election of any consequence since November 8 occurred this week, and guess what, a Democrat won.

Fairfax County is larger than any of our congressional districts. It has almost a million people. The chairman of the board of Fairfax County had been a Republican. He is now a colleague in the House of Representatives.

□ 1930

So there was a special election to fill his place. Kate Hanely, the Democrat, rose to the position of chairman of one of the largest counties in the country through the usual way. She had no bumper-strip slogans, there were no cliches in the campaign, she had been an officer of her civic association, president of her PTA, she had invested enormous amounts of time in child care, health care, transportation, she chaired the regional body which develops policy on transportation for the Washington region.

In other words, she had invested much of her adult life in serving her community.

She was not an advocate of no government or in any way suggested that government is the problem. In fact, what she would say time and again is that good government is the solution to the problems that we have in developing the kind of quality we want for ourselves and our families.

She was successful in that approach.

Mr. Speaker, this is a county that has one of the highest educational levels in the country, and people who are very much involved in civic activities. They agreed with her message, someone who has devoted themselves to the community, who believes in the spirit of community and believes in the Democratic Party's principles of opportunity, responsibility, and yes, community.

That is the kind of person they want to lead them.

So Kate Hanley was elected to chair the Fairfax County Board of Supervisors, where many of us live.

I know all of us will benefit from the good government that Kate Hanley will bring to Fairfax County.

I do not know whether this is a harbinger of things to come; I would certainly like to think so. But it certainly is a testament to the fact that if you do things right, particularly when you localize elections to the point where you are offering yourself to people who know you, who know how much you care about their community and their quality of life, you can win.

Kate Hanley did win, and I applaud her for her commitment to her community and the fact that she was proud to run as a Democrat on Democratic principles.

She was victorious. I think we are going to see more victories like Kate Hanley's in Fairfax County.

LAWSUIT CHALLENGING THREE-FIFTHS VOTE TO INCREASE INCOME TAX RATES

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Mr. Speaker, yesterday 15 Members of this body, including myself, 6 private citizens, and the League of Women Voters filed a lawsuit to overturn as unconstitutional the new House rule requiring a supermajority of three-fifths to pass any legislation raising income tax rates.

Let me make this very, very clear: This lawsuit has absolutely nothing to do with taxes; it has everything to do with the Constitution of the United States.

Last month each and every one of us took an oath to uphold and defend that Constitution. That is our first and our most serious and sacred duty.

Unfortunately, the new House majority seems all too willing to treat the Constitution quite casually.

This new House rule is intended to be a political statement that they are really serious about not raising taxes. We believe that the Constitution is far too important to set aside just for the sake of a political slogan.

The new House rule violates one of the most fundamental principles of our democracy, the principle of majority rule. It sets an extremely dangerous precedent, and we simply believe that it should not be allowed to stand.

This year the supermajority requirement may apply just to income tax rates; but next year—next year it could be international agreements or trade or civil rights or clean air, and perhaps unanimous consent required if this country should have to go to war.

So it is extremely important to act now to purge the House rules of this very bad idea. To do it now, lest it serve as an invitation to some future Congress to do even more mischief with the Constitution, to yield to some temptation to an even greater level of constitutional stupidity.

The Framers of the Constitution were very much aware of the difference between a supermajority and a simple majority. They met in Philadelphia in direct response to the requirement of the Articles of Confederation for a supermajority to raise and spend money or exercise other major powers. It was the paralysis of our National Government in those days, caused by the supermajority requirement of the Articles of Confederation, more than any other single reason, that led to the creation of our Constitution.

In the convention in Philadelphia, the delegates repeatedly considered and rejected proposals to require a supermajority for action by Congress, either on all subjects or on specified ones. In only five instances did they specify something more than a regular majority vote: overriding a veto, ratifying a treaty, removing officials from office, expelling a Member, or proposing amendments to the Constitution itself.

When they wanted to require supermajorities, they knew exactly how to do it. None of these instances have anything to do with the passage of legislation.

Now, some argue that the three-fifths requirement to raise taxes would be like the two-thirds requirement to pass a bill on suspension or 60-vote requirement to end debate in the other body. Wrong. Those rules address procedural steps. A bill not approved under suspension of the rules can be brought back and passed by a simple majority later in the House.

After a debate is over in the other body, the bill still needs to gather only a majority of votes to pass.

The idea of a three-fifths vote to raise taxes was first proposed by the new majority in its so-called contract as part of the balanced budget amendment to the Constitution. For those who are serious about this idea, that is the way to do it, amending the Constitution itself. They cannot use the House rules to amend the Constitution on the cheap.

The Framers had the wisdom and foresight to grant the courts the authority to decide the constitutionality of the acts of other branches of the Government.

The Framers knew there would be times like this, times in our history when elected officials would be unable to resist the temptation to tamper with the Constitution.

Today we have taken advantage of that foresight by asking the Federal District Court for the District of Columbia to strike down this politically motivated House rule and to preserve the integrity of the Constitution.

Filing suit against the Clerk of the House is a step which none of us takes lightly. Last month I took an oath to uphold and defend the Constitution, and it is with deep respect for my colleagues in this body and my commitment to that oath I filed this suit.

Mr. Speaker, yesterday I joined 14 other Members of Congress, 6 interested private citizens, and the League of Women Voters in filing a lawsuit to strike down a new House rule which violates the principle of majority rule. We have asked the U.S. District Court for the District of Columbia to issue a declaratory judgment that the new House rule requiring a three-fifths vote to increase income tax rates is unconstitutional. The new rule violates one of the most fundamental principles of our democracy—majority rule—and it should not be allowed to stand.

I am especially pleased that Lloyd Cutler, Partner at Wilmer, Cutler, and Pickering, and Prof. Bruce Ackerman of the Yale Law School have agreed to represent us in this suit. Their expertise and commitment have been invaluable in making this challenge possible.

Let me make this clear, this case has nothing to do with taxes and everything to do with the Constitution. To make it look like they're really serious about opposing taxes, the new Republican majority is willing to subvert the

constitutional principle of majority rule. We believe that the Constitution is too important to set aside for the sake of a political slogan. While this year the supermajority requirement might apply just to taxes, next year it could be trade or civil rights or clean air legislation or even a declaration of war. So, it's extremely important to act now to purge the House Rules of this bad idea, lest it serve as an invitation to some future Congress to do more mischief with the Constitution—to yield to some temptation to an even greater constitutional stupidity.

Filing suit against the Clerk of the House of Representatives is not a step which any of us takes lightly. Unfortunately, the new House majority seems all too willing to treat the Constitution casually. At its insistence, the House voted last month to approve this rule, a frontal assault on the principle of majority rule and one which we believe violates the Constitution. The oath of office my colleagues and I took last month requires us to support and defend the Constitution. That is our first and most serious duty. Our commitment to that oath compels us to take this action.

Our complaint asks the court to declare the new rule unconstitutional on two grounds. First, it unconstitutionally gives effective control of legislation to the minority during House consideration of tax measures. This violates the principle of majority rule embodied in the Constitution, a principle from which Congress is permitted to stray only in situations specifically stated in the Constitution.

Second, the rule's prohibition on the consideration of retroactive Federal income tax increases unconstitutionally restricts the business of the House. The Constitution specifically grants Congress the authority to lay and collect taxes. The House does not have the power to override the Constitution by adopting rules which limit its constitutionally protected authority to act on tax matters, retroactive or otherwise.

During debate on the rule last month, Republicans said this rule change made it clear that they are opposed to tax increases. What it really made clear is that for the sake of political posturing the Republicans are willing to trample on the Constitution which has guided us for 206 years.

The Framers of the Constitution were very much aware of the difference between a supermajority and a simple majority. They met in Philadelphia against the historical backdrop of the Articles of Confederation, which required a supermajority in Congress for many actions, including the raising and spending of money. It was the paralysis of national government caused by the supermajority requirement, more than any other single cause, that led to the convening of the Constitutional Convention.

In that convention in Philadelphia, the delegates repeatedly considered—and rejected—proposals to require a supermajority for action by Congress, either on all subjects or on certain subjects. In only five instances did they specify something more than a majority vote. These are for overriding a veto, ratifying a treaty, removing officials from office, expelling a Representative or Senator, and proposing amendments to the Constitution. Amendments to the Constitution later added two others: Restoring certain rights of former rebels, and determining the existence of a Presidential disability. None of these instances has to do with the passage of routine legislation.

The records of the debates in Philadelphia make it clear that in all other instances the writers of the Constitution assumed that a simple majority would suffice for passage of legislation. The text of the Constitution itself says as much. Why, otherwise, would it provide that the Vice President votes in the Senate only when ''they be equally divided?'' Because, as Hamilton explained in Federalist No. 68, it was necessary ''to secure at all times the possibility of a definitive resolution of the body.'' Certainly the Framers didn't intend the Senate to operate by the principle of majority rule, but not the House. Majority rule is such a fundamental part of a democratic legislature that the Founders saw no need to state it explicitly.

If the House could adopt its own supermajority requirements to pass unpopular legislation, that would leave a temporary majority of the House free to craft all sorts of voting schemes which would strengthen the power of minorities and make our legislature unworkable. For example, instead of simply requiring three-fifths of the whole House, the rules could say that a bill wouldn't be considered to have passed unless it has the votes of all the House committee chairmen. Or two-thirds of its 100 most senior members. Or the vote of at least one Member from each State. To be sure, these are absurd and cumbersome proposals, but each would be permitted under the Republican's interpretation of the Constitution.

The reason behind the principle of simple majority rule was stated clearly in The Federalist—one of the five books which the new Speaker has urged every Member to read. In Federalist No. 58, James Madison wrote:

> It has been said that more than a majority ought to have been required for a quorum, and in particular cases, if not in all, more than a majority of a quorum for a decision. That some advantages might have resulted from such a precaution, cannot be denied. It might have been an additional shield to some particular interests, and another obstacle generally to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. *It would be no longer the majority that would rule; the power would be transferred to the minority.* Were the defensive privilege limited to particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the general weal, or in particular emergencies to extort unreasonable indulgences. [Emphasis added.]

And again, remember that it was a lack of effective national government, produced by the minority-rule effects of the supermajority provisions of the Articles of Confederation, that led to the Convention that wrote the Constitution.

Supporters of the new House rule note that the Constitution says the House may write its own rules. Yes. And the supporters have also cited an 1892 Supreme Court decision United States versus Ballin which says this rulemaking power ''is absolute and beyond the challenge of any other body or tribunal'' so long as it does ''not ignore constitutional constraints or violate fundamental rights.''

But there's the rub. The rulemaking power of the House does not give us a license to steal other substantive provisions of the Constitution, especially not one so central as the principle of majority rule.

The advocates of this rule conveniently fail to point out that a unanimous Supreme Court in that very same case determined that one constitutional constraint that limits the rulemaking power is the requirement that a simple majority is sufficient to pass regular legislation in Congress. To quote the Court:

> The general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations * * *. No such limitation is found in the Federal Constitution, and therefore the general law of such bodies obtains.

The Court expressed the same understanding as recently as 1983, when, in Immigration and Naturalization Service versus Chadha, it stated:

> * * * Art. II, sect. 2, requires that two-thirds of the Senators present concur in the Senate's consent to a treaty, rather than the simple majority required for passage of legislation.

So, this principle, while not written into the text of the Constitution, was explicitly adopted by the Constitutional Convention. It was explicitly defend in The Federalist, the major contemporary explanation of the Framer's intent. It was followed by the first Congress on its first day, and by every Congress for every day since then. And, this principle has been explicitly found by the Supreme Court to be part of our constitutional framework.

Some argue that a three-fifths requirement to raise taxes would be like a two-thirds vote requirement to suspend the rules and pass a bill, or the 60-vote requirement to end debate in the Senate. Wrong. Those rules address procedural steps. A bill not approved under suspension of the rules in the House can be reconsidered and passed by a simple majority. After debate is over in the Senate, only a simple majority is required to pass any bill.

So this rule is not like any rule adopted in the 206 years in which we have operated under our Constitution. As 13 distinguished professors of constitutional law recently said in urging the House to reject this rule:

> This proposal violates the explicit intentions of the Framers. It is inconsistent with the Constitution's language and structure. It departs sharply from traditional congressional practice. It may generate constitutional litigation that will encourage Supreme Court intervention in an area best left to responsible congressional decision.

So, if this rule is so clearly unconstitutional, why was it adopted? The answer is simple. This rule is a gimmick. It is an act of high posturing. And as much as the Republicans may wish to be seen as opposed to tax increases, to demonstrate their absolute hostility toward tax increases, still it is unseemly to do so at the expense of the Constitution.

Beyond that, if we start down this road of making it harder for Congress to carry out some of its responsibilities, who knows where it will end. In December, Representative SOLOMON sent out a ''Dear Colleague'' letter enclosing and endorsing a newspaper column saying that this supermajority requirement

should be broadened to apply to all taxes and fees; to any spending increase; and to any bill imposing any costs on any type of private business—for example, the Clean Air Act.

So let's be clear that if this supermajority requirement is allowed to stand for one type of legislation, in the future we'll be voting on extending that bad idea to other types of legislation, too. And with it, we slide measurably toward the empowerment of a minority against which Madison warned.

Some question whether the court will even address the merits of our claim. We are confident it will. The U.S. Court of Appeals for the District of Columbia Circuit in Michel versus Anderson reached the merits of a new rule of the House to allow delegates to vote in the Committee of the Whole. There, the court rejected various procedural arguments to dismiss the case, stating that the courts are empowered to act on those House actions which ''transgress the identifiable textual limits'' of the Constitution. Moreover, the court ruled that private citizens have standing in these kinds of suits because they are being harmed through a dilution of the value of their vote in Congress, but unlike Representatives, they do not have the power to persuade the House to change its rules. The plaintiffs in our case are similarly affected by House rule XXI, a rule which, we argue, clearly exceeds congressional authority under the Constitution.

The idea of a three-fifths majority to raise tax rates was first proposed in the Republican Contract With America as a part of a balanced budget amendment to the Constitution, not as a rules change. For those who are serious about this idea, that is the appropriate and lawful way to do it—through an amendment to the Constitution.

Since the House did not follow that process, my coplaintiffs and I have been forced to involve the courts in this matter. The Framers had the wisdom and foresight to grant the Federal courts the authority to decide the constitutionality of acts of other branches of the Government. The Framers knew there would be times in our history when elected officials would be unable to resist the temptation to tamper with the Constitution for short-term political gain.

Today we take advantage of that foresight by asking the court to strike down a politically motivated House rule and preserve the integrity of the Constitution. Our faith in the strength of the Constitution gives us faith in the process of judicial review, and we feel confident that the court will strike down this House rule.

Mr. Speaker, I include in the RECORD the statement of Ms. Becky Cain, president of the League of Women Voters of the United States, in connection with the lawsuit.

(The letter from Ms. Cain is as follows:)

STATEMENT BY BECKY CAIN, PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, FEBRUARY 8, 1995

On the Lawsuit Challenging House Rule XXI:

Good morning. My name is Becky Cain and I'm president of the League of Women Voters of the United States. On behalf of our members and on behalf of all voters, the League is joining in this suit.

Seventy-five years after its founding, the League still believes in the concept of good government. We still believe that maintaining the integrity of our political system is a worthy goal. Call us old fashioned—we still believe that representative government should operate on the principle of majority rule. We oppose the tyranny of the minority.

Good government means representative government. According to the Constitution, majority rule is the keystone of representative democracy. House Rule 21 turns this principle on its head. By enacting a rule requiring three-fifths vote to raise taxes, the two-fifths who oppose the bill gain control. Congress has thus given up the most basic and fundamental power granted by the Constitution—the power to lay taxes—to minority rule. Good government also means responsive government. But under the three-fifths rule, Congress responds to the interests and will of only a minority of its members.

Good government means being able to make decisions—to make hard choices. As we are seeing now, making decisions that meet the needs of this diverse country is already difficult enough. This rule makes tough budget and tax decisions impossible.

In 1951 when President Eisenhower asked Congress to help him raise revenue for the Korean War effort, they did so by a vote of 233 to 160 in the House of Representatives—less than three-fifths. Under House Rule 21, Eisenhower's defense program would have been blocked or the budget busted.

Finally, good government means abiding by the Constitution. The three-fifths rule does not. The Constitution explicitly requires a supermajority in only seven cases. Requiring supermajorities to pass legislation would, according to James Madison, reverse the principle of free government. In the two centuries since he made this argument, we've seen no evidence that proves him wrong.

Don't be fooled by the term ''supermajority.'' The day the House passed Rule 21, the majority of citizens lost power. Under this rule the votes of some representatives count less than other, and thus the votes of some voters count less than others. This is called vote dilution. We are taking this action, then, on behalf of all those voters whose votes now mean less than they used to.

The League understands the anti-tax sentiment behind this rule. Nobody likes to have their taxes raised. And certainly Congress needs to think long and hard before it enacts any increase. But good intentions do not equal good government. And in those cases where Congress has to evade the Constitution in order to legislate public sentiment, let the voters beware.

With so much at stake, maintaining majority rule is more critical than ever. The League joins this lawsuit to halt the erosion of this constitutional principle.

PERSONAL RESPONSIBILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise again tonight and take the floor again tonight to continue the discussion of the Personal Responsibility Act.

The Personal Responsibility Act is the Republican majority's welfare reform act. I wish us to take a closer look at the Personal Responsibility Act and how it affects all of us in the United States but particularly the State of Texas.

As I have stated on several occasions before, the Personal Responsibility Act would cut Federal funding in Texas over $1 billion in fiscal year 1996 alone, representing a cut of 30 percent. There are unsubstantiated rumors running through the Capitol that the senior nutrition program has been pulled from the Personal Responsibility Act. If this is true, I congratulate the Republican majority in their recognition of the absurdity that is included in the Republicans' Contract With America, reducing funding for meals-on-wheels and other senior programs. It just does not make sense.

Under the original Personal Responsibility Act, the Houston Harris County Area Agency on Aging provided preliminary numbers last week from which we estimated how many seniors would be denied meals per day in Houston.

□ 1940

After a closer calculation, the Area Agency on Aging has provided me with a letter that says 320 seniors would be denied a meal each day, 80,000, more than 80,000 meals a year if the Personal Responsibility Act passed in its present form. I insert that letter in the RECORD at this point, Mr. Speaker, and I appreciate the opportunity to do that.

The letter referred to is as follows:

CITY OF HOUSTON, HEALTH AND HUMAN SERVICES DEPARTMENT,
Houston, TX, February 2, 1995

Mr. GENE GREEN,
House of Representatives,
Washington, D.C.

Dear Congressman Green: Per the request from your office regarding the impact of 30% reduction in our USDA Award, the following information is provided:

The 30% reduction in our USDA Award would translate to 80,357 less meals available to our nutrition participants. When further analyzed on a daily basis, this would mean 320 seniors per day would not be served a congregate or home delivered meal.

The Area Agency on Aging serves seniors who are 60 years and older. A dependent child of an eligible senior would also be eligible for our services.

If additional information is required, please contact Charlene Hunter James, MPH, Director, Houston/Harris County Area Agency on Aging at (713)794–9001.

Sincerely,
M. DESVIGNES-KENDRICK, MD, MPH,
Director.

On the front page of today's Washington Post, Mr. Speaker, I saw a headline that said, ''Republican officials agree on repealing welfare entitlements.'' That is like two hyenas fighting over a deer with the grandparents and children seeing what is left for them. Unfortunately over a hundred thousand seniors in Harris County had no voice in that agreement, who may or may not get a hot meal, if these rumors are not correct.

The American people, they want results. How can we have the results