

to establish a First Responders Grant Program to ensure adequate funding to increase the number of first responders in the Nation."

Ms. PRYCE of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on the amendment and on the resolution.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

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PROVIDING FOR CONSIDERATION OF H.J. RES. 83, PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES REGARDING THE APPOINTMENT OF INDIVIDUALS TO FILL VACANCIES IN THE HOUSE OF REPRESENTATIVES

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 657 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 657

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 83) proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) 90 minutes of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

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

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), 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.

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

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 657 is a rule providing for the consideration of House Joint Resolution 83, a proposed amendment to the Constitution of the United States regarding appointment of individuals to fill vacancies in the House of Representatives.

The rule provides for 90 minutes of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule also provides for one motion to recommit.

Mr. Speaker, on April 22 of this year, the House of Representatives debated and voted on H.R. 2844, the Continuity of Representation Act, which provides for the expedited special election of new Members to fill seats left vacant due to extraordinary circumstances.

Such circumstances would be deemed to exist when the Speaker of the House announces that vacancies in the House exceed 100 members. The special elections would be required to be held within 45 days. This bill passed the House with a broad majority of 306 votes in favor to 97 against.

At the foundation of the Continuity in Representation Act is the principle that Members of this House ought to be elected by the people. This principle has guided service in this institution since its inception. Indeed, the purpose of the House is to serve as a Chamber that is closest to the people; closest to the people due to the equal size of our constituencies; closest to the people due to the frequency of elections; and, most important, closest to the people because of the direct election by the people.

I support the Founding Fathers' view that Members of the House ought to be directly elected by the people and not selected for them.

This rule provides for consideration of an approach that would amend the Constitution and allow for immediate appointment within 7 days of replacements for Members due to the death or incapacity of a majority of the House's membership. The appointments would be made by the chief executives of the States where a vacancy exists from a list provided and maintained by the elected Member.

While I do not agree with changing the Constitution's requirements that Members of the House be directly elected, I do sincerely believe that our colleagues who do support this constitutional amendment deserve the opportunity to have their proposal voted upon by the House.

Mr. Speaker, following the tragic events of September 11, this House has a responsibility and duty to consider the fate of this institution should it become necessary to replace a significant number of Members due to a deadly terrorist attack.

Neither passage of the expedited elections bill nor consideration of H.J. Res. 83 alone serves as a comprehensive response to the continuity of this House in the face of deadly attack. For example, we must consider appropriate responses in the event that a large number of Members are incapacitated rather than killed. This is a potential scenario that cannot be ignored in a time of chemical, biological, and radiological weapons.

In order to act, the Constitution requires the House to achieve a quorum

of majority of all Members living and sworn. When a Member dies or resigns, the Speaker under the rules adjusts the quorum. However, the Framers never contemplated and made no provisions for the need to adjust the required quorum when large numbers of Members are still living but unable to carry out, temporarily or otherwise, the duties of the office to which they have been sworn. Under current law, if more than half of the House were to become incapacitated yet not deceased, the House could be unable to act at a time when the need to do so could hardly be greater.

On April 29, the House Committee on Rules held an original jurisdiction hearing on the incapacitation of Members. Under the leadership of the gentleman from California (Chairman DREIER), the Committee on Rules is approaching this important issue with the seriousness and thoughtfulness it deserves.

Mr. Speaker, while H.J. Res. 83 provides for the appointment of replacing representatives due to incapacity of elected Members, it does not offer an answer on how the House is to proceed on the question of defining or declaring incapacitation. These are important questions and the House must continue to deliberate seriously on their solutions.

I am committed to working to address this complex continuity issue, and I know that the gentleman from California (Chairman DREIER) and the gentleman from Wisconsin (Chairman SENSENBRENNER) will continue their personal involvement and leadership on this issue, as well as other committed colleagues on both sides of the aisle.

Mr. Speaker, I encourage my colleagues to support the rule and continue the important consideration of how this House will operate should massive tragedy strike.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself 6 minutes.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Mr. Speaker, I want to thank my friend, the gentleman from Washington (Mr. HASTINGS), for yielding me the customary 30 minutes.

Mr. Speaker, today the House is debating the continuity of Congress. We are attempting to answer important questions: What happens to the House of Representatives if a majority of Members are killed or incapacitated in a catastrophic event like a terrorist attack? How does the House continue to function if there are not enough Members to constitute a quorum?

These are not easy questions to answer. Indeed, they are not easy questions to talk about or to think about. Nobody wants to consider what happens if they and their friends and colleagues are attacked, but they are questions that we must face head on. And they are questions that elicit

strong policy answers from those who have taken the time to study the issue.

Some believe that amending the Constitution is the proper course. Others disagree, arguing for statutory fixes. But it seems to me that we could all agree on one thing: that these issues should transcend partisan politics. But not in this House.

The Republican leadership cannot seem to help itself when it comes to the way it manages this body. They seem to be addicted to stifling debate, to muzzling Members of both parties, to partisan rules and lousy procedures, and to shredding the committee process.

And so I rise today in strong opposition to this rule because the Republican leadership has once again taken a nonpartisan issue and dragged it into the partisan mud. Instead of working side by side with Democrats, the Republican leadership ignored the proper procedures of this body and rushed this constitutional amendment to the floor for a vote.

This rule makes in order 90 minutes of general debate. That is 90 minutes more than the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), held in hearings on this amendment. Let me say that again. In the 108th Congress, there has not been one single hearing about a constitutional amendment on this issue.

The chairman of the Committee on the Judiciary found time to write a very eloquent op ed piece in this morning's Washington Post, but apparently could not find the time to hold a hearing. The chairman of the Committee on the Judiciary and the distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), hold strong views that the Constitution should not be amended. They may be right. However, I honestly do not believe that this whole issue has been given the serious and thoughtful attention and consideration that it deserves.

There is no reason to bring this bill to the floor without hearing from academics, lawyers, Members of Congress, Senators, former and current administration officials, liberal, moderate, and conservative interest groups. Many of those experts served right here as Members of Congress as members of the Committee on the Judiciary. Why are we not taking advantage of their expertise?

I am especially puzzled by this unnecessarily partisan process given that this is not a hot topic in the elections. I think it is safe to say that not a single congressional race this year will turn on whether the candidate supports constitutional or statutory remedies for the continuity of Congress. This is not what people are talking about around their kitchen tables. But it is important, and it should be handled correctly.

This rule makes in order only the constitutional amendment offered by

the gentleman from Washington (Mr. BAIRD). Yet last night, the gentleman from California (Mr. ROHRABACHER) came before the Committee on Rules with two proposals. Several members of the Committee on Rules had questions and sought clarification on certain aspects of his ideas.

□ 1130

It was a very, very interesting conversation. But it was not a discussion that should have taken place in the Committee on Rules less than a day before the House votes on a constitutional amendment. It should have taken place at a hearing of the Committee on the Judiciary.

Mr. Speaker, the American people expect and they deserve a House that works together when this country faces adversity. After the September 11 attacks, the Speaker of the House and the minority leader brought our two parties together for a bipartisan caucus to discuss what happened and to discuss the next steps. During those next days and weeks we were not two parties, we were one country. I believe that we need to once again join together in a bipartisan caucus to talk about this important issue and decide on the steps that we need to take, to bring together experts from across the political spectrum and to do what is right for the country and for the Congress.

Mr. Speaker, this constitutional amendment was brought before the House in the wrong way. This rule is the wrong rule, and I would urge my colleagues to reject it.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules and an individual who has been a leader on this issue.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I thank my friend from Washington (Mr. HASTINGS) for his leadership on this issue and for his fine work on the Committee on Rules.

As I listen to the comments of my very good friend, the gentleman from Massachusetts (Mr. MCGOVERN), I cannot help but think how hard we have in fact been trying to work in a bipartisan way on this issue. I am going to talk about what led us to the point where we are right now, we are considering the rule; and then I will try to get a bit into the substance of the constitutional amendment.

We, after September 11, did come together as a Nation; and we had this historic appearance on the east front of the Capitol where Members of the House and the Senate came together to focus on the solidarity that was important as we begin to proceed with the global war on terrorism. We had never

seen an attack like that that we saw on September 11 in our Nation's history. And contrary to what my friend from Massachusetts just said, we have continued to work in a strong bipartisan way, and we are here at this moment considering this constitutional amendment which I virulently oppose because of our desire to work in a bipartisan way.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and I introduced legislation which called for expedited special elections. Why? Because we feel very, very passionately about the need to ensure that no one ever serves in the People's House without having first been elected. It is conceivable under the constitutional structure that exists today that every other member that is traditionally elected in the United States of America could hold that office by appointment. The President of the United States can become President by appointment, as we found with President Ford. He became Vice President and then President. Members of the other body, the United States Senate, can in fact be appointed, serving in the United States Senate. But, Mr. Speaker, no one has ever served in the People's House without having first been elected.

James Madison said, "Where elections end, tyranny begins." And so that is the reason that, having spent a great deal of time over the past few years looking at this, the gentleman from Wisconsin (Mr. SENSENBRENNER) and I joined with a number of our colleagues and we enjoyed bipartisan support in this effort. We put together this structure which says, if more than 100 Members are tragically killed, what happens? Well, we have an expedited procedure whereby elections are held within 45 days.

So when we put this legislation together we worked very, very hard on it. We had Members who said, we want to have a constitutional amendment, specifically, the gentleman from Washington (Mr. BAIRD), who I am happy to see has joined us and who has spent a great deal of time and effort on this issue; and I congratulate him for the thoughtful approach that he has taken on this issue.

But what happened when we moved ahead with our legislation was I had someone who was not, frankly, a proponent of the amendment or even the consideration of it; and that is the chairman of the Committee on the Judiciary.

At the request of the gentleman from Washington (Mr. BAIRD) and others, I talked with the chairman of the Committee on the Judiciary; and he made a commitment to me that in fact at the next markup the Committee on the Judiciary had they would report out this constitutional amendment. And so that is exactly what has happened.

It has been the bipartisanship that has gotten us to this point today where we are going to, at the request of the minority, have a vote on what I personally believe is an ill-conceived idea and

that is amending the US Constitution which would allow for the appointment of unelected members to serve in this House. And I recognize they want elections. Everyone is for elections. But I do not believe that anyone should serve here without the people having first decided who is going to serve.

So what happened, Mr. Speaker? Well, we worked on this legislation again in a bipartisan way; and by a vote of 306 to 97 we were able to pass this legislation. That is a clear, very strong bipartisan majority.

And how did we do it working in a bipartisan way? We addressed some of the very valid concerns that came from the minority, ensuring that all of the voting rights procedures are included. Those were offered by the gentleman from North Carolina (Mr. WATT), and we agreed that those should be accepted. The ranking minority member of the Committee on Armed Services, the gentleman from Missouri (Mr. SKELTON), very appropriately talked about the concern to make sure that our men and women in uniform who are overseas have the opportunity to participate in those special elections. Those are two concerns that emerged from Democrats, from members of the minority that we incorporated in our legislation.

So as we proceeded with that measure, getting this strong bipartisan 306 to 97 vote in support of the legislation, we addressed the minority concerns. And so, contrary to what is being said about hearings, there were hearings in the Committee on the Judiciary. They did take place in the past Congress, but this has been a process that has been going on since September 11 of 2001.

Now I will say that when it comes to amending the Constitution I have always argued that an amendment to the Constitution should be a last rather than a first resort, and that is one of the reasons I believe that it is best for us to let the legislation that we have seen pass this House come up for consideration in the other body. I believe we should sign that legislation; and then, Mr. Speaker, we will have in place a structure to deal with a potential crisis.

Now, if we were to see two-thirds of this House vote, which everyone acknowledges is not going to happen, but if we were going to see two-thirds of this House vote in favor of a constitutional amendment that would allow for the appointment of Members to serve in the People's House, we have seen, on average, 7 years for ratification of a constitutional amendments. And I think that, based on the fact that this is very controversial and undermines the spirit, the Madisonian spirit of the representative democracy for the People's House, I think it would conceivably take a lot longer.

So that is why I think it is incumbent upon us to do everything we possibly can to ensure the bipartisan legislation which has passed this House, in fact, becomes public law. So that is

why support of this rule is support of proceeding with the bipartisan commitment that I was proud to have been able to get from members of both political parties from our leadership team.

Mr. Speaker, I will tell you that the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), is absolutely committed to institutional reform as it comes, as we address this issue. There are a wide range of things that everyone has done to ensure the continuity of the Congress.

We in the Committee on Rules are spending a great deal of time right now dealing with this issue of incapacitation. It is a tough one. It is not an easy one. But we are deliberating which is exactly what our responsibility is. So I believe that support of this rule is support of the bipartisan quest and the agreement that I was proud to have put together with the gentleman from Washington (Mr. BAIRD) to allow for a vote, which is what they asked me to do, Mr. Speaker. I was asked to put into place a structure that would allow for a vote on a constitutional amendment, and we are going to be doing that vote.

So that is why when people want to talk about the fact that somehow this has become partisan, it is not partisan. The one vote we had, 365 members of both political parties overwhelmingly supported the legislation and, along with that, even though it is not going to pass, have allowed for a vote on the issue of amending the Constitution.

Now, let me say very briefly that I believe that looking at the prospect of having anyone serve in the House of Representatives without having first been elected is ill-conceived and wrong; and I believe that while we may hear about a structure that does exist for the Speaker of the House who could be selected by a very few Members to conceivably by the succession plan become President of the United States, that structure existed when James Madison, the father of the Constitution, put this whole device that we have in place under which we govern the United States Constitution.

So, Mr. Speaker, I am convinced that we are doing the right thing by allowing the gentleman from Washington (Mr. BAIRD) to have his chance to be heard with the constitutional amendments, and I believe that we are doing everything we can to continue down the road of working in a bipartisan way on institutional reform. So I will simply say that I thank my friend again for his hard work. I want to thank the gentleman from Illinois (Mr. HASTERT) for the leadership that he has shown on this.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say to the distinguished chairman of the Committee on Rules that what today is supposed to be bipartisan is more than just giving the gentleman from Washington (Mr. BAIRD) his day on the floor.

Last night, in the Committee on Rules, the chairman said this is a very

serious issue. He mentioned on the floor today that it is a very controversial issue. It would seem to me that if it is a serious issue and a controversial issue and if we are going to have a process here that both sides can respect, then at a minimum the committee of jurisdiction, which is the Committee on the Judiciary, should have held a hearing on it. We reported this measure out on a very partisan vote in the Committee on the Judiciary without a hearing on the proposal that we are debating here today.

The chairman of the Committee on Rules says that we are working in a bipartisan way. How can this be a bipartisan process when the committee of jurisdiction, the Committee on the Judiciary, has not held a hearing?

I would say that I read the chairman's op-ed piece today in the Washington Post, and I agree with much of what he is saying, but I have a lot of questions. There were members of the Committee on Rules last night who had a lot of questions. There are Members who are not on the floor right now who have a lot of questions. I think that it is important that we have a process that has some integrity to it, a process where people can have their questions raised and answered; and this is not the process.

Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I would simply argue that requests were made of me as the chairman of the Committee on Rules to allow us to have a chance to debate and vote on the gentleman from Washington's (Mr. BAIRD) constitutional amendment. That was the request that was made of me. We know that there is strong opposition, and I am proud to be one of the leaders of the opposition of the constitutional amendment, but I recognize that the gentleman from Washington (Mr. BAIRD) has put a lot of time and effort in this. We have gone through a multi-year period, a multi-year period allowing for a lot of deliberation on this; and the Committee on the Judiciary reported this measure out unfavorably. Why? Because I believe correctly they understand that amending the Constitution is not the proper thing for us to do.

So I am just trying to underscore the fact that I am standing here because of bipartisanship on this issue. Frankly, I do not think that we really need to consider this amendment to the Constitution. It is not going to carry. Two-thirds of this House is not going to be voting in favor of the gentleman from Washington's (Mr. BAIRD) amendment. He acknowledges that fact. He acknowledged it in the Committee on Rules last night in debate. But it is our good will and desire to work in a bipartisan way that led us to this point.

Mr. Speaker, I thank my friend for yielding me time.

Mr. MCGOVERN. Mr. Speaker, I yield 30 seconds to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I would ask the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, was he present, if I may ask, at the Committee on the Judiciary markup of this legislation?

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

Mr. BAIRD. I yield to the gentleman from California.

Mr. DREIER. My job is to chair the Committee on Rules.

Mr. BAIRD. I do not want a filibuster. Just a simple yes or no, because I was there.

Mr. DREIER. No.

Mr. BAIRD. Okay. The reason I ask that is because, if we say that it was a bipartisan process, I was there. I am the author of this legislation. There were no hearings granted prior to the vote, and at that hearing a reasonable request was made.

The author of the legislation is here. Let us give him a couple of minutes to speak to the legislation. It was a unanimous consent request. That was denied.

The spirit of true bipartisanship would have said, if the author of a legislation has never had a chance to speak before our committee, then let us at least hear him out.

□ 1145

Instead, what happened was the chairman of the Committee on the Judiciary presented the bill I believe in a false and misleading light, and I was not given a single moment to address it.

I respect the chairman of the Committee on Rules, and I am glad he is here, and I am glad we have this opportunity, and I appreciate that, but it would be a rewrite of history to suggest for one second that the Committee on the Judiciary process that led up to this was bipartisan.

Mr. MCGOVERN. Mr. Speaker, I yield 10 seconds to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, because the gentleman has made a couple of statements that I need to respond to, I would say in response to the gentleman from Washington's (Mr. BAIRD) statement, no, I was not there.

I do know that, in the Committee on the Judiciary, if the gentleman would further yield.

Mr. MCGOVERN. Mr. Speaker, we have a whole bunch of speakers here on our side. Could maybe your side yield the distinguished chairman some time?

Mr. DREIER. Mr. Speaker, if you would just yield me a minute.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, let me respond by saying that in the Committee on the Judiciary I know that the gentleman from New York (Mr. NADLER), who is the ranking member of the Subcommittee on the Constitution, offered an amendment. He withdrew that amendment. So there were no amendments offered.

An opportunity for bipartisanship obviously existed in the committee in that Members could, in fact, offer proposals.

The agreement that we had, the request that was made of me, was that we allow for an up-or-down vote on the gentleman from Washington's (Mr. BAIRD) constitutional amendment on the floor. That is what we are doing. We are going to, in fact, be having an up-or-down vote.

I cannot understand why it is that people want to talk about the fact that in the Committee on the Judiciary they did not believe that there was a proper hearing. In the last Congress, there was hearing on the issue of a constitutional amendment. We know that the members of the Committee on the Judiciary oppose amending the Constitution to allow for appointed people to serve in the People's House, where everyone has always been elected; and the members of the minority in the Committee on the Judiciary did have, in fact, an opportunity to offer amendments themselves to this proposal.

That is what a markup is about. The agreement was that there would be a markup in the Committee on the Judiciary. That was the request that was made of me. We complied with it.

So I believe that we are doing the best thing we can; and I apologize to my friend from Washington if he thinks what I just said was a filibuster.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Before I yield to the gentlewoman from Texas, I should just point out to the chairman of the Committee on Rules that the gentlewoman from California (Ms. LOFGREN) tried twice during the markup to postpone consideration of the gentleman from Washington's (Mr. BAIRD) amendment for a couple of weeks to allow for there to be an opportunity for Members to offer amendments and there to be a hearing, and the motion was tabled.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman.

I wish the chairman of the Committee on Rules would remain on the floor. Because I believe that, more than a bipartisan effort on the gentleman from Washington's (Mr. BAIRD) legislation, we really have appeasement; and I do not think the Constitution warrants appeasement in life-and-death matters.

As I hold a portion of the Constitution in my hands, let me remind my colleague that the opening refrain of the Constitution clearly states: We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, and promote the general welfare and secure the blessings of liberty to ourselves

and our posterity, do ordain and establish this Constitution for the United States of America.

My good friend from California has indicated an appeasement story, but we are not looking for appeasement. This is a question of whether or not we have a full body of procedure on a constitutional amendment; and the Committee on the Judiciary, of which I sit as a member, did not have any hearings on the gentleman from Washington's (Mr. BAIRD) constitutional amendment. In fact, as he indicated, when it was requested for him to at least give an airing, a presentation, a view of this life-or-death question, he was denied.

First of all, for those comments about aversions to constitutional amendments, let me cite for my colleagues, in our own Committee on the Judiciary we have had a hearing on the crime amendment to the Constitution, rights of crime victims. Every single time since 1994 we have had a hearing. We have also had a hearing on the flag burning. In fact, we voted on the flag burning constitutional amendment. And the gentleman is right. Since we voted on it every year it has not passed. 108th, 106th, 105th, 104th Congress we have had hearings on constitutional amendments.

We have already had about five hearings scheduled on the constitutional amendment regarding same sex marriages, and my understanding is my good friends on the other side are gungho to vote for that constitutional amendment. I do not know if that is life or death. It is not life or death to most of us.

But this is a life-or-death question, whether or not this institution, founded and established by this Constitution, that talks about creating a more perfect union, and we cannot have a hearing nor do we have the opportunity to.

Mr. DREIER. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

Let me just say that I totally agree with the need to make sure that we deal with this life-or-death issue. The request was made of me that we, in fact, not have a hearing, that was not the request that was made of me. The request that was made of me is that we have an opportunity for the full House to vote on the issue of a constitutional amendment which would allow for appointed Members to serve here in the House of Representatives, as opposed to having the people elect them, and that is the agreement we had.

Ms. JACKSON-LEE of Texas. Reclaiming my time, and I thank the Chairman for coming to the floor and explaining that.

The only thing I would say to him is he spoke eloquently about bipartisanship. That request was made by the Republican chairman of the committee. I do not believe that was made by the

ranking member of the committee, and so we do not have bipartisanship. That is why I stand on the floor of the House now, not ignoring, if you will, the idea that this distinguished gentleman from Washington (Mr. BAIRD) was going to have an up-and-down vote, because I do not think that is what he is asking for. He has studied this issue for a number of years because he realizes how serious it is.

I offered an amendment to the gentleman from Wisconsin (Mr. SENSENBRENNER) to allow judicial review, to allow an extension of the time for an appeal on the decisions made by the governor. Why did I ask for that? I asked for that, Mr. Speaker, because I believe there should be more involvement of the people in this process.

The legislation that is moving forward by the chairman of the Committee on the Judiciary, with all due respect to his good intentions, limits this to the leadership of various States. It does not in any way take into account the people; and, as I noted, in the Constitution, it started out by saying, We, the people.

Now, we stand here sort of in a dream-like atmosphere. Because 9/11 was more than 2½ years ago, and those of us that can recount the stories of where we were, as we did on the date of the assassination of John F. Kennedy, can say that we were in the hearing room or we were in the Capitol. I happened to be in the Capitol. And if we wanted to recount our fears and apprehension on that day, we would know the state of confusion that we were in.

We also know that those airplanes, God forbid, were destined not only for this Capitol but some rumor for the White House. Tragically, it went to the Pentagon and, of course, to the World Towers, but maybe distance makes the mind lose the gravity of the moment.

The point is the gentleman from Washington (Mr. BAIRD) is talking about life or death, and for the Committee on Rules to come to this floor and suggest there is bipartisanship based on the request of the Republican chairman of the Committee on the Judiciary is unfair.

I would only ask my colleagues, even though it is a distant memory, in light of the state of the world today and the war on terrorism, it is a reality and particularly in terms of what this administration has put us in in Iraq and Afghanistan. Who knows when a terrorist attack will occur?

The point is we need real legislation in a bipartisan way. The gentleman from Washington's (Mr. BAIRD) amendment should have had a full hearing, and anytime we amend the Constitution we should take it very seriously, and I regret that we have not. I ask my colleagues to demand a hearing before the Committee on the Judiciary before we vote on this amendment.

Mr. Speaker, I rise in strong opposition to the closed rule that was reported out of the Committee on Rules yesterday regarding this legislation sponsored by my colleague Mr. BAIRD.

A careful review of the Judiciary Committee's history with respect to its past treatment of constitutional amendments evidences a strong practice of holding hearings prior to any scheduled full Committee markup of that particular amendment.

Consider, for example, the constitutional amendment to protect the rights of crime victims. That amendment was introduced in each consecutive Congress since 1994 (the year the current Majority took control of the House), and on each occasion, it was the wisdom of the Committee to schedule a hearing.

Also, consider the Committee's treatment of the constitutional amendment to prohibit flag burning. A proposal on this issue was introduced in the 108th, 106th, 105th and 104th Congress and each time the Committee undertook hearings prior to scheduling a markup.

Moreover, consider the Committee's treatment of the constitutional amendment to limit the Federal government's ability to raise taxes. A proposal on this topic was introduced in the 105th and 104th Congress, and hearings were held on both occasions.

With this apparent and undeniably longstanding tradition, we are now told that a hearing is unnecessary under the present set of circumstances because a hearing was already held on the Baird amendment introduced in the 107th Congress. This line of reasoning lacks merit for two important reasons.

First, as previously mentioned, it has been the well-established practice of the Judiciary Committee to schedule a hearing on such proposals prior to proceeding to a markup. This hard and steadfast rule has prevailed, even under circumstances where the proposed amendments were virtually identical in nature.

Second, even assuming the general rule was subject to change, the two versions of the Baird amendment, H.J. Res. 67 (introduced in the 107th Congress) and H.J. Res. 83 (introduced in the current Congress), are distinct enough to warrant two separate hearings on their own merits. H.J. Res. 83, for example, uses a distinct threshold for making temporary appointments; places considerable limits on the discretion of the chief executive when he or she is authorized to make such appointments; and provides a mechanism for an incapacitated Member to regain his or her seat after recovery from incapacity.

Our Committee has already seen fit to schedule a series of five hearings, over the course of the next several months, to discuss the issue of same-sex marriage. With this in mind, one single hearing to discuss and consider ideas on how best to ensure the continuity of our government in the event of a catastrophic incident is more than reasonable.

Mr. Speaker, again, I oppose this rule and ask that my colleagues think about the gravity of what this Constitutional amendment will entail. We need to recommit this bill to the committee of jurisdiction, the Judiciary, and revisit the important issues that I have stated above.

Mr. HASTINGS of Washington. Mr. Speaker, may I inquire how much time remains on both sides?

The SPEAKER pro tempore (Mr. SHAW). The gentleman from Washington (Mr. HASTINGS) has 14 minutes remaining. The gentleman from Massachusetts (Mr. MCGOVERN) has 15 minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 4 min-

utes to the distinguished gentleman from Florida (Mr. GOSS).

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from the great State of Washington for allowing me this opportunity.

I rise in strong support of this rule. It is a brief rule, it is understandable, and it is a very fair rule because it does get us to debate, but I am very much in opposition to the underlying resolution. That is the nature of this House. Even though we are against something, we bring it forward for debate. I think that is very fair.

It is prudent to ensure that our legislative process continues to function when we are at war or after a catastrophe. That goes without saying. It is not only prudent. It is responsibility.

We are at war. It is a fact. A loosely organized global network of radical fanatics, who use terror as their weapon of choice, has declared war on us. The escalation of terrorist attacks against us, underscored by the terrible carnage on our innocent homeland on September 11, leaves no doubt that war has been declared on us, and we are at war.

So it is wise to visit the issue of continuity of Congress. However, few problems require a constitutional remedy, and I firmly believe this is not one of them.

The beauty of our government is the ability to evolve and adapt to changing times and needs without altering the foundation that supports and guides us. That is our Constitution.

Our country has withstood foreign wars, civil war, depression, even attacks on our own soil with only 27 changes to our Constitution over the years. As elected public officials, we must understand our responsibilities are not only to those we represent but also to the Constitution that holds our Nation together.

I remind my colleagues, the opening line of our oath of office reads, "I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic." There is no Member of this body who has ever spoken from this floor who has not sworn that oath.

Not far from where we stand, an hour or so from this Chamber, lies Montpelier, the home of the father of the Constitution, James Madison. There, and in this body, his teachings live on and his wisdom resonates with the new generations.

Our Nation has a powerful history based on the principles of free government and the right of all people to elect their representatives. Congress has the privilege to serve those it represents, not to appoint that right to others.

When describing the special relationship between the House of Representatives and the American people, James Madison said, "Duty, gratitude, interest, and ambition itself are the chords

by which they will be bound to fidelity and sympathy with the great mass of the people.”

In order to preserve this bond, we should not tolerate exceptions and caveats to our election process but, rather, continue to encourage Americans to gather together and to vote, solidifying our conviction for and our responsibility to a free government that serves its people.

In the war on terror, we are confronting those who threaten our liberty simply because we have it and we enjoy it. Although the war made against us by terrorists is perilous and unpredictable, we have a duty to remain steadfast and strong, vigilant and upholding the ideals that have contributed to this great Nation, but not in overreacting. We must bring patient, I emphasize patient, devotion and overall intensity of purpose to prudent action without moving the foundation stone of our freedom, our Constitution.

I support the rule because it provides for a deliberative debate, which is what the opposition has asked, but I strongly oppose rushing to change our Constitution. Are the terrorists trying to make us do things to ourselves that the terrorists themselves could not directly force us to do? Let us not succumb to a hasty reaction. Let us celebrate our Constitution as it is and vote “no” on the resolution that would amend it.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me just say to kind of clarify what the concerns are on this side of the aisle. This is an important issue. This is an important topic that we are talking about. I think all of us can agree on that. This is supposed to be a deliberative body where we deliberate, and that means hold hearings where we have people who are experts on some of these issues be able to talk and testify and offer their input.

I am not sure whether it is a good idea to amend the Constitution, but I have to tell my colleagues I am appalled by this process that we would bring an issue like this to the House floor and to ask Members to vote up or down on it without holding hearings in the committee of jurisdiction. That is not the way this place is supposed to work.

The people of this country, the people of this institution deserve a lot better.

Mr. Speaker, I yield 7 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I thank my colleague for the time.

In 1787, this month, the Constitutional Convention was at work in Philadelphia, some of the brightest minds in the history of this country. One of those great minds was Madison, and he has been quoted a lot today, but let me quote another thing Mr. Madison said.

□ 1200

Madison said this about the importance of checks and balances: “The ac-

cumulation of all powers legislative, executive, and judiciary in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed or elected, may justly be pronounced the very definition of tyranny.”

Madison truly believed we have to elect our representatives to the House, but he also believed with equal dedication that there must be checks and balances. Mr. Speaker, if you and we here today do not act, we impose upon this Nation conditions that will ensure the situation that Madison abhorred of concentration of all the power in the executive.

And let us be clear, it will not likely be an elected executive. We are not talking about President Bush or Vice President CHENEY. If the terrorists strike, they will do everything in their power to kill those two individuals and everyone in here that they can. Who then will run this country? That is the question you have yet to answer. You have not answered it. You have said 45 days later we will figure something out. But during that 45 days, who runs the United States of America?

We have indeed taken an oath to defend this Constitution. We have also taken an oath that says we will defend the whole Constitution, including the prerogatives of the House of Representatives as specified in article I.

As people watch this debate today, the people here and the people elsewhere, they must ask themselves, Do I want this country run with no representation from my district there to speak for me? Does an unelected individual who assumes power in the executive branch get to send my child to war without me having a person there to exercise a voice and a vote? I do not think so.

I have had 220 town halls since being elected here, and I will tell you the people back home get this. They do not care really about the insides and outs of the Committee on Rules, but they do care about fair process. And they would say to themselves the idea that we would bring a constitutional amendment to the floor, without ever having given the author a chance to speak to it, is antithetical to the real principles of democracy.

When the distinguished chairman of the Committee on Rules said we are doing our best, I do not believe so. I believe he dissembles. We are not doing our best. Our best would be this: our best would be to invite all the authors of various proposals, for real continuity, to have a full opportunity for debate, an extensive opportunity for the debate, and for the Speaker of the House of the Representatives and the minority leader to say to their representatives, come to the floor, pay attention to this vital matter, and then we will have time for fair debate, time for full amendments.

That is what we truly asked the chairman of the Committee on Rules to do. We did not say just bring this up for an up-or-down vote. I introduced a res-

olution that would have provided a fair and full rule to allow for debate of all different proposals, but that was denied. That rule would have offered several days' waiting period for extensive amendments. That was denied. We can do better than this.

It has been said that few problems require a constitutional amendment. Absolutely true. I believe the majority party has been far too eager to amend the Constitution of late. But I will tell you that a bipartisan commission, a bipartisan commission of distinguished scholars began studying this issue over a year and a half ago, with the premise that we must not amend the Constitution to fix this. After a full year of study, and we are going to have about an hour today, they studied this matter for a year, and they listened to experts and scholars from across the political spectrum, and what did they conclude? They concluded we can only fix this with an amendment.

And that includes, by the way, distinguished Republican statesmen, people like former Senator Al Simpson from Wyoming. Ask Senator Simpson why he reached that conclusion. Ask the distinguished Senator from Texas, Mr. CORNYN, who has successfully introduced legislation in the other body, why he concluded that we need an amendment.

None of us woke up on September 11 and said, boy, what a great day to start thinking about a constitutional amendment. But thousands of our fellow citizens woke up that day not knowing it would be their last. We do not know today when that will happen; but we do know that if the terrorists strike us, they will, in fact, change our system of government at their discretion. They will change who the President is. They will change the political makeup of this body. And we are unprepared to deal with that, and it is irresponsible. And I am sorry it has taken 3 years.

Let me close with statements from the Attorney General of the United States just a week ago: “After the March 11 attack in Madrid, Spain, an al Qaeda spokesman announced 90 percent of the arrangements for an attack in the United States were complete.” A paragraph later the Attorney General said, “Several upcoming events over the next few months may suggest especially attractive targets. These events include the G-8 summit, the Democratic Party convention in Boston this summer and the convention of the Republican Party in New York City.”

If the terrorists attack the convention in New York, kill the President and Vice President and many Members of this body, the inevitable consequence is that Democrats will take the majority of this body, will be forced to elect a Speaker, that person will be a Democrat, and that person will become President.

The distinguished chairman of the Committee on Rules says this was precedent in Madison's time. No, sir, it

was not. It was not for two reasons. The nuclear weapon did not exist in Mr. Madison's time. Secondly, the Succession Act of 1947 was about 180 years away from being written. Madison could not have conceived this. He could not have conceived this, but he left to us an opportunity to address it. We wish we did not have to, but it is foolhardy and reckless to not act when we know the dangers we face.

It has been 3 years, Mr. Speaker, 3 years almost since we saw 3,000 of our fellow citizens killed. If we believe we are immune to that, then we are desperately, desperately deceiving ourselves. And if we do not take provisions to provide for that, then we are letting our public down and letting that sacred Constitution down.

Mr. MCGOVERN. Mr. Speaker, I ask unanimous consent to insert an article that was written by Professor Colleen Shogan, who is a professor of Government and Politics at George Mason University. This article appeared in yesterday's Roll Call.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from Massachusetts? There was no objection.

[From Roll Call, June 1, 2004]

ON CONTINUITY, BOTH PARTIES NEED TO COOPERATE

(By Colleen Shogan)

The debate over how Congress should reconstitute itself in the wake of a devastating terrorist attack has evolved into a partisan melee with experts, staffers and elected officials talking past one another. The same arguments are repeated over and over again, with interested parties now seeming to treat the issue as a law school exercise that rewards the most arcane legal reasoning.

It's true that when tinkering with the Constitution, and interpreting the meaning of the Founders, we must pay attention to the details. But along the way, we should not lose sight of the larger issues that surround the preservation of Congress and its continuity. The current debate has given scant attention to several important points—points that may have the power to move deliberations beyond the impasse over whether a constitutional amendment is needed or whether appointments should take precedence over special elections.

Virtually everyone agrees that the first priority in the wake of a disaster is to make sure the federal government continues to function. The oft-cited reason for quickly reconstituting the House is to preserve its representative capacity. While this rationale is essential, an equally important reason is to preserve legislative power vis-à-vis an emboldened executive.

At a recent Rules Committee hearing on continuity, one Member wondered if a House of Representatives with only a few able Members should cease to function and cede power to the president until it was able to regain membership. Although it is appropriate to ask this question, the answer is a resounding “no.”

If Congress cannot function properly, unilateral executive actions will serve as the operating mechanism of the federal government. For several months in 1861, Abraham Lincoln prosecuted the Civil War unilaterally, until Congress reconvened in early July. The suspension of habeas corpus, the naval blockade, and the enlargement of the Army and Navy undertaken by Lincoln are

conventionally revered in American history as acts of necessity and preservation. But in the Second Treatise of Government (Chapter 8, Section 111), John Locke warned against the expansion of the executive “prerogative” power.

Locke conceded that “virtuous princes” who expand executive power in a time of crisis perform a noble service, but added that those princes who come to power in the aftermath will always be tempted to abuse the precedents set before them. We may recall that Richard Nixon invoked Lincoln's expansive use of executive power when he refused to turn over the Watergate tapes. Locke's so-called “virtuous princes” are not the problem; rather, it is those who follow in their wake.

In short, it would be a travesty if the legislative branch ceased to operate with legitimacy at a time of crisis in the United States. Emergency executive actions that Congress or the Supreme Court subsequently recognize as legally permissible ultimately enlarge the discretionary power of the executive branch. Congress's effectiveness as a bulwark against the executive should encourage lawmakers to design logistical procedures that insure the immediate reconstitution of the House and Senate if mass vacancies or incapacitations occur.

The Constitution requires that all members be selected by election, following the Founders' desires to keep the House close to the people. Yet while the electoral integrity of the House is significant, so too is the fact that the Founders designed the House to provide proportionate and equal representation to all citizens.

Read in its entirety, the Federalist Papers aggressively promote the republican nature of American government, while defending its democratic allowances cautiously. Strictly speaking, the United States is a “democratic republic.” If only a few Members were left to represent the whole nation for a period of time before special elections could be held, would that arrangement accurately reflect the Founders' republican vision? Democracy and republicanism are essential to American governance, and the solution to continuity should span both ideals.

The relevance of both democratic and republican norms suggests that a two-part approach might provide the most comprehensive resolution to the problem of congressional continuity. The Continuity in Representation Act of 2004, sponsored by Rep. Jim Sensenbrenner (R-Wis.), ensures the democratic character of the House by mandating that special elections be held within 45 days of a catastrophe. While that time period may prove too short to conduct several hundred special elections after a massive attack, the underlying electoral motivation behind the bill is sound.

By itself, however, the measure is not a comprehensive answer. To preserve the representative function of the House, an amendment allowing the temporary appointment of members must be enacted. In the context of partisan rancor, these two approaches to continuity have been presented as mutually exclusive measures. But instead, a constitutional amendment should be considered compatible with Sensenbrenner's bill, together producing a federal law that mandates timely special elections as well as a constitutional amendment that provides for temporary House appointments. Only this can preserve the Founders' democratic and republican ideals.

It is time to move beyond the repetitive rhetoric and the impenetrable inflexibility of rival solutions. Each side has solved part of the problem; only a blend of approaches can settle the looming question of continuity. Adherence to the Founders' ideals depends

on a bipartisan approach. Even more important, the balanced preservation of our nation's governing system in a time of crisis necessitates it.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, if I can just read the first line of that column where Professor Shogan says, “The debate over how Congress should reconstitute itself in the wake of a devastating terrorist attack has evolved into a partisan melee with experts, staffers, and elected officials talking past one another.”

I think, Mr. Speaker, what people on our side are concerned about is that the professor is absolutely right, that this issue has kind of become more partisan than it should be. In fact, it should not be partisan at all and this really is a time to kind of take a couple of steps backwards and to do the necessary deliberation and consideration that something this important requires. That is what we are asking for here.

I think it is hard for the other side to justify that this has been a fair and bipartisan process and that they are taking this issue seriously when the main committee of jurisdiction has not even held a hearing on this particular bill in the 108th Congress. So what we are asking for is that this serious issue be taken seriously, that the necessary deliberation and the necessary consideration be followed as we move forward with this legislation.

So with that, I would urge a “no” vote on the rule.

Mr. Speaker, I yield the balance of my time to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, how much time is available?

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Washington has 5½ minutes remaining.

Mr. BAIRD. Mr. Speaker, in that brief time let me address what this amendment really does.

It is very straightforward. It says this: in the event of a catastrophic loss of Members, if we lose over 218, in other words more than would be required to sustain a quorum, then special provisions will apply. But only under catastrophic losses. And those special provisions are very straightforward.

The membership of this body, having been elected by our constituents to perform all the vital functions under article I, would be asked upon their election to create a list of potential successors who, upon our death or incapacity in a catastrophic event, could temporarily fill our place until special elections could be held. Temporarily until special elections could be held.

It is disingenuous, if not deliberately deceptive, to suggest this subverts or bans or undermines elections. We all believe direct elections should be held. The real question is this: Should we have a Congress or not? Should we have a House of Representatives? I think the Framers said we should.

That is why it is article I. But, my friends, if we lose more Members than necessary to sustain a quorum, we will have a constitutional crisis. It is that simple. The majority party has yet to address that.

I found a remarkable statement in the chairman's remarks during the markup of this bill. The chairman said, and I really want to pay attention to this: "Congress has granted the President significant powers to act during an emergency. He could maintain the necessary functions of government, along with the Congress, utilizing a reduced quorum until elections are held." Where did Congress do that? The chairman of the Committee on the Judiciary of the United States has asserted that the Congress has granted the President of the United States special provisions and he has apparently *ex cathedra* dictated that we can function with a reduced quorum.

The Constitution of the United States has not dictated that we can function with a reduced quorum. The chairman cited no reference to say where this great body said, "Mr. President, here are your authorities under a crisis." It did not happen. And it was not challenged in the Judiciary. How remarkable and how dangerous that is, that a chairman would dictate that we have given the President powers that we are not authorized under the Constitution to give and that we never took action to give.

The fact is it would not be the President, it would be an unelected Cabinet member that most Americans do not know forced to exercise extra constitutional powers. And, my friends, you would have no voice in this body or in this government to counteract whatever that individual wanted to do. That is why this matters.

It is so much easier to not look at this issue. It is so much easier to go on about our business as if every day we will be here just like we always have. We may not. And if we are not, and if tragedy strikes, the American people have a right to know what happens next. And this body, for 3 years, has failed to answer that question. Answers are available.

This bill may not be perfect, but the status quo is vastly, dangerously imperfect. What we have asked is to bring not only this bill but others, the bill of the gentleman from California (Mr. ROHRBACHER), Senator CORNYN's bill, that of the gentlewoman from California (Ms. LOFGREN), or the gentleman from Connecticut (Mr. LARSON), and ask this body, implore this body to grapple with the complexities of this. Because only when you struggle with it, and only when you see not only the alternatives but the problems of the status quo do you get it.

It is so much easier not to do that. It is easier not to make a will, it is easier not to provide care for our kids if we are gone; but it is irresponsible to do those things. This body must act. And at least today one thing will happen.

We will be on record today as having voted to do something or having voted to do nothing. If you vote to do nothing, and God forbid something horrible happens and someone takes advantage of that and leads this Nation in a desperately dangerous path, then you are at least on record as having voted to do nothing. You have seen the risk, and you have chosen the course of inaction. That is irresponsible.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we can sure tell how important this debate is, and I do appreciate my colleague from Washington State for his passion on this. I do disagree with his approach, but he is going to have an opportunity to debate that when this rule passes, and we will have a debate on a constitutional amendment of appointing Members of this body.

But I want to just go back and I guess reflect on how we have tried to deal with this in the course of the history of our country.

□ 1215

After the Revolutionary War, when we formed a new government, it was the Articles of Confederation. Our Founders found out that did not work all that well for a variety of reasons, I suspect because there was a division of powers and there was no central government, and so the Founders had to figure out a way how do we respect the people's government, which I think is very, very important, and still have some central authority.

Part of that compromise was to make a bicameral legislature in which the lower house, the House of Representatives, the People's House, would always be elected by the people. Perhaps this debate is evolving into that very essential principle.

I think that the government, this government of the people, by the people and for the people, as Lincoln said in his Gettysburg Address, can function very well. I also believe there is no single answer to this question as we move forward.

I mentioned in my opening remarks that we passed the Continuity of Congress Act providing for expedited elections by the States. This may be an approach. But even if we were to pass a constitutional amendment, and I do not think it is going to get the two-thirds, it would take up to perhaps 7 years to get that ratified by three-fourths of the States. We have to have something in place. I hope the other body acts on the continuity issue so we can have something in place to take care of that.

Mr. Speaker, this is an important issue, and this will be the first time we will have an opportunity, the first time certainly to my knowledge that we will have an issue before the People's House, the U.S. House of Representa-

tives, that will allow for something other than a direct election, under whatever circumstance, of Members of this House. This is a very, very important issue. I think it deserves to have a debate. This rule provides 90 minutes for that debate.

The SPEAKER pro tempore (Mr. QUINN). The Chair would inform Members that the gentleman from Washington (Mr. BAIRD) yielded back his time to the gentleman from Massachusetts (Mr. MCGOVERN). The gentleman from Massachusetts (Mr. MCGOVERN) controls 30 seconds.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 30 seconds to the gentleman from Washington (Mr. BAIRD), and urge a no vote on the rule.

Mr. BAIRD. Mr. Speaker, I would urge a no vote on the rule. How indicative that we said we will have 90 minutes to debate this, 90 minutes to debate the future of this country in the event of a terrorist attack. We are taking this tremendously seriously. I cannot believe it. I cannot believe we are giving 90 whole minutes to whether or not we will have a constitutional government with the House of Representatives and the very bicameral system that the gentleman from Washington described. Vote no on this. Give this body time to have real debate, real discussion on multiple amendments.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we will have a vigorous debate on this. As I mentioned, I am opposed to the underlying constitutional amendment. I think it is bad policy, but I think it should be debated in the People's House.

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

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

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

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on ordering the previous question on H. Res. 657 will be followed by 5-minute votes, if ordered, on adopting H. Res. 657; ordering the previous question on the amendment to H. Res. 656 and on the resolution itself; adopting the amendment to H. Res. 656; and adopting H. Res. 656, as amended.

The vote was taken by electronic device, and there were—yeas 215, nays 195, not voting 23, as follows:

[Roll No. 213]

YEAS—215

Aderholt Gilchrest Nussle
 Akin Gillmor Osborne
 Baker Gingrey Ose
 Barrett (SC) Goode Otter
 Bartlett (MD) Goodlatte Oxley
 Barton (TX) Goss Paul
 Bass Granger Pence
 Beauprez Graves Peterson (PA)
 Biggert Green (WI) Petri
 Bilirakis Greenwood Pickering
 Bishop (UT) Gutknecht Pitts
 Blackburn Hall Platts
 Blunt Harris Pombo
 Boehlert Hart Porter
 Boehner Hastings (WA) Portman
 Bonilla Hayes Pryce (OH)
 Bonner Putnam
 Bono Hefley Quinn
 Boozman Hensarling Radanovich
 Bradley (NH) Herger Ramstad
 Brady (TX) Hobson Regula
 Brown (SC) Hoekstra Rehberg
 Brown-Waite, Hostettler Renzi
 Ginny Houghton Reynolds
 Burgess Hulshof Rogers (AL)
 Burns Hunter Rogers (KY)
 Burr Hyde Rogers (MI)
 Burton (IN) Isakson Rohrabacher
 Buyer Issa Ros-Lehtinen
 Calvert Istook Royce
 Camp Jenkins Ryan (WI)
 Cannon Johnson (CT) Ryun (KS)
 Cantor Johnson (IL) Saxton
 Capito Johnson, Sam Schrock
 Carter Jones (NC) Sensenbrenner
 Castle Keller Sessions
 Chabot Kelly Shadegg
 Chocola Kennedy (MN) Shaw
 Coble King (IA) Shays
 Cole King (NY) Sherwood
 Collins Kingston Shimkus
 Cox Kirk Shuster
 Crane Kline Simpson
 Crenshaw Knollenberg Smith (MI)
 Cubin Kolbe Smith (NJ)
 Culberson LaHood Smith (TX)
 Cunningham LaTourette Souder
 Davis, Jo Ann Leach Stearns
 Davis, Tom Lewis (CA) Sullivan
 Deal (GA) Lewis (KY) Sweeney
 DeLay Linder Taylor (NC)
 Diaz-Balart, L. LoBiondo Terry
 Diaz-Balart, M. Lucas (OK) Thomas
 Doolittle Manzullo Thornberry
 Dreier McCotter Tiahrt
 Duncan McHugh Tiberi
 Dunn McInnis Toomey
 Ehlers McKeon Turner (OH)
 English Mica Upton
 Everett Miller (FL) Vitter
 Feeney Miller (MI) Walden (OR)
 Ferguson Miller, Gary Walsh
 Flake Moran (KS) Wamp
 Foley Murphy Weldon (FL)
 Forbes Musgrave Weldon (PA)
 Fossella Myrick Weller
 Franks (AZ) Nethercutt Whitfield
 Frelinghuysen Neugebauer Wicker
 Gallegly Ney Wilson (SC)
 Garrett (NJ) Northup Wolf
 Gerlach Norwood Young (AK)
 Gibbons Nunes Young (FL)

NAYS—195

Abercrombie Capuano Dooley (CA)
 Ackerman Cardin Doyle
 Alexander Cardoza Emanuel
 Allen Carson (IN) Engel
 Andrews Case Eshoo
 Baca Chandler Evans
 Baird Clay Farr
 Baldwin Clyburn Fattah
 Becerra Conyers Filner
 Bell Cooper Ford
 Berman Cramer Frank (MA)
 Berry Crowley Frost
 Bishop (GA) Cummings Gephardt
 Bishop (NY) Davis (AL) Gonzalez
 Blumenauer Davis (CA) Gordon
 Boswell Davis (IL) Green (TX)
 Boucher Davis (TN) Grijalva
 Boyd DeFazio Gutierrez
 Brady (PA) Delahunt Harman
 Brown (OH) DeLauro Hastings (FL)
 Brown, Corrine Dicks Hill
 Capps Doggett Hinchey

Hinojosa McCollum Sabo
 Hoeffel McDermott Sanchez, Linda
 Holden McGovern Sánchez, T.
 Holt McIntyre Sanchez, Loretta
 Honda McNulty Sanders
 Hooley (OR) Meehan Sandlin
 Hoyer Meek (FL) Schakowsky
 Inslee Meeks (NY) Schiff
 Israel Menendez Scott (GA)
 Jackson (IL) Michaud Scott (VA)
 Jackson-Lee Millender Serrano
 (TX) McDonald Sherman
 Jefferson Miller (NC) Skelton
 John Miller, George Slaughter
 Johnson, E. B. Mollohan Smith (WA)
 Kanjorski Moore Snyder
 Kilpatrick Moran (VA) Solis
 Kind Neal (MA) Spratt
 Kleczka Oberstar Stark
 Kucinich Obey Strickland
 Lampson Olver Stupak
 Langevin Ortiz Tanner
 Lantos Owens Tauscher
 Larsen (WA) Pallone Taylor (MS)
 Larson (CT) Pascrell Thompson (CA)
 Lee Thompson (MS)
 Levin Payne Tierney
 Lewis (GA) Pelosi Towns
 Lipinski Peterson (MN) Turner (TX)
 Lofgren Pomeroy Udall (CO)
 Ryan (NC) Price (NC) Udall (NM)
 Lucas (KY) Rahall Van Hollen
 Lynch Rangel Velazquez
 Majette Reyes Visclosky
 Maloney Rodriguez Waters
 Markey Ross Watt
 Marshall Rothman Waxman
 Matheson Roybal-Allard Weiner
 Matsui Ruppensberger Wexler
 McCarthy (MO) Rush Woolsey
 McCarthy (NY) Ryan (OH) Wu
 Wynn

NOT VOTING—23

Bachus DeGette Latham
 Ballance DeMint McCreery
 Ballenger Deutsch Pearce
 Bereuter Dingell Simmons
 Berkley Edwards Tancredo
 Carson (OK) Emerson Tauzin
 Costello Etheridge Wilson (NM)
 Davis (FL) Jones (OH)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
 The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1242

Mr. MARKEY, Mr. KIND and Ms. WOOLSEY changed their vote from “yea” to “nay.”

Ms. GRANGER changed her vote from “nay” to “yea.”

So the previous question was ordered. The result of the vote was announced as above recorded.

Stated for:
 Mr. PEARCE. Mr. Speaker, on rollcall No. 213 I was unavoidably detained. Had I been present, I would have voted “yea.”

Stated against:
 Mr. ETHERIDGE. Mr. Speaker, on rollcall No. 213, I was unavoidably detained and missed voting on H.J. Res. 83. Had I been present, I would have voted “nay.”

The SPEAKER pro tempore. The question is on the resolution.

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

RECORDED VOTE

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

A recorded vote was ordered. The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 211, noes 200,

answered “present” 1, not voting 21, as follows:

[Roll No. 214]

AYES—211

Aderholt Gibbons Ose
 Akin Gilchrest Otter
 Baker Gillmor Oxley
 Barrett (SC) Gingrey Paul
 Bartlett (MD) Goode Pearce
 Barton (TX) Goodlatte Pence
 Bass Goss Petri
 Beauprez Granger Pickering
 Biggert Graves Pitts
 Bilirakis Green (WI) Platts
 Bishop (UT) Greenwood Pombo
 Blackburn Gutknecht Porter
 Blunt Hall Portman
 Boehlert Harris Pryce (OH)
 Boehner Hart Putnam
 Bonilla Hastings (WA) Quinn
 Bonner Hayworth Radanovich
 Bono Hefley Ramstad
 Boozman Hensarling Regula
 Bradley (NH) Herger Rehberg
 Brady (TX) Hobson Reynolds
 Brown (SC) Hoekstra Rogers (AL)
 Brown-Waite, Hostettler Rogers (KY)
 Ginny Houghton Rogers (MI)
 Burgess Hulshof Ros-Lehtinen
 Burns Isakson Royce
 Burr Issa Ryan (WI)
 Burton (IN) Istook Ryun (KS)
 Buyer Jenkins Saxton
 Calvert Johnson (CT) Schrock
 Camp Johnson (IL) Sensenbrenner
 Cannon Johnson, Sam Sessions
 Cantor Jones (NC) Shadegg
 Capito Keller Shaw
 Carter Kelly Kennedy (MN)
 Castle King (IA) King (NY)
 Chabot King (NY) Kingston
 Chocola King (NY) Kirk
 Coble King (NY) Kline
 Cole Kingston Knollenberg
 Collins Kirk Smith (MI)
 Cox Kline Smith (NJ)
 Crane Knollenberg Smith (TX)
 Crenshaw Kolbe Souder
 Cubin Latham Stearns
 Culberson LaTourette Sullivan
 Cunningham Leach Sweeney
 Davis, Jo Ann Lewis (CA) Taylor (NC)
 Davis, Tom Lewis (KY) Terry
 Deal (GA) Linder Thomas
 DeLay LoBiondo Thornberry
 Diaz-Balart, L. Lucas (OK) Tiahrt
 Diaz-Balart, M. McCotter Tiberi
 Doolittle McHugh Toomey
 Dreier McInnis Turner (OH)
 Duncan McKeon Upton
 Dunn Mica Vitter
 Ehlers Miller (FL) Walden (OR)
 English Miller (MI) Walsh
 Everett Miller, Gary Wamp
 Feeney Moran (KS) Weldon (FL)
 Ferguson Murphy Weldon (PA)
 Flake Musgrave Weller
 Foley Myrick Whitfield
 Forbes Nethercutt Wicker
 Fossella Neugebauer Wilson (SC)
 Franks (AZ) Ney Wolf
 Frelinghuysen Northup Young (AK)
 Gallegly Ney Young (FL)
 Garrett (NJ) Norwood
 Gerlach Nunes
 Gibbons Osborne

NOES—200

Abercrombie Brown, Corrine Delahunt
 Ackerman Capps DeLauro
 Alexander Capuano Dicks
 Allen Cardin Dingell
 Andrews Cardoza Doggett
 Baca Carson (IN) Dooley (CA)
 Baird Case Doyle
 Baldwin Chandler Edwards
 Becerra Clay Emanuel
 Bell Clyburn Engel
 Berman Conyers Eshoo
 Berry Cooper Etheridge
 Bishop (GA) Cramer Evans
 Bishop (NY) Crowley Farr
 Blumenauer Cummings Fattah
 Boswell Davis (AL) Filner
 Boucher Davis (CA) Ford
 Boyd Davis (IL) Frank (MA)
 Brady (PA) Davis (TN) Frost
 Brown (OH) DeFazio Gephardt

Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Insolee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Klecza
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney

ANSWERED "PRESENT"—1

Rohrabacher

NOT VOTING—21

Bachus
Ballance
Ballenger
Bereuter
Berkley
Carson (OK)
Costello

Davis (FL)
DeGette
DeMint
Deutsch
Emerson
Hayes
Hunter

Jones (OH)
McCrery
Northup
Peterson (PA)
Tancredo
Tauzin
Wilson (NM)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1250

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. NORTHUP. Mr. Speaker, on rollcall No. 214, I was unavoidably detained. Had I been present, I would have voted "aye."

PROVIDING FOR CONSIDERATION OF H.R. 444, BACK TO WORK INCENTIVE ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of ordering the previous question on the amendment to House Resolution 656 and on House Resolution 656.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on which the yeas and nays are ordered.

This is a 5-minute vote.
The vote was taken by electronic device, and there were—ayes 214, noes 196, not voting 23, as follows:

[Roll No. 215]

YEAS—214

Aderholt
Akin
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest

NAYS—196

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd

Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Klecza
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren

NOT VOTING—23

Bachus
Ballance
Ballenger
Bereuter
Berkley
Berry
Carson (OK)
Costello

Davis (FL)
DeGette
DeMint
Deutsch
Emerson
Ferguson
Hart
Jones (OH)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1257

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the amendment offered by the gentlewoman from Ohio (Ms. PRYCE).

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

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 320, noes 96, not voting 17, as follows:

[Roll No. 216]

AYES—320

Abercrombie
Ackerman
Aderholt

Akin
Alexander
Allen

Baca
Baker
Baldwin