretion to recognize for the resolution adopting rules first (the two questions being of equal privilege).⁽³⁾

While the resolution adopting the standing rules of the House is normally considered under the hour rule, the House may choose to consider the resolution pursuant to the terms of a separate resolution (in effect, a special order of business resolution of the type reported by the Committee on Rules). The resolution providing for such consideration may divide the resolution adopting rules into separate portions so that Members vote on each portion individually.⁽⁴⁾ Once one portion of such a divided resolution is adopted, the particular rules contained in that portion become applicable to House procedures.⁽⁵⁾

The resolution adopting the House rules is subject to the motion to commit,⁽⁶⁾ but the minority party has not always availed itself of this procedural

1. For more on the adoption of rules at the beginning of a Congress, see Deschler's Precedents Ch. 1 § 10 and Precedents (Wickham) Ch. 1 § 6.
2. For questions of privilege generally, see Deschler's Precedents Ch. 11 and Precedents (Wickham) Ch. 11.
3. See § 5.1, *infra*.
4. See § 5.2, *infra*.
5. *Parliamentarian's Note*: Under the standing rules of the House, the offeror of a motion to commit or recommit must declare opposition to the underlying measure. So while this motion has been accepted as part of general parliamentary law (and therefore applicable prior to the adoption of rules), the requirement of opposition to the underlying measure is not applicable until the full rule has been adopted. In cases where the resolution adopting the standing rules is divided and adopted in portions, it is possible for the standing rule regarding the motion to commit or recommit to be adopted prior to the offering of said motion. In those circumstances, the offeror of the motion must qualify as opposed, as the relevant rule is already in operation when the motion is offered.
6. For a discussion of this motion as part of general parliamentary law, see §§ 5.3–5.9, *infra*.

option. Prior to the 97th Congress, the minority would traditionally advocate for defeating the motion for the previous question as it applied to the resolution adopting the standing rules. Were such a motion to be defeated, recognition would pass to opponents of the majority's resolution, and they would be authorized to offer an alternate version as an amendment. In debate, members of the minority party would often describe the alternate version they would propose, but there were no instances in which the previous question was defeated and the alternative formally offered.

Beginning in the 97th Congress, the minority party began offering a motion to commit the resolution adopting the standing rules to a select committee (whose membership would be determined by the Speaker), often with instructions to consider a particular amendment and report back after a set period.⁽⁷⁾ In the 101st Congress, the motion to commit specified that the select committee would be composed of simply the majority and minority floor leaders,⁽⁸⁾ and further required that the committee report the amendment back to the House "forthwith."⁽⁹⁾ Beginning in the 112th Congress, the minority party has availed itself of both procedural options: advocating for the defeat of the previous question (so that an amendment to the resolution adopting the standing rules may be offered) and also offering a motion to commit the resolution to a select committee with an amendment to be reported back to the House "forthwith." Because the motion to commit follows the ordering of the previous question, it is a nondebateable motion.⁽¹⁰⁾

Prior to the adoption of the House's standing rules, its Members rely on principles of general parliamentary law to govern proceedings.⁽¹¹⁾ General parliamentary law is not a written set of rules, but instead represents principles of procedure common to legislative bodies and justified by long custom. The House looks to Jefferson's *Manual of Parliamentary Practice* as one source for common parliamentary principles, as well as the rules, precedents, and traditions of the House in prior Congresses.

The requirement of a quorum to transact business is both a constitutional imperative⁽¹²⁾ and an accepted principle of general parliamentary law. Thus,

7. See 127 CONG. REC. 112–13, 97th Cong. 1st Sess. (Jan. 5, 1981).
8. See 135 CONG. REC. 81, 101st Cong. 1st Sess. (Jan. 3, 1989). For an anomalous instance where the proposed motion to commit proposed to send the resolution to the Committee on Rules (which was not yet then in existence), see 149 CONG. REC. 19, 108th Cong. 1st Sess. (Jan. 7, 2003). In that instance, unanimous consent was obtained to modify the motion to instead commit the resolution to the traditional select committee composed of the floor leaders.
9. *Parliamentarian's Note*: A motion to commit "forthwith" requires an immediate reporting of the proposed amendment back to the House upon adoption of the motion. It does not contemplate an actual meeting of the select committee.
10. 5 Hinds' Precedents § 5582.
11. For an earlier discussion of general parliamentary law, see Deschler's Precedents Ch. 1 § 8.
12. U.S. Const. art. I, § 5. See also Deschler's Precedents Ch. 1 § 9.8.

points of no quorum may be made in the House prior to the adoption of rules.⁽¹³⁾ Similarly, the right of one-fifth of the Members to demand the yeas and nays on any question is based in the Constitution and general parliamentary law.⁽¹⁴⁾ Basic rules regarding comportment of Members and decorum are also enforced by the Clerk or the Speaker prior to the adoption of rules.⁽¹⁵⁾ The Speaker's control of the House Chamber, including its gallery, has been recognized as a part of general parliamentary law, and the Speaker may regulate the conduct of visitors in the gallery prior to the adoption of rules.⁽¹⁶⁾

The House may entertain unanimous-consent requests prior to the adoption of rules,⁽¹⁷⁾ and may also receive messages from the Senate or President.⁽¹⁸⁾ Certain motions have long been recognized as part of the general parliamentary law of the House. These include the motion to amend,⁽¹⁹⁾ the motion to postpone,⁽²⁰⁾ the motion for the previous question,⁽²¹⁾ the motion to refer a measure to committee,⁽²²⁾ and the motion to commit (or recommit).⁽²³⁾ Similarly, the question of consideration has been raised prior to the adoption of rules with respect to the resolution adopting the standing rules itself.⁽²⁴⁾ As noted, a resolution prescribing the procedures for considering the resolution adopting rules has been admitted as part of general parliamentary law, and may be offered as a matter of privilege prior to the adoption of rules.⁽²⁵⁾

Resolution Adopting Rules as a Question of Privilege

§ 5.1 The Speaker has discretion to recognize a Member to offer a resolution providing for the initial adoption of rules as a question of privilege in its own right, prior to recognizing another Member to offer as a question of privilege another resolution challenging the constitutionality of the rules package being offered.⁽²⁶⁾

13. U.S. Const. art. I, § 5. See also Deschler's Precedents Ch. 1 §§ 9.1, 9.2.

14. See § 5.3, *infra*.

15. See § 5.6, *infra*.

16. See § 5.7, *infra*.

17. See Deschler's Precedents Ch. 1 §§ 8.1, 8.2.

18. See Deschler's Precedents Ch. 1 § 8.3.

19. See Deschler's Precedents Ch. 1 § 9.6.

20. See Deschler's Precedents Ch. 1 § 9.7.

21. See Deschler's Precedents Ch. 1 §§ 9.3, 9.4.

22. See § 5.9, *infra*.

23. See §§ 5.2, 5.4, and 5.5, *infra*. See also Deschler's Precedents Ch. 1 § 9.5.

24. See § 5.8, *infra*.

25. See § 5.2, *infra*.

26. *Parliamentarian's Note*: The alleged constitutional issue that Rep. Solomon was attempting to raise concerned a new standing rule that would allow Delegates and the

On January 5, 1993,⁽²⁷⁾ the following occurred:

RULES OF THE HOUSE

Mr. [Richard] GEPHARDT [of Missouri]. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

Mr. [Gerald] SOLOMON [of New York]. Mr. Speaker, I have a preferential resolution at the desk involving a question of privileges of the House, and ask for its immediate consideration.

The SPEAKER.⁽²⁸⁾ Prior to the adoption of the rules, the gentleman from Missouri [Mr. GEPHARDT] has offered a privileged resolution under the Constitution and the Chair, in his discretion, recognizes the gentleman from Missouri for that purpose.

The Clerk will report the resolution.

Resolution Adopting Rules Considered by Special Order

§ 5.2 Before the House adopts rules, a Member may offer for immediate consideration a special order of business providing for the consideration of the resolution adopting the rules.⁽²⁹⁾

On January 4, 1995,⁽³⁰⁾ the following occurred:

MAKING IN ORDER IMMEDIATE CONSIDERATION OF HOUSE RESOLUTION
ADOPTING THE RULES OF THE HOUSE OF REPRESENTATIVES FOR THE
104TH CONGRESS

Mr. [Richard] ARMEY [of Texas]. Mr. Speaker, I ask unanimous consent that it be in order immediately to consider in the House a resolution adopting the rules of the House of Representatives for the 104th Congress; that the resolution be considered as read; that the resolution be debatable initially for 30 minutes, to be equally divided and controlled by the majority leader and the minority leader, or their designees; that the previous question be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question, except that the question of adopting the resolution shall be divided among nine parts, to wit: Each of the eight sections of title I, and then title II; each portion of the divided question shall be debatable separately for 20 minutes, to be equally divided and controlled by the majority leader and the minority leader, or their designees, and shall be disposed of in the order stated, but if the yeas and nays are ordered on the question of adopting any portion of the divided question, the Speaker may postpone further proceedings on that question until a later time

Resident Commissioner to vote in the Committee of the Whole (and serve as its chair). For more on the status of Delegates and the Resident Commissioner, see Deschler's Precedents Ch. 7 § 3 and Precedents (Wickham) Ch. 7.

27. 139 CONG. REC. 49, 103d Cong. 1st Sess. For remarks challenging the Speaker's ruling that the competing resolutions were of equal privilege, see 139 CONG. REC. 322–24, 103d Cong. 1st Sess. (Jan. 6, 1993).
28. Thomas Foley (WA).
29. For an early example of a Member offering a special order of business resolution prior to the adoption of rules, see 5 Hinds' Precedents § 5450.
30. 141 CONG. REC. 447–48, 104th Cong. 1st Sess.

during the consideration of the resolution; and, pending the question of adopting the ninth portion of the divided question, it shall be in order to move the previous question thereon, and if the previous question is ordered, to move that the House commit the resolution to a select committee, with or without instructions, and that the previous question be considered as ordered on the motion to commit to final adoption without intervening motion.

The SPEAKER.⁽³¹⁾ Is there objection to the request of the gentleman from Texas?

Mr. [David] BONIOR [of Michigan]. Reserving the right to object, Mr. Speaker, under my reservation I would like to ask the gentleman from Texas [Mr. ARMEY] several questions about his unanimous-consent request. . . .

Mr. BONIOR. Mr. Speaker. reserving my right to object, let me just say that given that the gentleman has informed the House that he is requesting two completely closed rules, two gag rules. I might add, on the first day of the Congress, I object.

The SPEAKER. An objection has been heard. The Chair now recognizes the distinguished gentleman from New York [Mr. SOLOMON].

Mr. [Gerald] SOLOMON [of New York]. Mr. Speaker, by direction of the House Republican Conference, since there is no Committee on Rules yet, and the Committee on Rules has not met yet to organize and will not until tomorrow, by direction of the Republican Conference, I call up a privileged resolution and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 6) adopting the Rules of the House of Representatives for the One Hundred Fourth Congress. The resolution shall be considered as read. The resolution shall be debatable initially for 30 minutes to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question except as specified in sections 2 and 3 of this resolution.

SEC. 2. The question of adopting the resolution shall be divided among nine parts, to wit: each of the eight sections of title I; and title II. Each portion of the divided question shall be debatable separately for 20 minutes, to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees, and shall be disposed of in the order stated.

SEC. 3. Pending the question of adopting the ninth portion of the divided question, it shall be in order to move that the House commit the resolution to a select committee, with or without instructions. The previous question shall be considered as ordered on the motion to commit to final adoption without intervening motion.

The SPEAKER. The resolution is a matter of privilege. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the distinguished minority leader, or in this case the minority whip, or his designee, pending which I yield myself such time as I may consume.

Similarly, on January 4, 2007,⁽³²⁾ the following resolution, structuring consideration of the resolution adopting the standing rules, was agreed to by the House:

31. Newt Gingrich (GA).

32. 153 CONG. REC. 7, 110th Cong. 1st Sess.

RULES OF THE HOUSE

Ms. [Louise] SLAUGHTER [of New York]. Mr. Speaker, I offer a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 6) adopting the Rules of the House of Representatives for the One Hundred Tenth Congress. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to its adoption without intervening motion or demand for division of the question except as specified in sections 2 through 4 of this resolution.

SEC. 2. The question of adopting the resolution shall be divided among five parts, to wit: each of its five titles. The portion of the divided question comprising title I shall be debatable for 30 minutes, equally divided and controlled by the majority leader and the minority leader or their designees. The portion of the divided question comprising title II shall be debatable for 60 minutes, equally divided and controlled by the majority leader and the minority leader or their designees. The portion of the divided question comprising title III shall be debatable for 60 minutes, equally divided and controlled by the majority leader and the minority leader or their designees. The portion of the divided question comprising title IV shall be debatable for 60 minutes, equally divided and controlled by the majority leader and the minority leader or their designees. The portion of the divided question comprising title V shall be debatable for 10 minutes, equally divided and controlled by the majority leader and the minority leader or their designees. Each portion of the divided question shall be disposed of in the order stated.

SEC. 3. Pending the question of adopting the final portion of the divided question, it shall be in order to move that the House commit the resolution to a select committee with or without instructions. The previous question shall be considered as ordered on the motion to commit to its adoption without intervening motion.

SEC. 4. During consideration of House Resolution 6 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the resolution to a time designated by the Speaker.

The SPEAKER pro tempore (Mr. [Steny] HOYER [of Maryland]). The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 1 hour.

On January 3, 2019,⁽³³⁾ the following resolution, structuring consideration of the resolution adopting the standing rules, was agreed to by the House:

RULES OF THE HOUSE

Mr. [James] MCGOVERN [of Massachusetts]. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 6) adopting the Rules of the House of Representatives for the One Hundred Sixteenth Congress. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to its adoption without intervening motion or demand for division of the question except as specified in sections 2 and 3 of this resolution.

SEC. 2. The question of adopting the resolution shall be divided among each of its three titles. The portion of the divided question comprising title I shall be debatable for 30 minutes, equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees. The portion of the divided question comprising title II shall be debatable for one hour, equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees. The portion of the divided question comprising title III shall be debatable for one hour, equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees. Each portion of the divided question shall be disposed of in the order stated.

33. 165 CONG. REC. H8, H9 [Daily Ed.], 116th Cong. 1st Sess.

SEC. 3. During consideration of House Resolution 6 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the resolution to a time designated by the Speaker.

SEC. 4. Upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 21) making appropriations for the fiscal year ending September 30, 2019, and for other purposes. All points of order against consideration of the bill are waived. The bill shall be considered as read. All points of order against provisions in the bill are waived. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion 1 except: (1) one hour of debate equally divided and controlled by Representative Lowey of New York and Representative Granger of Texas or their respective designees; and (2) one motion to recommit.

SEC. 5. Upon adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 1) making further continuing appropriations for the Department of Homeland Security for fiscal year 2019, and for other purposes. All points of order against consideration of the joint resolution are waived. The joint resolution shall be considered as read. All points of order against provisions in the joint resolution are waived. The previous question shall be considered as ordered on the joint resolution and on any amendment thereto to final passage without intervening motion except: (1) 30 minutes of debate equally divided and controlled by Representative Lowey of New York and Representative Granger of Texas or their respective designees; and (2) one motion to recommit.

MOTION TO REFER

Mr. [Kevin] BRADY of Texas. Mr. Speaker, I have a motion at the desk.
The SPEAKER pro tempore.⁽³⁴⁾ The Clerk will report the motion.
The Clerk read as follows:

Mr. Brady of Texas moves to refer the resolution to a select committee composed of the Majority Leader and the Minority Leader with instructions to report it forthwith back to the House with the following amendment:

At the end of the resolution, add the following new sections:

SEC. 6. Not later than January 1, 2019, the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 22) to amend the Internal Revenue Code of 1986 to make permanent the increase in the standard deduction, the increase in and modifications of the child tax credit, and the repeal of the deduction for personal exemptions contained in Public Law 115-97. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 7. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 22.

MOTION TO TABLE

Mr. [James] MCGOVERN [of Massachusetts]. Mr. Speaker, I have a motion at the desk.
The SPEAKER pro tempore. The Clerk will report the motion.
The Clerk read as follows:

³⁴ James Langevin (RI).

Mr. MCGOVERN moves to lay on the table the motion to refer.

The SPEAKER pro tempore. The question is on the motion to table.

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

Mr. [Kevin] BRADY of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 230, nays 197, not voting 5, as follows:

[Roll No. 3] . . .

Messrs. KING of New York and ADERHOLT changed their vote from “yea” to “nay.”

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

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 1 hour.

Mr. MCGOVERN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the minority leader or his designee—in this case, Mr. COLE—pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

General Parliamentary Law

§ 5.3 During debate on a resolution adopting the rules of the House but prior to the adoption of the rules, any Member may make a point of order of no quorum based upon general parliamentary law, because clause 6(e) of rule XV⁽³⁵⁾ (prohibiting points of no quorum except where the Chair has put the question) is not yet applicable.

On January 15, 1979,⁽³⁶⁾ the following occurred:

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER.⁽³⁷⁾ The Clerk advises the Chair that many Members have not picked up their new identification voting cards. Members should obtain their cards in the lobby prior to the first electronic vote.

RULES OF THE HOUSE

Mr. [James] WRIGHT [of Texas]. Mr. Speaker, I offer a privileged resolution (H. Res. 5) and ask for its immediate consideration.

35. The current rule is clause 7(a) of rule XX. *House Rules and Manual* § 1027 (2019).

36. 125 CONG. REC. 7, 9–10, 96th Cong. 1st Sess.

37. Thomas O’Neill (MA).

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the Ninety-fifth Congress, including all applicable provisions of law which constituted the rules of the House at the end of the Ninety-fifth Congress, be, and they are hereby, adopted as the Rules of the House of Representatives of the Ninety-sixth Congress, with the following amendments included therein as part thereof, to wit: . . .

Mr. WRIGHT (during the reading). Mr. Speaker, in view of the fact that there are 500 copies of the printed resolution available to the Members on the floor of the House, I ask unanimous consent that further reading of the resolution be dispensed with, that it be printed in the RECORD at this point, and that I be recognized for purposes of debate on the resolution. . . .

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. WRIGHT) is recognized for 1 hour.

Mr. WRIGHT. Mr. Speaker, I yield, for purposes of debate only, 30 minutes of that hour to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES), and pending that, I yield myself such time as I may require.

Mr. Speaker, these are only a few changes recommended by the Democratic Caucus and brought to the body with the imprimatur of the Democratic Caucus of the House.

The rules changes we propose are modest. Their thrust is to assist the House in facilitating the business of the House. I think basically these changes embodied in this resolution will do four things:

First, some of the changes would grant authority to the Speaker to group record votes in clusters in order to expedite the consideration of relatively noncontroversial legislation. The purpose of this, quite obviously, is to save time.

The second group of changes would extend to the Speaker authority to expedite the purely procedural business of the House by delaying points of order and incidental motions while preserving the constitutional requirement of a quorum to conduct all business. Once again, it is an attempt, quite simply, to expedite the business of the House.

The third group of changes would expedite the voting procedures in the Committee of the Whole, and the fourth group would require amendments to the budget resolution to address both the aggregate totals and the corresponding functional categories in a consistent manner.

This is all these changes would accomplish. Each year at this time it is the responsibility of the majority party in the House to bring to the House such changes in the rules as its Members in their wisdom deem appropriate. This we do on this occasion.

We anticipate that the Members of the minority party, our friends from the other side of the aisle, will wish to debate the propriety of some of these changes and will wish to assert their objections to some of them, and thereafter there will be a vote on the previous question.

We would anticipate that all of the Members on the Democratic side, as has been the tradition unbrokenly in the past, will support the decision of the Democratic Caucus and of the majority party. Basically, the purpose of these changes is to save the time of the House, to save the taxpayers waste of that valuable time, and to save Members the harassment that has sometimes come from procedural demands that they present themselves and vote on meaningless votes. . . .

Mr. [Robert] BAUMAN [of Maryland]. Mr. Speaker pro tem, I think it is interesting that the House should proceed to debate the first major issue facing the House of Representatives with probably 90 percent of the Members absent. Having taken the oath they have simply left the scene. I hope it is not a true commentary on the attitude of the House of Representatives.

In view of these absences a quorum call might be in order—is that not right, Mr. Speaker?—and it might be one of the last times a Member could produce a quorum under our new rules. I make that as a parliamentary inquiry: Is a quorum call in order at this time?

The SPEAKER pro tempore (Mr. [Daniel] ROSTENKOWSKI [of Illinois]). According to the precedents, prior to the adoption of the rules, a point of order would be in order.

Mr. BAUMAN. That is correct under general parliamentary law. I just wanted to make the point, that this may be one of the last times we could get a quorum to hear anything debated in the House.

§ 5.4 Under general parliamentary law prior to adoption of the rules, the motion to commit is in order after the previous question has been ordered on a resolution, and such motion is not debatable and is itself subject to the motion for the previous question.

On January 5, 1981,⁽³⁸⁾ the following occurred:

RULES OF THE HOUSE

Mr. [James] WRIGHT [of Texas]. Mr. Speaker, I offer a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the Ninety-sixth Congress, including all applicable provisions of law which constituted the Rules of the House at the end of the Ninety-sixth Congress, be, and they are hereby, adopted as the Rules of the House of Representatives of the Ninety-seventh Congress, with the following amendments included therein as part thereof, to wit: . . .

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore.⁽³⁹⁾ The Chair would like to announce that any Member-elect who failed to take the oath of office may present himself or herself in the well of the House prior to the vote on the previous question . . .

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. Will the gentleman from Texas withhold moving the previous question until after the Speaker has resumed the chair for the swearing in of Members-elect?

Mr. [James] WRIGHT [of Texas]. I withdraw the motion, and I will offer it after the administration of the oath of office.

SWEARING IN OF MEMBERS

The SPEAKER.⁽⁴⁰⁾ Members who have not taken the oath of office will kindly step to the well.

38. 127 CONG. REC. 98, 103, 111–13, 97th Cong. 1st Sess.

39. William Alexander (AR).

40. Thomas O'Neill (MA).

If the Members will raise their right hand, the Chair will now administer the oath of office.

The Speaker administered the oath of office to the following Members-elect: Hon. PHIL GRAMM; Hon. SAM B. HALL, JR.; Hon. CHARLES WHITLEY; Hon. MARTIN OLAV SABO; Hon. DAN MICA; Hon. ANTHONY C. BEILENSON, and Hon. FLOYD SPENCE.

The SPEAKER. The gentlemen are now Members of Congress.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I move the previous question on the resolution.

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

Mr. [Robert] MICHEL [of Illinois]. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote taken by electronic device, and there were—yeas 216, nays 179, not voting 24, as follows: . . .

MOTION TO COMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to commit.

The Clerk read as follows:

Mr. MICHEL moves to commit the resolution (H. Res. 5) to a select committee to be appointed by the Speaker and to be composed of nine members, not more than five of whom shall be from the same political party, with instructions to report the same back to the House within 7 calendar days with the following amendment:

On page 10, after line 8, add the following:

(19) In rule X, clause 6(a) is amended by adding the following new subparagraph:

“(3) The membership of each committee (and of each subcommittee, task force or subunit thereof), shall reflect the ratio of majority to minority party members of the House at the beginning of this Congress. This subparagraph shall not apply to—

“(A) the Committee on Appropriations, three-fifths of whose members shall be from the majority party and two-fifths of whose members shall be from the minority party;

“(B) the Committee on the Budget, three-fifths of whose members shall be from the majority party and two-fifths of whose members shall be from the minority party;

“(C) the Committee on Rules, two-thirds of whose members shall be from the majority party and one-third of whose members shall be from the minority party;

“(D) the Committee on Standards of Official Conduct, which shall be constituted as provided for in subparagraph (2); and

“(E) the Committee on Ways and Means, three-fifths of whose members shall be from the majority party and two-fifths of whose members shall be from the minority party.”

Mr. MICHEL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. [John] MURTHA [of Pennsylvania]). Is there objection to the request of the gentleman from Illinois?

Mr. [Trent] LOTT [of Mississippi]. Mr. Speaker, reserving the right to object, I will not object except to ask the distinguished Republican leader to explain the motion.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, as indicated, this motion is not a debatable motion. Most of my colleagues have been conversant with motions to recommit. This is a motion to commit to a select committee of nine members, five of whom would be Members of the majority party, to accomplish several goals.

Let me briefly-while I am no better reader than the reading clerk-outline for my colleagues what these things are and then, if there are any questions, I can answer and respond to the inquiries. . . .

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit.

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

Mr. MICHEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 180, nays 220, not voting 19, as follows: . . .

§ 5.5 Prior to the adoption of the rules, a motion to commit is in order after the previous question has been ordered on the resolution adopting the standing rules⁽⁴¹⁾ and it is the prerogative of the minority to offer said motion.⁽⁴²⁾

On January 3, 1989,⁽⁴³⁾ the following occurred:

Mr. [Marvin] EDWARDS of Oklahoma. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore (Mr. [Dale] KILDEE [of Michigan]). The Clerk will report the motion.

The Clerk read as follows:

Motion to Commit offered by Mr. EDWARDS of Oklahoma: Mr. EDWARDS moves to commit the resolution H. Res. 5 to a select committee to be comprised of the Majority Leader and the Minority Leader with instructions to report back the same to the House forthwith with only the following amendment:

At the end of the resolution, add the following new paragraph:

RESTRICTIVE RULE LIMITATION

“(15) In Rule XI, clause 4 is amended by adding the following new paragraph:

“(e) It shall not be in order to consider any resolution reported from the Committee on Rules providing for the consideration of any bill or resolution otherwise subject to amendment under House rules if that resolution limits the right of Members to offer germane amendments to such bill or resolution unless the chairman of the Committee on Rules has orally announced in the House, at least four legislative days prior to the scheduled consideration of such matter by the Committee on Rules, that less than an open amendment process might be recommended by the Committee for the consideration of such bill or resolution.”.

Mr. EDWARDS of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

41. For a 1893 precedent discussing the availability of this motion under general parliamentary law, see 5 Hinds' Precedents § 5604.
42. *Parliamentarian's Note*: Under clause 2(a) of rule XIX, a Member offering a motion to recommit (or commit) must qualify as opposed to the underlying measure in order for the Speaker to accord such Member priority in recognition. See *House Rules and Manual* § 1001 (2019). Prior to the adoption of rules, however, this aspect of the rule is not yet applicable (and it not recognized as part of general parliamentary law). Thus, as noted in the *Congressional Record*, a minority Member offering a motion to commit the resolution adopting the standing rules need not evince opposition in order to secure recognition.
43. 135 CONG. REC. 81, 101st Cong. 1st Sess.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. [Gerald] SOLOMON [of New York]. Mr. Speaker, reserving the right to object, I yield to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman from New York for yielding me this time and giving me this opportunity to explain to the Members of the House what we are going to vote on in just a moment.

§ 5.6 Prior to adoption of the rules, the Speaker may maintain decorum as part of general parliamentary law by directing a Member who had not been recognized in debate beyond an allotted time to be removed from the well, or by directing the Sergeant-at-Arms to present the mace as the traditional symbol of order.

On January 3, 1991,⁽⁴⁴⁾ the following occurred:

RULES OF THE HOUSE

Mr. [Richard] GEPHARDT [of Missouri]. Mr. Speaker, I offer a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred First Congress, including all applicable provisions of law and concurrent resolutions adopted pursuant thereto which constituted the Rules of the House at the end of the One Hundred First Congress, be, and they are hereby, adopted as the Rules of the House of Representatives of the One Hundred Second Congress, with the following amendments included therein as part thereof, to wit: . . .

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous-consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER.⁽⁴⁵⁾ Is there objection to the request of the gentleman from Missouri? There was no objection.

The SPEAKER. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 hour.

Mr. GEPHARDT. Mr. Speaker. I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], for the purposes of debate only, pending which I yield myself such time as I may consume. . . .

The SPEAKER pro tempore.⁽⁴⁶⁾ The gentleman from New York [Mr. SOLOMON] has 1 minute remaining.

Mr. [Gerald] SOLOMON [of New York]. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. [Nancy] JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to the substance of this proposal, and with deep concern for the subversion of the legislative process contained in this package.

44. 137 CONG. REC. 39–40, 58–59, 102d Cong. 1st Sess.

45. Thomas Foley (WA).

46. Steny Hoyer (MD).

The substance strikes at the heart of the budget agreement. The process strikes at the heart of democracy, and so I am going to use such time as I may consume, and I am not going to recognize the authority of the Speaker's gavel, because I want to make very clear the implications of what is happening here.

First of all, this House is operating under precedent, not under rule. Precedent is something that we honor because we hold ourselves to a standard of ethical conduct that requires honoring our rules.

If we do not hold ourselves to that standard of ethical conduct, then the line between self-government and chaos disintegrates. If we cannot operate ethically, we cannot govern ourselves as a free nation. So, honor is everything; word is bond.

I choose not to be governed by the gavel, because I want to demonstrate that where word is not bond, democracy cannot survive. . . .

If we were doing that here today, democracy in its gut and at the level of trust that it demands would not be at risk; but the majority party is not proposing a statutory change for which they could be held accountable.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mrs. JOHNSON of Connecticut. The majority party is proposing a rules change.

The SPEAKER pro tempore. The Chair would state to the gentlewoman that whatever point she is trying to make that the Chair is going to make a point.

Mrs. JOHNSON of Connecticut. It does not change the law.

The SPEAKER pro tempore. The House will operate under proper decorum.

Mrs. JOHNSON of Connecticut. Rather through the rule, they are intending to abrogate the content and meaning of the law. One could ask one's self, why is this happening today? It is happening for a very simple reason. It is happening for the same simple reason that Wall Street was crippled by greed. On Wall Street individual greed took precedence over that code of conduct that had in the past regulated business decisions, the conduct of business, on Wall Street.

What is happening here is that individual desire for spending programs is overriding the public interest in deficit reduction.

Mr. [Gerald] SIKORSKI [of Minnesota]. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentlewoman is out of order. The gentlewoman is making the point of not following the rules.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am sorry. I know this is unpleasant.

The SPEAKER pro tempore. The gentlewoman will remove herself from the well within 30 seconds.

POINT OF ORDER

Mr. [Henry] GONZALEZ [of Texas]. Mr. Speaker, I rise to a point of order. I rise to a point of order, Mr. Speaker.

Mrs. JOHNSON of Connecticut. As I said, I am not going to talk at length but only for the very few minutes necessary to make clear my concern with the substance and process violations in this rules proposal.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. GONZALEZ. The gentlewoman is out of order and is defying the Chair's ruling and, therefore, I am imploring the Chair to exercise its authority to enforce the rules of the House by summoning the Sergeant at Arms and presenting the mace.

The SPEAKER pro tempore. The Chair may do that.

Mrs. JOHNSON of Connecticut. I regret that the majority party on such an important matter refused to allow Members the time we need, and I particularly regret this demonstration of oppression of the minority as democracy simply cannot survive if the minority's right to debate is deeply compromised. We must do better than this in the months ahead. We must reject these rules. We must come back with a rules package that honors statutory law and that does not seek to change law through the subterfuge of rules changes. We must come back with a package that honors the standard of ethical conduct on which this House has always depended.

I thank the Speaker.

§ 5.7 Prior to adoption of the rules, the Speaker quells demonstrations of approval or disapproval by visitors in the gallery.

On January 4, 1995,⁽⁴⁷⁾ the following announcement was made prior to the adoption of the standing rules:

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER.⁽⁴⁸⁾ There are to be no demonstrations in the gallery. Those in the gallery are here as guests of the House.

Mr. [David] BONIOR [of Michigan]. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. PETERSON].

§ 5.8 Prior to adoption of the rules, the question of consideration is available upon the offering of a resolution adopting the rules and before debate thereon.

On January 4, 2005,⁽⁴⁹⁾ the question of consideration (admitted as a matter of general parliamentary law) was raised with regard to the resolution adopting the standing rules:

RULES OF THE HOUSE

Mr. [Thomas] DELAY [of Texas]. Mr. Speaker, I offer a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Eighth Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Eighth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Ninth Congress, with amendments to the standing rules as provided in section 2 and with other orders as provided in section 3. . . .

Mr. DELAY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

47. 141 CONG. REC. 454, 104th Cong. 1st Sess.

48. Newt Gingrich (GA).

49. 151 CONG. REC. 42, 44–46, 109th Cong. 1st Sess.

The SPEAKER.⁽⁵⁰⁾ Is there objection to the request of the gentleman from Texas?
There was no objection.

POINT OF ORDER

Mr. [Brian] BAIRD [of Washington]. Mr. Speaker, I rise for a constitutional point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. BAIRD. Mr. Speaker, the resolution we are preparing to consider, the proposed rules for the 109th Congress, in my judgment violates the United States Constitution which we were just sworn to uphold and defend. It does so by allowing a very limited number of Members, potentially only a handful, to constitute the House of Representatives.

Article 1, section 5 of the Constitution states that “each House shall be the Judge of the Elections, Returns and Qualifications of its Members, and a majority of each shall constitute a Quorum to do Business; but a small Number adjourn from day to day, and may be authorized to compel the attendance of absent Members.”

Unfortunately, H. Res. 5 seeks to allow a small number not just to adjourn or compel attendance, as the Constitution stipulates, but to enact laws, declare war, impeach the President, and fulfill all other article I responsibilities.

The very first act of the very first Congress of the United States was to recess day after day after day because they lacked a quorum. Just moments ago everyone in this body took an oath to uphold and defend the Constitution, and now our first official vote is by rule to undermine a fundamental principle of that Constitution, i.e., what is a quorum. It is my understanding that the Speaker is reluctant to judge on matters of constitutionality. I respect that. But I would reserve and inform the Speaker it is my intent to ask the question of consideration to be put.

The SPEAKER. Does any other Member wish to be heard on the point of order?

The gentleman from California (Mr. DREIER).

Mr. [David] DREIER [of California]. Mr. Speaker, let me respond by saying that the gentleman is absolutely right when he states that the Chair does not rule on questions of constitutionality.

I would also like to say that on this question that is being brought forward by my friend, it is very clear to me based on statements that have been made by a wide range of constitutional scholars that what we are doing in the rules package that we are about to consider is in fact constitutional. In fact, before the Committee on Rules the very distinguished former Solicitor General Walter Dellinger said the following: “It is simply inconceivable that a Constitution established to provide for the common defense and promote the general welfare would leave the Nation unable to act in precisely the moment of greatest peril. No constitutional amendment is required to enact the proposed rule change because the Constitution as drafted permits the Congress to ensure the preservation of government.”

Let me further, Mr. Speaker, say that the Committee on Rules intends to conduct further examination of the best way for the House to assure a continuity of government during a national emergency, and it is our hope that as we proceed with this work that further discussions will take place with the members of that very distinguished panel,

50. Dennis Hastert (IL).

the Continuity Commission, which included our former colleague, Senator Simpson, and Speakers Foley and Gingrich and former minority leader Bob Michel, Leon Panetta, Kweisi Mfume, and I believe we will have a chance to proceed with this; but I think it would be very appropriate for us to proceed with consideration of the rules package that we have.

The SPEAKER. Does any other Member wish to be heard on the point of order?

The gentleman from New York (Mr. NADLER).

Mr. [Jerrold] NADLER [of New York]. Mr. Speaker, I rise in support of the point of order. The Constitution defines a quorum to conduct business as the majority of each House.

The question of course before us in this debate is, a majority of what? What is the denominator in that equation?

The precedent holds that the total number of the membership of the House is those Members who are chosen, sworn and living and whose membership has not been terminated by action of the House. Removal by action of the House is also a defined term, expulsion by a vote of two-thirds in article 1, section 5.

The Constitution also gives the House the authority to compel attendance when Members do not answer the call of the Chair in such manner and under such penalties as each House may provide. And, in fact, the Sergeant at Arms has been sent to gather Members by force on prior occasions.

This amendment before us to the rules gives the Speaker nearly unfettered authority to change the number of the Members of the whole House to exclude Members who are chosen, sworn, and living but who do not answer the call of the Chair. This would seem to amount to a constructive expulsion without a two-thirds vote of the whole House.

For example, suppose the House is at its full complement of 435 Members. A quorum would then be 218. Now, suppose only 400 Members answer the Speaker's call for whatever reason. They are still living. They are still chosen. They are still sworn. They have not been expelled. Now a quorum by order of the Speaker would be 200. The House may conduct its business with only 200 Members present. If this is triggered in a time of national emergency, the consequences could be dire.

Mr. Speaker, we heard the distinguished chair, or maybe he is only the presumptive chair, of the Committee on Rules, at this point; but in any event, the gentleman from California (Mr. DREIER) said a moment ago that this proposed rules change is constitutional because the Constitution could not have contemplated that the House could not function. But the Constitution did not contemplate that the majority of the Members of the House might in fact be the victims of an act of mass terrorism. Those things were not contemplated at the time.

The fact is we do need to amend the Constitution to take care of this very serious question; but this provision for the reasons stated by the gentleman from Washington (Mr. BAIRD), for the reasons that I stated a moment ago, is clearly unconstitutional. Certainly, before we take such a measure, it deserves much more extensive debate and hearings and discussion than it can have by three or four speakers in this context now.

So I urge that Members take careful consideration to the question of constitutionality here. This may provoke court action, and we should not adopt this now in the context of an overall rules change with this very serious amendment to the Constitution, which is what it amounts to; it cannot receive adequate consideration in terms of its constitutionality either in terms of its merit.

The SPEAKER. Does any other Member wish to be heard on this point of order?

The gentleman from Mississippi (Mr. TAYLOR).

Mr. [Gene] TAYLOR of Mississippi. Mr. Speaker, I realize that September 11 was a tragic day in America, certainly a wake-up call within the States.

I also remind the Members of this body that in the War of 1812 this building was occupied by a foreign army. So for the gentleman from California (Mr. DREIER) to say that they could not have foreseen these circumstances taking place, what in the heck is he talking about? This building was occupied and set on fire by a foreign army. And yet the Congress at that time did not try to change the rules so that a minority within a minority could govern.

If we are going to amend the Constitution, the gentleman from Washington (Mr. BAIRD) is exactly right: someone should offer a constitutional amendment. If we are going to change the law, then someone should offer a change to the law; but let us not through the House rules try to rewrite the Constitution of this Nation.

This Nation has been around for a long time. It is going to be around for a long time, but only if we continue to do things as the Founding Fathers would have wanted us to do them and not some backdoor-approach like this.

The SPEAKER. Does any other Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

The gentleman from Washington makes a point of order that the resolution adopting the rules of the House for the 109th Congress is not in order because it contains a provision that the House does not have the constitutional authority to propose.

As recorded in section 628 of the House Rules and Manual, citing numerous precedents including volume 2 of Hinds' Precedents at sections 1318–1320, the Chair does not determine the constitutionality of a proposition or judge the constitutional competency of the House to take a proposed action, nor does the Chair submit such a question to the House as a question of order. Rather, it is for the House to determine such a question by its disposition of the proposition, such as by voting on the question of its consideration, as recorded in volume 2 of Hinds' Precedents of section 1255, or by voting on the question of its adoption, as recorded in volume 2 of Hinds' Precedents at section 1320. The Chair would apply these precedents even before the adoption of the Rules of the House as a matter of general parliamentary law.

As such, the House may decide the issues raised by the gentleman by way of the question of consideration of the resolution or the question of adopting the resolution. The point of order is not cognizable.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before the gentleman proceeds, the Chair would like to announce that any Member-elect who failed to take the oath of office may present himself or herself in the well of the House prior to any vote.

SWEARING IN OF MEMBERS-ELECT

The SPEAKER. Will the gentlewoman from New York (Ms. SLAUGHTER), the gentlewoman from New York (Mrs. MALONEY) and the gentlewoman from Florida (Ms. CORRINE BROWN), kindly come to the well of the House and take the oath of office at this time.

Ms. SLAUGHTER, Mrs. MALONEY and Ms. CORRINE BROWN of Florida appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation

or purpose of evasion; and that you will well and faithfully discharge the duties of the office upon which you are about to enter. So help you God.

Mr. BAIRD. Mr. Speaker, consistent with the oath of office that I just took, I would request that the question of consideration be put to the body.

The SPEAKER. The question is, Will the House now consider House Resolution 5.

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

Mr. BAIRD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Without objection, this will be an electronic vote on the question of consideration.

There was no objection.

The vote was taken by electronic device, and there were—yeas 224, nays 192, answered “present” 1, not voting 11, as follows: . . .

§ 5.9 Prior to the adoption of the rules, the motion to refer is in order as a matter of general parliamentary law upon the offering of a resolution adopting the rules and prior to debate thereon, subject to the motion to lay on the table.

On January 5, 1993,⁽⁵¹⁾ the following occurred:

RULES OF THE HOUSE

Mr. [Richard] GEPHARDT [of Missouri]. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

Mr. [Gerald] SOLOMON [of New York]. Mr. Speaker, I have a preferential resolution at the desk involving a question of privileges of the House, and ask for its immediate consideration.

The SPEAKER.⁽⁵²⁾ Prior to the adoption of the rules, the gentleman from Missouri [Mr. GEPHARDT] has offered a privileged resolution under the Constitution and the Chair, in his discretion, recognizes the gentleman from Missouri for that purpose.

The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Second Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Second Congress, are adopted as the Rules of the House of Representatives of the One Hundred Third Congress, with the following amendments to the standing rules, to wit: . . .

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I was looking for a copy of the final resolution that is before us. I have just been handed House Resolution 00, dated January 00, 1993.

51. 139 CONG. REC. 49, 51–52, 103d Cong. 1st Sess.

52. Thomas Foley (WA).

Mr. Speaker, is this the final resolution?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would assume that the Clerk has the resolution available.

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, we were given earlier a change dealing with the Delegate voting, and that is incorporated in this copy; is that correct?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, that is correct.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. [Robert] WALKER [of Illinois]. Mr. Speaker, reserving the right to object, we have not really had a chance to review this.

As I understand, Mr. Speaker, we have just been delivered these rules moments ago, we have not seen them, and I understand there were changes made earlier today in the caucus. We have a copy here of one change that was made with regard to the Delegate issue. Is that the only change made by the caucus this morning?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, that is correct.

Mr. WALKER. That is correct, and so virtually everything else in the package is exactly the same as it has been discussed before, with the exception of the Delegate issue, and that is in this package in the modified form from this morning; is that right?

Mr. GEPHARDT. That is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection. . . .

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, I have a motion to refer at the desk, and I am seeking to be recognized for that purpose.

The SPEAKER. A motion to refer the resolution would be an appropriate motion.

MOTION TO REFER OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SOLOMON moves to refer the resolution to a select committee of five members, to be appointed by the Speaker, not more than three of whom shall be from the same political party, with instructions not to report back the same unit it has conducted a full and complete study of, and made a determination on, the constitutionality of those provisions which would grant voting rights in the Committee of the Whole to the Resident Commissioner from Puerto Rico and the Delegates from American Samoa, the District of Columbia, Guam and the Virgin Islands.

MOTION TO TABLE OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I offer a motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. GEPHARDT moves to lay on the table the motion to refer

The SPEAKER. The question is on the motion offered by the gentleman from Missouri [Mr. GEPHARDT] to lay on the table the motion to refer offered by the gentleman from New York [Mr. SOLOMON].

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

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 176, not voting 31, as follows:

[Roll No. 3] . . .

Similarly, on January 5, 2011,⁽⁵³⁾ a motion to refer the resolution adopting the standing rules was made (and laid on the table) as follows:

RULES OF THE HOUSE

Mr. [Eric] CANTOR [of Virginia]. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Eleventh Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Eleventh Congress, are adopted as the Rules of the House of Representatives of the One Hundred Twelfth Congress, with amendments to the standing rules as provided in section 2, and with other orders as provided in sections 3, 4, and 5. . . .

Mr. CANTOR (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore.⁽⁵⁴⁾ Is there objection to the request of the gentleman from Virginia?

There was no objection.

MOTION TO REFER

Ms. [Eleanor Holmes] NORTON [of District of Columbia]. Mr. Speaker, I rise to offer a motion that is at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Ms. Norton moves to refer the resolution to a select committee of five members, to be appointed by the Speaker, not more than three of whom shall be from the same political

53. 157 CONG. REC. 80, 83–84, 112th Cong. 1st Sess.

54. Steven A. LaTourette (OH).

party, with instructions not to report back the same until it has conducted a full and complete study of, and made a determination on, the constitutionality of the provision that would be eliminated from the Rules that granted voting rights in the Committee of the Whole to the Delegates from the District of Columbia, American Samoa, Guam, the Virgin Islands and the Northern Mariana Islands and the Resident Commissioner from Puerto Rico, including the decision of the United States Court of Appeals for the District of Columbia in *Michel v. Anderson* (14 F.3d 623 (D.C. Cir. 1994)), which upheld the constitutionality of these voting rights.

MOTION TO TABLE

Mr. CANTOR. Mr. Speaker, I offer a motion.
The SPEAKER pro tempore. The Clerk will report the motion.
The Clerk read as follows:

Mr. Cantor moves to lay on the table the motion to refer.

The SPEAKER pro tempore. The question is on the motion to table.
The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. NORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 188, not voting 20, as follows:

[Roll No. 3] . . .

On January 3, 2013,⁽⁵⁵⁾ a motion to refer the resolution adopting the standing rules was also laid on the table:

RULES OF THE HOUSE

Mr. [Eric] CANTOR [of Virginia]. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Twelfth Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Twelfth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Thirteenth Congress, with amendments to the standing rules as provided in section 2, and with other orders as provided in sections 3, 4, and 5. . . .

Mr. CANTOR (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. [Patrick] TIBERI [of Ohio]). Is there objection to the request of the gentleman from Virginia?

There was no objection.

MOTION TO REFER

Ms. [Eleanor Holmes] NORTON [of District of Columbia]. Mr. Speaker, I rise to offer a motion that is at the desk.

55. 159 CONG. REC. 25, 28, 113th Cong. 1st Sess.

The SPEAKER pro tempore. The Clerk will report the motion.
The Clerk read as follows:

Ms. Norton moves to refer the resolution to a select committee of five members, to be appointed by the Speaker, not more than three of whom shall be from the same political party, with instructions not to report back the same until it has conducted a full and complete study of, and made a determination on, whether there is any reason to deny Delegates voting rights in the Committee of the Whole House on the state of the Union in light of the decision of the United States Court of Appeals for the District of Columbia in *Michel v. Anderson* (14 F.3d 623 (D.C. Cir. 1994)) upholding the constitutionality of these voting rights, and the inclusion of such voting rights in the Rules for the 103rd, 110th and 111th Congresses.

MOTION TO TABLE

Mr. CANTOR. Mr. Speaker, I have a motion to table at the desk.
The SPEAKER pro tempore. The Clerk will report the motion.
The Clerk read as follows:

Mr. Cantor moves to lay on the table the motion.

The SPEAKER pro tempore. The question is on the motion to table.
The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. NORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 187, not voting 21, as follows:

[Roll No. 3] . . .

§ 6. Amending the Standing Rules

As noted earlier, the House adopts a set of rules on opening day of a new Congress, and those rules remain applicable for the duration of that Congress. However, the House may amend those standing rules at any point, and the rules in their amended form will govern from the point at which the amendments are adopted.⁽¹⁾ In the 106th Congress, the standing rules of the House were recodified in order to present a more logical organization by grouping together related rules, standardizing language across rules, eliminating obsolete provisions, and renumbering rules accordingly.⁽²⁾ The recodification was not intended to effect any substantive amendment to the standing rules, and the rules in their revised format were adopted prior to the consideration of substantive amendments thereto.⁽³⁾

1. In rare instances, the House has adopted changes to the standing rules on a contingent basis or with a delayed effective date. See §§ 6.16, 6.17, *infra*.
2. 145 CONG. REC. 47–223, 106th Cong. 1st Sess. (Jan. 6, 1999).
3. *Id.*