

AMENDMENT OFFERED BY MR. MENENDEZ

Mr. MENENDEZ. Mr. Speaker, I offer an amendment to the remainder of the resolution.

The Clerk read as follows:

Amendment offered by Mr. MENENDEZ:

That Jerry Hartz of Iowa be, and is hereby, chosen Clerk of the House of Representatives;

That Dean Aguillen of Texas be, and is hereby, chosen Sergeant at Arms of the House of Representatives; and

That Terri McCullough of California be, and is hereby, chosen Chief Administrative Officer of the House of Representatives.

The SPEAKER. The question is on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ).

The amendment was rejected.

The SPEAKER. The question is on the remainder of the resolution offered by the gentlewoman from Ohio (Ms. PRYCE).

The remainder of the resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Will the officers-elect of the House of Representatives please come forward.

The officers-elect presented themselves at the bar of the House and took the oath of office as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you will take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You have been sworn in as officers of the House.

NOTIFICATION TO THE SENATE

Mr. DELAY. Mr. Speaker, I offer a privileged resolution (H. Res. 2) to inform the Senate that a quorum of the House has assembled and of the election of the Speaker and the Clerk, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 2

Resolved, That the Senate be informed that a quorum of the House of Representatives has assembled; that J. Dennis Hastert, a Representative from the State of Illinois, has been elected Speaker; and Jeffrey J. Trandahl, a citizen of the State of South Dakota, has been elected Clerk of the House of Representatives of the One Hundred Ninth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMITTEE TO NOTIFY PRESIDENT

Mr. DELAY. Mr. Speaker, I offer a privileged resolution (H. Res. 3) author-

izing the Speaker to appoint a committee to notify the President of the assembly of the Congress, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 3

Resolved, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF COMMITTEE TO NOTIFY THE PRESIDENT, PURSUANT TO HOUSE RESOLUTION 3

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make:

The gentleman from Texas (Mr. DELAY), and

The gentlewoman from California (Ms. PELOSI).

AUTHORIZING THE CLERK TO IN- FORM THE PRESIDENT OF THE UNITED STATES OF THE ELE- CTION OF THE SPEAKER AND THE CLERK OF THE HOUSE OF REP- RESENTATIVES

Mr. DELAY. Mr. Speaker, I offer a privileged resolution (H. Res. 4) authorizing the Clerk to inform the President of the election of the Speaker and the Clerk, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 4

Resolved, That the Clerk be instructed to inform the President of the United States that the House of Representatives has elected J. Dennis Hastert, a Representative from the State of Illinois, Speaker; and Jeffrey J. Trandahl, a citizen of the State of South Dakota, Clerk of the House of Representatives of the One Hundred Ninth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RULES OF THE HOUSE

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

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Eighth Congress, including applicable provisions of law or concurrent resolution that con-

stituted rules of the House at the end of the One Hundred Eighth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Ninth Congress, with amendments to the standing rules as provided in section 2 and with other orders as provided in section 3.

SEC. 2. CHANGES IN STANDING RULES.

(a) COMMITTEE ON HOMELAND SECURITY.—

(1) In clause 1 of rule X, insert after paragraph (h) the following new paragraph (and redesignate the succeeding paragraphs accordingly):

“(i) COMMITTEE ON HOMELAND SECURITY.

“(1) Overall homeland security policy.

“(2) Organization and administration of the Department of Homeland Security.

“(3) Functions of the Department of Homeland Security relating to the following:

“(A) Border and port security (except immigration policy and non-border enforcement).

“(B) Customs (except customs revenue).

“(C) Integration, analysis, and dissemination of homeland security information.

“(D) Domestic preparedness for and collective response to terrorism.

“(E) Research and development.

“(F) Transportation security.”.

(2) In clause 1(I) (as redesignated) of rule X—

(A) insert after subparagraph (6) the following new subparagraph (and redesignate the succeeding subparagraphs accordingly):

“(7) Criminal law enforcement.”; and (B) amend subparagraph (9) (as redesignated) to read as follows:

“(9) Immigration policy and non-border enforcement.”.

(3) In clause 1(r) (as redesignated) of rule X—

(A) in subparagraph (18) insert before the period “(except the Transportation Security Administration)”; and

(B) in subparagraph (20) after “automobile safety” insert “and transportation security functions of the Department of Homeland Security”.

(4) In clause 1(t)(1) (as redesignated) of rule X, strike “Customs” and insert “Customs revenue”.

(5) In clause 3 of rule X, insert after paragraph (e) the following new paragraph (and redesignate the succeeding paragraphs accordingly):

“(f) The Committee on Homeland Security shall review and study on a continuing basis all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security.”.

(6) In clause 10 of rule I, strike “1(i)(1)” and insert “1(j)(1)”.

(7) In clause 1(j)(4) (as redesignated) of rule X, strike “(q)(11)” and insert “(r)(11)”.

(8) In clause 1(j)(5) (as redesignated) of rule X, strike “(q)(11)” and insert “(r)(11)”.

(9) In clause 9(f) of rule X, strike “1(i)(1)” and insert “1(j)(1)”.

(10) In clause 1(c) of rule XI, strike “1(i)(1)” and insert “1(j)(1)”.

(11) In clause 4(a)(2)(B) of rule XIII, strike “1(i)(1)” and insert “1(j)(1)”.

(12) In clause 5(a)(3) of rule XIII, strike “1(i)(1)” and insert “1(j)(1)”.

(13) In clause 10 of rule XXIV, strike “1(i)(1)” and insert “1(j)(1)”.

(b) COMMITTEE OVERSIGHT RESPONSIBILITIES.—In clause 2(d)(1) of rule X—

(1) in subdivision (C), strike “and”;

(2) in subdivision (D), strike the period and insert “; and”;

(3) add at the end the following new subdivision:

“(E) have a view toward insuring against duplication of Federal programs.”.

(C) MEMBERSHIP OF COMMITTEES.—

(1) In clause 5(a)(2) of rule X—

(A) amend subdivisions (A)(ii) and (A)(iii) to read as follows:

“(ii) one Member designated by the elected leadership of the majority party; and

“(iii) one Member designated by the elected leadership of the minority party.”; and

(B) amend subdivision (B) by striking “one from the elected leadership of a party” and inserting “one described in subdivision (A)(ii) or (A)(iii)”.

(2) In clause 5(c)(2) of rule X, strike “A member” and insert “Except in the case of the Committee on Rules, a member”.

(d) COMMITTEE AUTHORITIES.—

(1) In clause 1 of rule XI, amend paragraph (a) to read as follows:

“(a)(1)(A) The Rules of the House are the rules of its committees and subcommittees so far as applicable.

“(B) Each subcommittee is a part of its committee and is subject to the authority and direction of that committee and to its rules, so far as applicable.

“(2)(A) In a committee or subcommittee—
“(i) a motion to recess from day to day, or to recess subject to the call of the Chair (within 24 hours), shall be privileged; and

“(ii) a motion to dispense with the first reading (in full) of a bill or resolution shall be privileged if printed copies are available.

“(B) A motion accorded privilege under this subparagraph shall be decided without debate.”.

(2) In clause 2(a) of rule XI, add at the end the following new subparagraph:

“(3) A committee may adopt a rule providing that the chairman be directed to offer a motion under clause 1 of rule XXII whenever the chairman considers it appropriate.”.

(e) MOTIONS TO SUSPEND THE RULES.—In clause 1 of rule XV—

(1) amend the caption to read: “SUSPENSIONS”; and

(2) in paragraph (a) amend the second sentence to read as follows: “The Speaker may not entertain a motion that the House suspend the rules except on Mondays, Tuesdays, and Wednesdays and during the last six days of a session of Congress.”.

(f) REPEAL OF CORRECTIONS CALENDAR.—

(1) In rule XV, strike clause 6 (and redesignate the succeeding clause accordingly).

(2) In clause 1 of rule XIII, strike paragraph (b) (and redesignate the succeeding paragraph accordingly).

(3) In clause 4(a)(2) of rule XIII, strike subdivision (C) (and redesignate succeeding subdivisions accordingly).

(4) In clause 6(c)(1) of rule XIII, strike “clause 7” and insert “clause 6”.

(5) In clause 2(a) of rule XVIII, strike “clause 7” and insert “clause 6”.

(6) In clause 8(a)(2) of rule XX—

(A) strike subdivisions (E) and (G) (and redesignate succeeding subdivisions accordingly); and

(B) amend subdivision (E) (as redesignated) by striking “(D), or (E)” and inserting “or (D)”.

(g) REFERENCES IN DEBATE TO THE SENATE.—In clause 1 of rule XVII, amend paragraph (b) to read as follows:

“(b) Remarks in debate (which may include references to the Senate or its Members) shall be confined to the question under debate, avoiding personality.”.

(h) PROVISIONAL QUORUM.—In clause 5 of rule XX, redesignate paragraph (c) as paragraph (d) and insert after paragraph (b) the following new paragraph:

“(c) (1) If the House should be without a quorum due to catastrophic circumstances, then—

“(A) until there appear in the House a sufficient number of Representatives to constitute a quorum among the whole number of the House, a quorum in the House shall be

determined based upon the provisional number of the House; and

“(B) the provisional number of the House, as of the close of the call of the House described in subparagraph (3)(C), shall be the number of Representatives responding to that call of the House.

“(2) If a Representative counted in determining the provisional number of the House thereafter ceases to be a Representative, or if a Representative not counted in determining the provisional number of the House thereafter appears in the House, the provisional number of the House shall be adjusted accordingly.

“(3) For the purposes of subparagraph (1), the House shall be considered to be without a quorum due to catastrophic circumstances if, after a motion under clause 5(a) of rule XX has been disposed of and without intervening adjournment, each of the following occurs in the stated sequence:

“(A) A call of the House (or a series of calls of the House) is closed after aggregating a period in excess of 72 hours (excluding time the House is in recess) without producing a quorum.

“(B) The Speaker—

“(i) with the Majority Leader and the Minority Leader, receives from the Sergeant-at-Arms (or his designee) a catastrophic quorum failure report, as described in subparagraph (4);

“(ii) consults with the Majority Leader and the Minority Leader on the content of that report; and

“(iii) announces the content of that report to the House.

“(C) A further call of the House (or a series of calls of the House) is closed after aggregating a period in excess of 24 hours (excluding time the House is in recess) without producing a quorum.

“(4)(A) For purposes of subparagraph (3), a catastrophic quorum failure report is a report advising that the inability of the House to establish a quorum is attributable to catastrophic circumstances involving natural disaster, attack, contagion, or similar calamity rendering Representatives incapable of attending the proceedings of the House.

“(B) Such report shall specify the following:

“(i) The number of vacancies in the House and the names of former Representatives whose seats are vacant.

“(ii) The names of Representatives considered incapacitated.

“(iii) The names of Representatives not incapacitated but otherwise incapable of attending the proceedings of the House.

“(iv) The names of Representatives unaccounted for.

“(C) Such report shall be prepared on the basis of the most authoritative information available after consultation with the Attending Physician to the Congress and the Clerk (or their respective designees) and pertinent public health and law enforcement officials.

“(D) Such report shall be updated every legislative day for the duration of any proceedings under or in reliance on this paragraph. The Speaker shall make such updates available to the House.

“(5) An announcement by the Speaker under subparagraph (3)(B)(iii) shall not be subject to appeal.

“(6) Subparagraph (1) does not apply to a proposal to create a vacancy in the representation from any State in respect of a Representative not incapacitated but otherwise incapable of attending the proceedings of the House.

“(7) For purposes of this paragraph:

“(A) The term ‘provisional number of the House’ means the number of Representatives upon which a quorum will be computed in the House until Representatives sufficient in

number to constitute a quorum among the whole number of the House appear in the House.

“(B) The term ‘whole number of the House’ means the number of Representatives chosen, sworn, and living whose membership in the House has not been terminated by resignation or by the action of the House.”.

(i) POSTPONEMENT OF CERTAIN VOTES.—In clause 8(a)(2) of rule XX, add at the end the following new subdivisions:

“(G) The question of agreeing to a motion to reconsider or the question of agreeing to a motion to lay on the table a motion to reconsider.

“(H) The question of agreeing to an amendment reported from the Committee of the Whole.”.

(j) OFFICIAL CONDUCT.—

(1) In rule XXIV, amend clause 1 to read as follows:

“1. (a) Except as provided in paragraph (b), a Member, Delegate, or Resident Commissioner may not maintain, or have maintained for his use, an unofficial office account. Funds may not be paid into an unofficial office account.

“(b)(1) Except as provided in subparagraph (2), a Member, Delegate, or Resident Commissioner may defray official expenses with funds of his principal campaign committee under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq).

“(2) The funds specified in subparagraph (1) may not be used to defray official expenses for mail or other communications, compensation for services, office space, furniture, or equipment, and any associated information technology services (excluding handheld communications devices).”.

(2) In clause 6 of rule XXIII, amend paragraph (c) to read as follows:

“(c) except as provided in clause 1(b) of rule XXIV, may not expend funds from his campaign account that are not attributable to bona fide campaign or political purposes.”.

(3) In clause 8 of rule XXIV, strike “60 days” and insert “90 days”.

(4) In clause 5(b)(4)(D) of rule XXV, strike “either the spouse or a child of the Member, Delegate, Resident Commissioner, officer, or employee” and insert “a relative of the Member, Delegate, Resident Commissioner, officer, or employee”.

(k) PROCEDURES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.—

(1) DUE PROCESS.—In clause 3 of rule XI—

(A) in paragraph (k), add at the end the following new subparagraphs:

“(3) The committee shall adopt rules providing that before a letter described in subparagraph (1)(A) is issued, the committee shall transmit written notification to the Member, officer, or employee of the House against whom the complaint is made of the right of such person to review the contents of the letter. Such person shall have seven calendar days after receipt of such notification in which either to accept the letter (in which case the committee may issue the letter), to contest the letter by submitting views in writing (which shall be appended to the letter when issued and made part of the record), or to contest the letter by requesting in writing that the committee establish an adjudicatory subcommittee as if the letter constituted an adopted statement of alleged violation (in which case the committee shall establish an adjudicatory subcommittee and shall not issue the letter).

“(4) The committee shall adopt rules providing that, if a letter described in subparagraph (1)(A) references the official conduct of a Member other than one against whom the complaint is made, the committee shall transmit written notification to such Member of the right of such Member to review

the contents of the letter. Such Member shall have seven calendar days after receipt of notification in which either to submit views in writing (which shall be made part of the record and appended to the letter, if issued), or to request in writing that the committee establish an adjudicatory subcommittee as if the letter constituted an adopted statement of alleged violation (in which case the committee shall establish an adjudicatory subcommittee).";

(B) in paragraph (p), insert after subparagraph (5) the following new subparagraphs (and redesignate succeeding subparagraphs accordingly):

"(6) whenever notification of the committee's decision either to dismiss a complaint or to create an investigative subcommittee is transmitted to a respondent, such respondent shall have seven calendar days after receipt of such notification in which to submit views in writing, which shall be appended to the notification and made part of the record;

"(7) whenever notification of the committee's decision either to dismiss a complaint or to create an investigative subcommittee is transmitted to a respondent and the notification references the official conduct of a Member other than the respondent, the committee also shall send the notification to such Member, who shall have seven calendar days after receipt of such notification in which either to submit views in writing (which shall be appended to the notification and made part of the record), or to request in writing that the committee establish an adjudicatory subcommittee as if the notification constituted an adopted statement of alleged violation (in which case the committee shall establish an adjudicatory subcommittee);"; and

(C) in paragraph (q)—

(i) amend subparagraph (1) to read as follows:

"(1) Whenever an investigative subcommittee does not adopt a statement of alleged violation—

"(A) it shall transmit a report to that effect to the respondent, who shall have seven calendar days after receipt of such report to submit views in writing, which shall be appended to the report and made part of the record;

"(B) it shall thereafter transmit the report (together with views received under subparagraph (2), if any) to the committee; and

"(C) the committee may by an affirmative vote of a majority of its members transmit such report to the House;" and

(ii) insert after subparagraph (1) the following new subparagraph (and redesignate succeeding subparagraphs accordingly):

"(2) whenever an investigative subcommittee does not adopt a statement of alleged violation and prepares a report to that effect, and such report alleges that a Member (other than one who is the subject of the statement of alleged violation) has or may have violated the Code of Official Conduct—

"(A) the subcommittee shall transmit a copy of the report to such Member; and

"(B) such Member shall have seven calendar days after receipt of the report (after which the report shall be transmitted to the committee and handled in the manner prescribed in subparagraph (1)) to—

"(i) submit views in writing, which shall be appended to the report and made part of the record; or

"(ii) request in writing that the committee establish an adjudicatory subcommittee as if the allegations in the report constituted an adopted statement of alleged violation, in which case the committee shall establish an adjudicatory subcommittee;"

(2) DISMISSAL OF COMPLAINTS.—In clause 3 of rule XI—

(A) in paragraph (b), strike the undesignated text following subparagraph (2)(B);

(B) in paragraph (k)(1)(B), insert after "subcommittee" the following: "(unless, at any time during the applicable periods of time under this subparagraph, either the chairman or ranking minority member has placed on the agenda the issue of whether to establish an investigative subcommittee, in which case an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee)"; and

(C) in paragraph (k)(2), strike "then they shall establish" and all that follows and insert "and an investigative subcommittee has not been established, then such complaint shall be dismissed.".

(3) CHOICE OF COUNSEL BY RESPONDENTS AND WITNESSES.—In clause 3(p) of rule XI—

(A) amend the caption to read "DUE PROCESS RIGHTS OF RESPONDENTS AND WITNESSES";

(B) amend subparagraph 9 (as redesignated) by striking "and" after the semicolon;

(C) amend subparagraph 10 (as redesignated) by striking the period and inserting a semicolon; and

(D) add at the end the following new subparagraphs:

"(11) a respondent shall be informed of the right to be represented by counsel of his or her choice (even if such counsel represents another respondent or a witness), to be provided at his or her own expense; and

"(12) a witness shall be afforded a reasonable period of time, as determined by the committee or subcommittee, to prepare for an appearance before an investigative subcommittee or for an adjudicatory hearing and to obtain counsel of his or her choice (even if such counsel represents a respondent or another witness)."

(I) TECHNICAL AND CODIFYING CHANGES.—

(1) In clause 1(s) (as redesignated) of rule X—

(A) in subparagraph (6), strike "servicemen" and insert "servicemembers"; and

(B) in subparagraph (7), strike "Soldiers" and sailors" and insert "Servicemembers".

(2) In clause 5(b)(2)(B)(iii) of rule X strike "must" and insert "may".

(3) In clause 3(a)(2) of rule XIII, after "clause 4" insert "or clause 6".

(4) In clause 6 (as redesignated) of rule XV—

(A) in paragraph (e) strike "rule" and insert "clause"; and

(B) in paragraph (f) strike "for a recess" and insert "that the Speaker be authorized to declare a recess".

(5) In clause 5(b) of rule XX, strike "a majority of those present" and insert "a majority described in paragraph (a)".

(6) In clause 5(d) (as redesignated) of rule XX, strike "or removal" and insert "removal, or swearing".

(7) In the second sentence of clause 2(f) of rule XXI, strike "is not subject" and insert "are not subject".

(8) In clause 7(c) of rule XXII, amend subparagraph (3) to read as follows:

"(3) During the last six days of a session of Congress, a motion under subparagraph (1) shall be privileged after a conference committee has been appointed for 36 hours without making a report and the motion meets the notice requirement in subparagraph (1)."

SEC. 3. SEPARATE ORDERS.

(a) BUDGET MATTERS.—

(1) During the One Hundred Ninth Congress, references in section 306 of the Congressional Budget Act of 1974 to a resolution shall be construed in the House of Representatives as references to a joint resolution.

(2) During the One Hundred Ninth Congress, in the case of a reported bill or joint resolution considered pursuant to a special order of business, a point of order under sec-

tion 303 of the Congressional Budget Act of 1974 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.

(3) During the One Hundred Ninth Congress, a provision in a bill or joint resolution, or in an amendment thereto or a conference report thereon, that establishes prospectively for a Federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations shall not be considered as providing new entitlement authority under section 401 of the Congressional Budget Act of 1974.

(4)(A) During the One Hundred Ninth Congress, until a concurrent resolution on the budget for fiscal year 2005 is adopted by the Congress, the provisions of the conference report to accompany Senate Concurrent Resolution 95 of the One Hundred Eighth Congress shall have force and effect in the House as though the One Hundred Ninth Congress has adopted such conference report.

(B) The allocations of spending authority included in the conference report, as adjusted during the 108th Congress, shall be considered the allocations contemplated by section 302(a) of the Congressional Budget Act of 1974.

(b) CERTAIN SUBCOMMITTEES.—Notwithstanding clause 5(d) of rule X, during the One Hundred Ninth Congress—

(1) the Committee on Armed Services may have not more than six subcommittees;

(2) the Committee on International Relations may have not more than seven subcommittees; and

(3) the Committee on Transportation and Infrastructure may have not more than six subcommittees.

(c) NUMBERING OF BILLS.—In the One Hundred Ninth Congress, the first 10 numbers for bills (H.R. 1 through H.R. 10) shall be reserved for assignment by the Speaker to such bills as he may designate.

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

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

There was no objection.

POINT OF ORDER

Mr. BAIRD. Mr. Speaker, I rise for a constitutional point of order.

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

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

□ 1430

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

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

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

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

The gentleman from California (Mr. DREIER).

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

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

Let me further, Mr. Speaker, say that the Committee on Rules intends to conduct further examination of the best way for the House to assure a continuity of government during a national emergency, and it is our hope that as we proceed with this work that further discussions will take place with the members of that very distinguished panel, the Continuity Commission, which included our former colleague, Senator Simpson, and Speakers Foley and Gingrich and former minority leader Bob Michel, Leon Panetta, Kwasi Mfume, and I believe we will have a chance to proceed with this; but I think it would be very appropriate for us to proceed with consideration of the rules package that we have.

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

The gentleman from New York (Mr. NADLER).

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

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

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

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

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

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

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

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

So I urge that Members take careful consideration to the question of constitutionality here. This may provoke

court action, and we should not adopt this now in the context of an overall rules change with this very serious amendment to the Constitution, which is what it amounts to; it cannot receive adequate consideration in terms of its constitutionality either in terms of its merit.

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

The gentleman from Mississippi (Mr. TAYLOR).

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

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

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

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

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

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

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

As such, the House may decide the issues raised by the gentleman by way

of the question of consideration of the resolution or the question of adopting the resolution. The point of order is not cognizable.

ANNOUNCEMENT BY THE SPEAKER

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

SWEARING IN OF MEMBERS-ELECT

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

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

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office upon which you are about to enter. So help you God.

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

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

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

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

The yeas and nays were ordered.

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

There was no objection.

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

[Roll No. 3]

YEAS—224

Aderholt	Burgess	Drake
Akin	Burton (IN)	Dreier
Alexander	Buyer	Duncan
Bachus	Calvert	Ehlers
Baker	Camp	Emerson
Barrett (SC)	Cantor	English (PA)
Bartlett (MD)	Capito	Everett
Barton (TX)	Carter	Ferguson
Bass	Castle	Fitzpatrick (PA)
Beauprez	Chabot	Flake
Biggart	Chocola	Foley
Bilirakis	Coble	Forbes
Bishop (UT)	Conaway	Fortenberry
Blackburn	Cox	Fossella
Blunt	Crenshaw	Fox
Boehlert	Cubin	Franks (AZ)
Boehner	Culberson	Frelinghuysen
Bonilla	Cunningham	Galleghy
Bonner	Davis (KY)	Garrett (NJ)
Bono	Davis, Jo Ann	Gerlach
Boozman	Davis, Tom	Gibbons
Boustany	Deal (GA)	Gilchrest
Bradley (NH)	DeLay	Gillmor
Brady (TX)	Dent	Gingrey
Brown (SC)	Diaz-Balart, L.	Gohmert
Brown-Waite,	Diaz-Balart, M.	Goode
Ginny	Doolittle	Goodlatte

Granger	Lungren, Daniel	Reynolds
Graves	E.	Rogers (AL)
Green (WI)	Mack	Rogers (KY)
Gutknecht	Manzullo	Rogers (MI)
Hall	Marchant	Ros-Lehtinen
Harris	McCaul (TX)	Royce
Hart	McCotter	Ryan (WI)
Hastert	McCrery	Ryun (KS)
Hastings (WA)	McHenry	Saxton
Hayes	McHugh	Schwarz (MI)
Hayworth	McKeon	Sensenbrenner
Hefley	McMorris	Sessions
Hensarling	Mica	Shaw
Herger	Miller (FL)	Shays
Hobson	Miller (MI)	Sherwood
Hoekstra	Miller (NC)	Shimkus
Hostettler	Miller, Gary	Shuster
Hulshof	Moran (KS)	Simpson
Hunter	Murphy	Smith (NJ)
Hyde	Musgrave	Smith (TX)
Inglis (SC)	Myrick	Sodrel
Issa	Neugebauer	Souder
Istook	Ney	Stearns
Jenkins	Northup	Sullivan
Jindal	Nunes	Sweeney
Johnson (IL)	Nussle	Tancredo
Johnson, Sam	Otter	Taylor (NC)
Jones (NC)	Oxley	Terry
Keller	Paul	Thomas
Kelly	Pearce	Thornberry
Kennedy (MN)	Pence	Tiahrt
King (IA)	Peterson (PA)	Tiberi
King (NY)	Petri	Turner
Kingston	Pickering	Upton
Kirk	Pitts	Walden (OR)
Kline	Platts	Walsh
Knollenberg	Poe	Wamp
Kolbe	Pombo	Weldon (FL)
Kuhl (NY)	Porter	Weldon (PA)
LaHood	Portman	Weller
Latham	Price (GA)	Westmoreland
LaTourette	Pryce (OH)	Whitfield
Leach	Putnam	Wicker
Lewis (CA)	Radanovich	Wilson (NM)
Lewis (KY)	Ramstad	Wilson (SC)
Linder	Regula	Wolf
LoBiondo	Rehberg	Young (AK)
Lucas	Reichert	Young (FL)
	Renzi	

NAYS—192

Abercrombie	Delahunt	Lantos
Ackerman	DeLauro	Larson (CT)
Allen	Dicks	Lee
Andrews	Dingell	Levin
Baca	Doggett	Lewis (GA)
Baird	Doyle	Lipinski
Baldwin	Edwards	Lofgren, Zoe
Bean	Emanuel	Lowey
Becerra	Engel	Lynch
Berkley	Eshoo	Maloney
Berman	Etheridge	Markey
Berry	Evans	Marshall
Bishop (GA)	Farr	Matheson
Bishop (NY)	Fattah	McCarthy (MO)
Blumenauer	Filner	McCollum (MN)
Boren	Ford	McDermott
Boswell	Frank (MA)	McGovern
Boucher	Gonzalez	McIntyre
Boyd	Gordon	McKinney
Brady (PA)	Green, Al	McNulty
Brown (OH)	Green, Gene	Meehan
Brown, Corrine	Grijalva	Meek (FL)
Butterfield	Harman	Meeks (NY)
Capuano	Hastings (FL)	Melancon
Cardin	Herseth	Menendez
Cardoza	Higgins	Michaud
Carnahan	Hinche	Miller, George
Carson	Hinojosa	Mollohan
Case	Holden	Moore (KS)
Chandler	Holt	Moore (WI)
Clay	Hooley	Moran (VA)
Cleaver	Hoyer	Murtha
Clyburn	Inslee	Nadler
Conyers	Israel	Napolitano
Cooper	Jackson (IL)	Neal (MA)
Costa	Jackson-Lee	Oberstar
Costello	(TX)	Obey
Cramer	Jefferson	Oliver
Crowley	Johnson, E. B.	Ortiz
Cuellar	Jones (OH)	Owens
Cummings	Kanjorski	Pallone
Davis (AL)	Kaptur	Pastor
Davis (CA)	Kennedy (RI)	Payne
Davis (FL)	Kildee	Pelosi
Davis (IL)	Kilpatrick (MI)	Peterson (MN)
Davis (TN)	Kind	Pomeroy
DeFazio	Kucinich	Price (NC)
DeGette	Langevin	Rahall

Rangel	Scott (GA)	Towns
Reyes	Scott (VA)	Udall (CO)
Ross	Sherman	Udall (NM)
Rothman	Skelton	Van Hollen
Roybal-Allard	Slaughter	Velazquez
Ruppersberger	Smith (WA)	Visclosky
Rush	Snyder	Wasserman
Ryan (OH)	Spratt	Schultz
Sabo	Stark	Waters
Salazar	Strickland	Watson
Sánchez, Linda	Stupak	Watt
T.	Tanner	Waxman
Sanchez, Loretta	Tauscher	Weiner
Sanders	Taylor (MS)	Wexler
Schakowsky	Thompson (CA)	Woolsey
Schiff	Thompson (MS)	Wu
Schwartz (PA)	Tierney	Wynn

PRESENT—1

Rohrabacher

NOT VOTING—11

Barrow	Johnson (CT)	Pascarell
Capps	Larsen (WA)	Serrano
Cole (OK)	Millender-	Simmons
Feeney	McDonald	Solis

SWEARING IN OF MEMBER-ELECT

The SPEAKER (during the vote). Will the gentleman from California (Mr. COX) kindly come to the well of the House and take the oath of office at this time.

Mr. COX appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office upon which you are about to enter, so help you God.

□ 1508

Mr. RANGEL, Mr. OWENS and Mr. DAVIS of Tennessee changed their vote from “yea” to “nay.”

Mr. RADANOVICH changed his vote from “nay” to “yea.”

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 3 on consideration of H. Res. 5, I was unavoidably detained. Had I been present, I would have voted “nay.”

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. DELAY) is recognized for 1 hour.

Mr. DELAY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. PELOSI) or her designee, pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I rise in support of this rules package. I am also rising in support of the historic legislative agenda it will govern, for today marks the beginning of what historians will likely look back upon as the most productive and significant Congress in decades.

The mandate granted the majority, evidenced by our increased majorities in both Houses of Congress and the first Presidential majority in 16 years, is clear. The American people have entrusted the state of their security, prosperity and families to us; and over the course of the next 2 years, that sacred trust will be honored by action.

We will continue to defend our homeland and prosecute the war on terror without retreat, and without excuses. We will provide our military, and their families, with the resources they need to do their heroic work on behalf of the Nation they serve.

We will hold rogue regimes accountable for their mischief, and hold fast to our friends around the world, from defiant democrats in Israel and Taiwan, to longstanding comrades-in-arms like the British and Australians, to our resurgent allies in New Europe.

We will work with our ever-expanding coalition of the willing to secure the fledgling democracies in Afghanistan and Iraq, and with every political, economic, diplomatic and military tool at our disposal, see the war on terror through to victory.

Domestically, our agenda will be no less audacious. We will continue the work begun in President Bush's first term to cultivate an opportunity society of economic choice and independence. We will continue to break down the walls, erected by 40 years of liberal policies, between the American people and their dreams. We will continue to provide seniors with access to affordable, quality health care while empowering them with unprecedented retirement security.

We will continue to take on the three-headed monster of over-taxation, over-litigation and over-regulation that cuts the legs out from every sector of our economy.

And while the 109th Congress helps increase our national security and prosperity, we will also help American families raise their children in a society defined by the values that made our Nation secure and prosperous in the first place. We will continue to better protect and educate our children, to protect the institution of marriage, to protect the Constitution from judicial activism, and protect the role of family and faith in the public square.

This rules package before us now will help us do this important work, work the American people have hired us to do.

And yet, rather than laying out a positive vision for the next 2 years, or for that matter even discussing the substance of the rules package itself, some may choose this debate to launch the first of what I imagine will be countless personal attacks against the integrity of the majority and, ultimately, the integrity of this institution.

It is a new year, Mr. Speaker, but an old game, and one to which we cannot afford to stoop. Too much is at stake; too much depends on the success of this historic 109th Congress.

To my friends on the other side of the aisle, I would remind them all that I know what it means to be in the minority, to go into contentious votes certain of defeat, to always react to an agenda set by opponents. But I must also remind them that when Republicans were in the minority, we engaged in the battle of ideas. We developed, and specifically proposed, a substantive vision for the future of our Nation.

In the 10 years since that vision was endorsed by our countrymen, we have been honored to work with all members of the minority on one issue or the other to develop successful legislative coalitions.

With our close partisan margins and 24-hour media culture, we sometimes forget we are opponents, not enemies. We would all do well to remember that, especially given the stakes, the significance and, frankly, the sheer weight of the agenda before us.

So I urge all Members to support the rules package before us so we can immediately get to work on behalf of the men and women who sent us here.

Mr. Speaker, I am honored to once again serve as leader; but even with all of the gratitude I feel toward you, our conference and toward this body, the source of the honor I feel today is not all in this Chamber. The source of the honor each of us rightfully feels today is our friends and families who have given us their love, the American people who have given us their trust, the men and women in uniform who put their lives on the line for us every day, and our heavenly Creator who knitted us together in the womb.

Mr. Speaker, may God bless the work and workers of the 109th Congress, may God bless the cause of justice and freedom around the world, and may God continue to bless the United States of America.

Mr. Speaker, I ask unanimous consent that the balance of the time allocated to me be controlled by the gentleman from California (Mr. DREIER).

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

There was no objection.

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

Mr. Speaker, I thank the gentleman from Texas (Mr. DELAY) for his fine statement and for yielding me the time to discuss this opening-day rules package.

Mr. Speaker, the House is an institution built upon its rules. Accordingly, it is very appropriate that one of the first orders of business for this 109th Congress will be to adopt a rules package which is both true to the traditions and very forward thinking in its outlook for the work of this Congress that lies ahead.

The package we have before us represents the work product of many Members. During the initial stages of compiling this rules package back in November, the Committee on Rules re-

ceived 40 different proposals from both Democrats and Republicans. In addition to that, our committee staff has actively sought the input of the officers of the House, its committees and its caucuses to get their perspectives on the kinds of changes we can make to facilitate the work of the House.

All of the ideas contained in this resolution reflect the considered judgment of our colleagues and will ultimately improve our ability to carry out our constitutional responsibilities.

Mr. Speaker, I include for the RECORD at this point detail on each of these changes in a section-by-section analysis.

SECTION-BY-SECTION SUMMARY OF H. RES. 5, ADOPTING HOUSE RULES FOR THE 109TH CONGRESS

SECTION 1. RESOLVED CLAUSE.

The rules of the House of Representatives for the 108th Congress are adopted as the rules of the House for the 99th Congress with amendments as provided in section 2 and with other orders as provided in section 3.

SEC. 2. CHANGES IN STANDING RULES.

(a) Committee on Homeland Security. Creates a standing Committee on Homeland Security, and grants it legislative and oversight jurisdiction. First, the Committee's jurisdiction includes overall homeland security policy so that it can focus on national policies affecting the Federal government. Second, the jurisdiction includes authority over the Department of Homeland Security (DHS)'s internal administration. Third, the Committee would have jurisdiction over functions of the DHS relating to six specified areas. These include: (A) Border and port security (except immigration policy and non-border enforcement); (B) Customs (except customs revenue); (C) Integration, analysis and dissemination of homeland security information; (D) Domestic preparedness for and collective response to terrorism; (E) Research and development; and (F) Transportation security. Additionally, the Committee would have broad oversight authority over government-wide homeland security matters. Finally, changes are made to the jurisdictions of three committees. First, the Committee on the Judiciary's jurisdiction is modified by adding new subparagraphs for Criminal law enforcement and Immigration policy and non-border enforcement. Second, the Committee on Transportation and Infrastructure's jurisdiction is modified to exclude transportation security by adding exceptions in two subparagraphs. Third, the Committee on Ways and Means' jurisdiction is modified by adding the word "revenue" to the clause containing customs. [Rule X]

(b) General oversight responsibilities—insuring against duplicative programs. Adds to the required list of content included in each standing committee's adopted oversight plan as submitted to the Committees on Government Reform and House Administration a review of Federal programs with a view to insuring against duplication of such programs. [Rule X, clause 2(d)(1)]

(c)(1) Membership of Budget Committee. Permits one member of the Budget committee majority and one member of the minority to be "designated" by the respective elected leaderships. Current rules require such members to be "from" elected leadership. [Rule X, clause 5(a)(2)]

(c)(2) Rules Committee Organization. Authorizes the chairman of the Committee on Rules to serve as chairman, notwithstanding the prohibition on serving more than three consecutive terms. [Rule X, clause 5(c)(2)]

(d)(1) Privileged motions in committee—Recess subject to the call of the chair. Allows for a privileged motion in committee to

recess subject to the call of the chair for a period less than 24 hours. Currently only a motion to recess from day to day is privileged. [Rule XI, clause 1(a)(1)(B)]

(d)(2) Motion to go to conference. Allows committees to adopt a rule directing the chairman of the committee to offer a privileged motion to go to conference at any time the chairman deems it appropriate during a Congress. Currently a motion to request or agree to a conference with the Senate is privileged if the committee authorizes the chairman to make such a motion. [Rule XI, clause 2(a)]

(e) Motion to suspend the rules. Extends suspension authority beyond Monday or Tuesday to include Wednesday. [Rule XV, clause 1(a)]

(f) Repeal of Corrections Calendar. Removes Corrections Calendar from the Standing Rules of the House. [Rule XV, clause 6]

(g) Allows references to the Senate. Allows remarks in debate to include references to the Senate or its Members. Remarks are to be confined to the question under debate, avoiding personality. [Rule XVII, clause 1]

(h) Provisional quorum. Provides for continuity of legislative operations in the House in the event of catastrophic circumstances. The rule allows for the House to conduct business with a provisional quorum only after a motion to compel members attendance, as prescribed under clause 5(a) of rule XX, has been disposed of and the following occur in sequence without the House adjourning: (A) A call of the House or a series of calls of the House totaling 72 hours without producing a quorum; (B) the Speaker, with the Minority and Majority Leaders, receive from the Sergeant-at-Arms (or his designee) a catastrophic quorum failure report and shall consult with the Minority and Majority Leaders on the contents of such report and shall announce the contents of such report to the House; and (C) A further call of the House or series of calls are conducted for a total of 24 hours without producing a quorum. A catastrophic quorum failure report is defined as a report advising that the inability of the House to establish a quorum is attributable to catastrophic circumstances involving natural disaster, attack, contagion, or similar calamity rendering Members incapable of being present. The report shall be prepared on the basis of the most authoritative information available after consultation with the Attending Physician, the Clerk and pertinent public health and law enforcement officials. A catastrophic quorum failure report shall describe the number of vacancies in the House, the names of Members considered to be incapacitated, the names of Members not incapacitated, but otherwise incapable of being present, and the names of Members unaccounted for. The report shall be updated every legislative day and such updates shall be made available to the House. [Rule XX, clause 5(c)]

(i) Postponement of certain votes. Adds the motion to reconsider, tabling motions to reconsider and amendments reported from the Committee of the Whole among those votes the Speaker may postpone to a designated place in the legislative schedule within two additional legislative days. [Rule XX, clause (a)(2)]

(j)(1)–(2) Allowing the use of campaign funds to pay for certain official expenses. Allows Members to use campaign funds to pay certain, limited types of official expenses (e.g., handheld communication devices). This change conforms House Rules to current law (Sec. 105, P.L. 108–83), and mirrors Rules that took effect in the Senate in 2002. [Rule XXIV and Rule XXIII, clause 6(c)]

(j)(3) Use of frank for mass mailings before an election. Amends the rule to conform to

section 3210 of title 39 United States Code, stating that a mass mailing is not frankable when it is postmarked less than 90 days before the date of a primary or general election which he is a candidate for public office. Currently the rules states 60 days. [Rule XXIV, clause 8]

(j)(4) Gift rule on officially connected travel. Expands the category of individuals who may accompany a Member or staff person on such a trip at the sponsor's expense to include a relative of the Member or the staff person. Under a provision of the current gift rule (clause 5(b)(4)(D) of the House Rule XXV), a Member or staff person may be accompanied on a privately funded, officially connected trip, at the sponsor's expense, only by either his or her "spouse or a child", and not by any other relative. [Rule XXV, clause 5(b)(4)(D)]

(k)(1) Due process for Members. Affords Members the opportunity to be heard in the event the Standards Committee alleges the Member has violated or may have violated the Code of Conduct. Members may opt for either an adjudicatory proceeding or they can submit a response to the Committee report/letter with their response being made public with Committee report/letter. Under the current rule, the Chairman and Ranking Member, or the Committee, may take action against a Member without a complaint, notice, or the opportunity to be heard. [Rule XI, clause 3]

(k)(2) Restore presumption of innocence. Provides that no action will be taken on a complaint unless the Chairman and Ranking Minority member of the Standards Committee, or the Committee itself, find within 45 days that further investigation is merited by the facts of the complaint, maintaining the presumption of innocence. Currently, if the Chairman and Ranking Minority Member take no action on a properly filed complaint within 45 days, the matter automatically goes to an investigative committee. [Rule XI, clause 3]

(k)(3) Right to counsel. Provides that Members may select a counsel of their choice even if that counsel represents other Members. [Rule XI, clause 3]

(1) Technical and codifying changes. Technical and grammatical changes are made throughout the rules of the House.

SEC. 3. SEPARATE ORDERS.

(a)(1)–(a)(3) Continuation of budget enforcement mechanisms from the 108th. Clarifies that section 306 of the Budget Act (prohibiting consideration of legislation within the Budget Committee's jurisdiction, unless reported by the Budget Committee) only applies to bills and joint resolutions and not to simple or concurrent resolutions. It also makes a section 303 point of order (requiring adoption of budget-related legislation) applicable to text made in order as an original bill by a special rule. Specified or minimum levels of compensation for federal office will not be considered as providing new entitlement authority.

(a)(4) Continuation of budget "deeming" resolution from the 2nd Session of the 108th Congress. Establishes that the provisions of the Senate Concurrent Resolution 95 of the 108th Congress, shall have effect in the 109th Congress until such time as a budget resolution for the fiscal year 2005 is adopted.

(b) Extra subcommittees for Armed Services, International Relations, and Transportation & Infrastructure. A waiver of Rule X, clause 5(d), is granted for Armed Services and Transportation & Infrastructure for 6 subcommittees, and International Relations for 7 subcommittees in the 109th Congress.

(c) Numbering of bills. In the 109th Congress, the first 10 numbers for bills (H.R. 1

through H.R. 10) shall be reserved for assignment by the Speaker to such bills as he may designate when introduced.

□ 1515

The gentlewoman from Virginia (Mrs. JO ANN DAVIS) is the author of one important provision directing committees to review matters within their jurisdiction to ferret out duplicative government programs as part of their oversight planning at the beginning of each Congress.

We are also making the ability to consider suspensions on Wednesdays permanent in this Congress after the very successful experiment we had with suspensions on Wednesday in the 108th Congress.

The package includes important provisions to allow us to function in situations where large numbers of Members are incapacitated. We discussed that earlier, Mr. Speaker. The provisional quorum language includes a number of safeguards to ensure that this institution can continue to operate during times of turmoil and to ensure that democracy will be preserved. We are living in a post-9/11 world and it is very important that we continue to expend a lot of time and energy dealing with the institutional challenges as well as the challenges that our Nation faces under these circumstances.

I would like to say, also, Mr. Speaker, that we will eliminate the corrections calendar. This was originally intended to make it easier to consider legislation making corrections to outright errors that are in law but it turned out to after a while become more cumbersome than other procedures that we already have to deal with that, such as the suspension calendar.

And, yes, Mr. Speaker, in a change guaranteed to draw applause from my colleagues on both sides of the aisle, the House rules will now allow us to make reference to the Senate and its members, so long as those references are confined to the question under debate and that they avoid personality. The Senate has long had a similar provision and this new rule merely conforms our rules to theirs. I know that my colleagues and I share the desire to maintain our traditions of dignity and decorum in proceedings, and I believe that we can do that even with the rules change that I have just discussed.

On another topic, the package makes a series of changes to our ethics rules. We included two provisions suggested by the chairman and the ranking member of the Committee on Standards of Official Conduct, number one, clarifying the rule on officially connected travel to allow a family member other than a spouse or child to travel with the Member at the sponsor's expense and, two, conforming the rules of the House to current law which allow the use of campaign funds to pay for certain official expenses, such as cell phones.

By the way, we also have included a provision suggested by the distinguished gentleman from Connecticut

(Mr. LARSON) to conform the rules of the House to current law with regard to the 90-day preelection limit on franked mail.

The package also includes two other provisions addressing our ethics rules. The first gives Members the same rights to choose their counsel before the Ethics Committee that they would enjoy if they were a respondent in a court case. The second change addresses an inequity in the Standards Committee process requiring an investigative subcommittee if the chairman and ranking member do not act within 45 days. This change restores the presumption of innocence in our process. Let me say that we are going to be hearing from the distinguished chairman of the Committee on Standards of Official Conduct in just a few minutes, Mr. Speaker.

As important as each of those changes are, perhaps the most important change in this resolution will be, as the Speaker said in his very thoughtful opening statement here today, the creation of a new standing Committee on Homeland Security. It represents a far-reaching and critically important part of our overall strategic effort to protect the American people. The 9/11 Commission unanimously called for this action. They saw the need, and we believe most Members do as well.

Over the past 3 years, the Congress has asked the American people to accept change in countless ways. We have mandated change at the Federal, State and local levels. We have asked for change from our allies and forced change upon our enemies. And we saw the need for change over 2 years ago, and we responded here, first with the enactment of the Homeland Security Act of 2002 and then with the formation of the Select Committee on Homeland Security. Their final report, a thorough and complete study of homeland security jurisdiction as it relates to House rules, was transmitted to the Committee on Rules at the end of last year. This change in House rule X, which governs the committees and their legislative jurisdictions, is a delicately crafted architecture. It creates a primary committee while recognizing the other legitimate oversight roles of existing committees. We envision a system of purposeful redundancy. By that, we mean more than one level of oversight and an atmosphere in which the competition of ideas is encouraged.

With this jurisdiction and the legislative history that I will be placing in the RECORD, the Department of Homeland Security will have more certainty as to which committee has the primary responsibility for homeland security. At the same time, the American people will live with the assurance that we are working to prevent anything from falling through the cracks.

Mr. Speaker, the new committee will have jurisdiction over, first, overall homeland security policy; second, the organization and administration of the

Department of Homeland Security; and, third, functions of the Department of Homeland Security relating to border and port security, except immigration policy and nonborder enforcement; customs, except customs revenue; the integration, analysis and dissemination of homeland security information, domestic preparedness for, and collective response to, terrorism, research and development, and transportation security as well.

By approving this resolution, Mr. Speaker, the House will do what the Speaker and the 9/11 Commission as well as the President has asked us to do, consolidate jurisdiction of the House into one committee. This committee will be dedicated to setting national homeland security policy and to effectively overseeing that the Department of Homeland Security carries out its mission.

Finally, Mr. Speaker, as we discuss this resolution, I will look forward to questions from my colleagues about jurisdictional matters, but I will say that clearly the issue of referral lies solely in the hands of the Speaker. I will in no way be responding in a manner which would infringe on that power of the Speaker. Once again I want to say on all of these issues, and especially the last one, which was a great challenge in trying to fashion a new Committee on Homeland Security with jurisdiction that emerged from many other committees was not an easy task. I want to congratulate Speaker HASTERT for the leadership that he has shown on this and I want to thank all of the committee chairmen who were involved in this process. I believe that with the passage of this House rules package, we will be able to create a stronger and a safer America, which is a priority for every single one of us who has taken the oath of office today.

I urge support of this package of rules.

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

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

Mr. Speaker, all over Washington and in the country, people are talking today about the majority's last-minute decision to abandon rules changes that would have eviscerated longstanding ethical guidelines in this House, and, with that, the integrity of the institution. And while in the end the majority was right to withdraw these provisions, they hardly deserve our congratulations. The Republicans simply succumbed to tough criticism from every major ethics group in Washington, several major news organizations and House Democrats. The rules changes in question were so egregious that rank-and-file Republicans would not support their leadership's plan. The proposals were so offensive that the Ethics Committee chairman broke with his own leadership on the issue.

One of the changes would have permitted Members, indicted by a grand

jury on felony counts, to continue to hold House leadership positions. The measure was similar to a conference rule the House Republican Conference passed last fall to protect its leadership in the event that one of them is indicted. The fact that they ever considered changing the rules of the House in this disgraceful manner is a sad commentary on the ethical compass of this body's leadership.

They also planned to eliminate a 30-year standing rule that Members of Congress could be disciplined for actions that brought dishonor and discredit on this House, the people's House. This standard is similar to the one that exists for the men and women serving in our military. How could they even think about changing the House rules in this regard when to do so would mean demanding a higher ethical standard from an 18-year-old private in the Army than we who sit in this hallowed Chamber? How could we ask more from our young people than we ask of ourselves?

It is hard to believe that there was a time in the not too distant past when the Republicans touted their high ethical and moral standards. Mr. Speaker, it seems to me that this entire episode has been a violation of the public trust. When Americans enter their voting booths and cast their ballots for Congress, they give us a very precious gift, their trust. American voters expect, and rightly so, that we as Members of Congress will conduct ourselves at the highest ethical standard and uphold democratic principles such as integrity and accountability. How can we as the guardians of democracy spread the values of self-governance across the world if we refuse to govern ourselves right here in this Chamber?

Mr. Speaker, though we should all be relieved that the Republicans were shamed into abandoning the most overtly egregious provisions, the remaining ethics provisions in today's legislation will still destroy the House ethics process. I cannot say it more plainly than that. The ethics process will be destroyed. The tactics have changed, but the end result is the same. The House ethics system will be gutted.

Mr. Speaker, the Committee on Standards of Official Conduct is the only evenly divided committee in the House. As the rule stands today, if the five Republicans and five Democrats on the committee do not reach agreement about the merits of an ethics complaint, it is automatically referred to investigators. This approach was designed to take the partisan politics out of the equation and to ensure that meritorious complaints would be investigated regardless of the political winds of the day. Under the Republican rules package, one-half of the committee will now have the power to bury complaints, even the most meritorious ones. Under the rules package before us today, if the committee is deadlocked,

the ethics complaint dies. This one provision gives the Republicans an enormous amount of control over who is and who is not investigated by the Committee on Standards of Official Conduct.

In practical terms, the Republicans have granted themselves veto power over any complaint it does not deem palatable. Mr. Speaker, this rules package would effectively eliminate the 45-day deadline the Committee on Standards of Official Conduct currently has to act on complaints. The 45-day requirement was designed to prevent ethics complaints from being buried away from public view and to ensure that those Members who should be held accountable for corruption would be. This provision ensures that no ethics complaint will move forward against a Republican without their leadership's consent.

Mr. Speaker, we can be sure that if these rules changes had been in place in the last Congress, no ethics complaints would have seen the light of day. Under the Republicans, the ethical climate in Washington has eroded enormously. When I speak to constituents, I find myself telling them to forget what they learned in school about how a bill becomes a law. In times past, our laws were written to serve the public interest. But today the sad reality is that corporations like Enron write our Nation's policies. The Medicare drug bill that was rammed through Congress in the dead of night stands as a potent example of the ethical erosion of the House of Representatives. When the dust settled on the prescription drug vote, former Representative Billy Tauzin, the key author and then chairman of the Committee on Energy and Commerce, had himself a \$2-million-dollar-a-year job lobbying with the drug industry. After the ethical circus surrounding the prescription drug vote, this body should be acting to strengthen the ethics systems in this House, not to destroy it. We were even unable, Mr. Speaker, to ascertain from any official of the Federal Government how much the bill actually cost.

The Republican rules package will reduce this committee to a paper tiger. The American people deserve much better than to have a "for sale" sign placed on the United States House of Representatives. They deserve to be able to trust their elected leaders and have faith in the integrity of this institution. They should be able to expect accountability from their government. Unfortunately, the lesson we have here today is if you have the power and you break the rules, you can just change the rules.

Mr. Speaker, I know there are Members on the other side of the aisle, because I know them, who care greatly about the integrity of this Chamber, and I know that there are freshmen Members here today eager to cast their first vote on behalf of the constituents whose trust they hold and the Constitution they love. I challenge those

new Members, and any other Republican who values integrity and the sanctity of the democratic process, to stand up for the values of those who trusted you to represent them.

Mr. Speaker, at the close of this debate, I will be asking Members to vote "no" on the previous question so I can strike from the rules package language that would allow the Republicans to run out the clock on serious ethics complaints. Immediately following that vote, I will ask for a "yes" on a motion to commit the resolution so that we can add two important rules changes. The first would prohibit Members from negotiating lucrative job deals that capitalize on their committee membership. The other would guarantee that Members have at least 3 days to read a House report before voting on it. When bills are rushed to the floor, cobbled together at the last minute, warm from the machine, pages are missing or, worse, outrageous provisions are slipped in by committee staff.

□ 1530

Lest we forget, the provision that opened up private taxpayers' records that was sneaked into last year's omnibus spending bill was by just such a staff member.

Mr. Speaker, I urge my colleagues to vote to strike the egregious ethics changes in this package. We owe it to the constituents we serve, to this institution, and to the Constitution that we adore and revere to restore the ethics and integrity to the people's House.

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

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

I just want to say to the gentlewoman from Rochester, New York (Ms. SLAUGHTER) that every single Member of this institution, Democrat and Republican alike, is very concerned and focused on the integrity of this institution; and I believe that that is something which is an extraordinarily high priority for all of us. I believe that the package that we have coming before us is one which addresses many of the concerns that frankly were raised by the gentlewoman from New York (Ms. SLAUGHTER).

Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Miami, Florida (Mr. LINCOLN DIAZ-BALART), my colleague on the Committee on Rules.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the rules package this afternoon. The different aspects that compose it are very important, and they will contribute to this House's being able to function in a more efficient and effective manner in the next 2 years. The due-process-for-Members aspect of this rules package is extremely important precisely because of the integrity of the House. The integrity of the House includes the

integrity of Members whose reputation may be impugned or unfairly attacked, and thus all Members that make up this House deserve due process. And that is what we are trying to achieve today.

I have worked long and hard in the last 2 years, along with the distinguished chairman of the Committee on Rules, the Speaker, and their staffs, to try to formulate a most difficult proposal for something that is, despite its difficulty, very necessary, and that is a standing Select Committee on Homeland Security. Due to the leadership of the Speaker of this House, that is becoming a reality today. We are doing it in this rules package. The provisional quorum safeguard is historic in nature, and it is constitutional. It is a constitutional means to prevent the possibility that terrorists could paralyze our representative government.

Mr. Speaker, I rise in strong support and urge the adoption of this rules package.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, the first day of a new Congress should be a day for hope. It should be a day when all of us look forward with optimism to the work ahead. But today is not that kind of day. Instead, the leadership of this House is beginning the new year in the worst possible way, by gutting the ethical standards of the United States House of Representatives. Talk about starting off on the wrong foot.

In the rules package before us today, the Republican leadership is sending a very clear message. They are admitting that they are so ethically challenged that they cannot conform to the rules they previously adopted, so they must now relax those rules. What an awful example to the Nation and to the rest of the world. We should be strengthening the ethical standards of this House, not weakening them.

Mr. Speaker, the Republican Party regained a majority of seats in this body in 1994, in part by promising greater accountability and a more honest system in the Nation's capital. Their actions have been anything but honest; and now with this rules package, their rush to the bottom continues. Today is just one more example of the ethical lapses we have seen in this House, a House where major legislation is now written by industry lobbyists, a House where Members are not even given the courtesy of being able to read bills before they are voted on, and a House where bad behavior is not reprimanded, but rewarded.

As Members of Congress, we should be held to the highest possible ethical standards. That means not breaking the law. That means not dancing around the law, and that means conducting ourselves in a manner that reflects credibility on the House at all times.

Facing the possible indictment of a Member of their leadership, the Republicans attempted in secret to change the rules to protect their ethically challenged colleagues. However, in the face of mounting public controversy, the public leadership caved last night and rescinded the change. They blinked and they buckled. But the Speaker's spokesman commented on this flip-flop saying that the issue had become a "distraction." Not wrong, mind you, but just distracting. I am getting whiplash just watching all this stuff.

But, Mr. Speaker, let us be clear that the Republican leadership did not find religion in this issue. If they believed that what they were about to do was truly wrong, they would not have proposed these rule changes in the first place. But while Republicans try to pull a fast one claiming that the majority leader fell on his sword for the good of his party, the truth is that the rules package for the 109th Congress still in a very meaningful way fundamentally weakens the ethics system here in the House of Representatives.

I strongly urge the American people and members of the press and my colleagues to closely examine these rule changes, especially those made to the ethics standards. Under the old rules, a properly filed ethics complaint is automatically investigated if that complaint is not acted upon within 45 days.

Remember, as the gentlewoman from New York stated, that the ethics committee is evenly divided between Democrats and Republicans; and to ensure that partisan politics did not prevail in the ethics process, a tie vote ensures a formal investigation.

But under this proposed rules package, there must be a majority vote to investigate a properly filed ethics complaint; and if that complaint is not acted upon within 45 days, that ethics complaint dies. In other words, Mr. Speaker, the chairman of the committee, whoever that may be, could stonewall the process, refuse to call for a vote, and ultimately kill any ethics complaint without any action. But this also allows any Member potentially under investigation to run the clock out by stonewalling investigators until the 45 days are up.

The American people deserve better than this from their elected representatives. We serve at the pleasure of our constituents, and we have a responsibility to uphold the highest ethical standards. Over the past decade, the Republican leadership has careened down the pathway of irresponsibility, and now we are at a crossroads. There are those of us who truly believe Members of Congress should be held to a higher standard and who will make a stand and fight for real accountability from our colleagues, and there will be those who blindly follow their leadership, who vote to weaken the rules of this institution, first written by Thomas Jefferson, because they fear the retribution of their leaders.

This should be a place where honesty and integrity are the standard, not a

place where the rules are changed merely to protect a powerful few from their own ethical shortcomings.

Mr. Speaker, we can stop this debacle. Let us start over. Let us make this right. Let us make the House of Representatives an example of high standards and ethical decency. I urge my colleagues to vote "no" on this rules package.

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

Let me say after having heard from two of my Committee on Rules colleagues that I anxiously look forward to working with them in a bipartisan way to try to proceed with the deliberations in consideration of measures of this House.

Mr. Speaker, I yield 5 minutes to the gentleman from Colorado (Mr. HEFLEY), the distinguished chairman of the Committee on Standards of Official Conduct.

Mr. HEFLEY. Mr. Speaker, I thank the chairman for yielding me this time.

I am going to support this rules package. I was not. I came here today fully expecting not to support it; but because of the action taken last evening where we reconsidered some of the suggestions that had been made, I think we have a package now that we can live with. I think some of the recommendations that are in here are ill conceived, and I would hope to work with the chairman again in a bipartisan way with him and his committee and with the leadership to make some additional changes as we go through the process.

But I want to thank him and thank the Speaker and the leadership for accommodating my concerns about some of the amendments that I thought were the most difficult and the ones that created the biggest problem in trying to implement the Code of Official Conduct.

Each of us, in fact all of us, individually and collectively, have a responsibility to maintain the highest standard of conduct for this House. And changes in the rules, as was said by the previous speaker, should strengthen, not weaken, those standards. As it stands now, I think the previous speaker said we are gutting the ethics committee standards now. We are not as it stands now. I would not be standing up here encouraging people to support the rules package if in any way I thought we were gutting it. We are tweaking it, and as I said earlier, we are tweaking some of it in a way that I wish we were not tweaking it, but it does not gut it. It is something that the rules work pretty well the way they are now, and this does not change that that much.

I have had the privilege of serving on the Committee on Standards of Official Conduct since 1997 and have had an additional responsibility as serving as chairman since 2001. And during that time, I have learned one paramount lesson: ethics must be bipartisan. The ethics process must be bipartisan. Eth-

ics reform must be bipartisan, and the ethics committee must be bipartisan. And I can tell the Members the ethics committee is bipartisan.

I see our ranking member over here. I could not have a better partner in this ethics process than the gentleman from West Virginia (Mr. MOLLOHAN). The ethics committee is a bipartisan committee that follows the evidence wherever the evidence leads. Meaningful ethics reform must be genuinely bipartisan. To have a bipartisan process, any significant change in the ethics rules must be made only after careful, thorough bipartisan consideration, as was done in 1989 and 1997.

In 1989 and 1997, ethics reform came only after a broad consensus developed for change. I have always strongly supported reevaluating the ethics rules and procedures and making changes wherever a need is shown. I think a number of the criticisms of the ethics process that have been made over the past year are well taken and should be looked at. On the other hand, since I joined the committee, almost every significant decision, I believe every significant decision, has been made on a unanimous vote.

Despite the deletion of the amendment that I found the most objectionable to the Code of Conduct, the rules package includes a number of provisions that would make major changes in the ethics-related rules, but as to which neither the Committee on Standards of Official Conduct nor Members outside the rules process were consulted. While I will not vote against the rules package because of these provisions, I urge the leadership to reconsider all the amendments added to the committee's procedural rules without a bipartisan process.

In 1997 the House, through a bipartisan task force, carefully studied the Committee on Standards of Official Conduct's enforcement procedures, made a series of changes. The rules package includes provisions that would significantly alter those procedures. It would be a mistake to reverse these bipartisan determinations without a bipartisan process of our own.

The 45-day thing that has been mentioned, I do not like that. I think that creates a problem in trying to implement a fair and even-handed ethics process. I would like to see that removed.

When in 1997 the Bipartisan Task Force Report was before the House, the House significantly rejected, on a bipartisan vote of 181 to 236, an amendment that would have required automatic dismissal of any complaint after 180 days, not 45 days. The reason for rejection of that amendment, as set out in the floor debate, is that such an artificial time limit on the life of a complaint would serve to encourage deadlock within the committee and partisanship among committee members.

I could go on and on, Mr. Speaker. I think that is something we need to look at. The ranking member and I and

the members of the ethics committee have been considering a group of suggestions that we would like to bring to the full House. We would like to do that, Mr. Speaker, shortly after the new session of Congress convenes, when we are ready for that process. I think that is the way it ought to be done. These are the people that struggle with these issues every day. I think they ought to be concerned about what we think would make the process better. They do not have to follow it, but at least be concerned about it. The process in the House is not perfect. Let us strive to make it perfect. On this one issue, let us act together on a bipartisan basis.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the gentleman from Massachusetts (Mr. MCGOVERN) will control the time for the minority.

There was no objection.

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time. I thank the gentleman from Colorado (Mr. HEFLEY) for his presentation.

We were told the President wants to proceed on a bipartisan fashion in the next 4 years to deal with the important issues that confront our Nation.

□ 1545

I think that is appropriate and, hopefully, we will do that. However, on this first day, the rules package is usually a partisan package. It was when Democrats were in charge; it is now when Republicans are in charge. That is understandable. But as the gentleman from Colorado (Mr. HEFLEY) has so correctly pointed out, there was an exception, and that exception was dealing with the ethics of this institution which, in fact, deals with the confidence that the American public has in this institution.

Mr. Speaker, the opening day of a new Congress should be one in which the interests of this institution are paramount. The body of rules we adopt to govern debate, decorum, and the actions of our Members should reflect that. To be sure, the American people who elected us to this great body can expect to see sharp differences on this floor over the substance of legislation. That is as the framers of the Constitution planned.

But the framers also intended, I believe, and the American people deserve to know, that this House is committed to holding its Members to the highest ethical standards.

Today, as I think has been attested to by the gentleman from Colorado (Mr. HEFLEY), the House moves in the wrong direction. The rules proposed for the 109th House ignore the fundamental principle of protecting the ethics of this House. The proposed Republican rules before us will seriously weaken the ability of the Committee

on Standards of Official Conduct to enforce standards of integrity by providing that no action will be taken on a properly filed ethics complaint after 45 days unless the committee votes by a majority vote to take action. The gentleman from Maryland (Mr. CARDIN) will speak, who chaired with Bob Livingston, our former colleague, the amendment of these rules.

Under the current rules, which have functioned well since 1997, a properly filed complaint that has not been addressed by the chair and ranking member or the committee itself automatically goes to an investigative subcommittee. That is as it should be. Inaction ought not to be tantamount to dismissal. That is what this proposal does. The Republican proposal would make it extremely difficult to investigate properly filed complaints.

Under this new rule, either side, either side will be able to guarantee a deadlock when a legitimate, factually strong ethics complaint against a Member is filed, provided the chair or ranking member take no action.

We have been told that the most egregious attempts to weaken the ethics systems have been abandoned. I beg to differ. The most egregious attempt is the one before us now currently remaining in this rule. Let no one miss this distinction: the proposal to protect an indicted leader, a proposal that has been withdrawn by the majority, always was speculative, because we do not know if a leader will be indicted. In sharp contrast, however, the rule before us will have a concrete, demonstrable effect on every ethics complaint filed from this day forward.

Mr. Speaker, the Committee on Standards of Official Conduct is the only mechanism that this institution has to police itself. When we weaken the committee, we weaken the standards that we are all expected to uphold, and we erode public confidence in this institution.

The gentleman from California (Mr. DREIER) spoke eloquently to the maintenance of the status quo when he was in the minority urging us to be vigilant in rooting out unethical behavior in this institution. He was right then. He is not correct now in offering this rule which weakens that process.

The adoption of this rule will substantially weaken our commitment to ensuring ethical conduct. I think the gentleman from Colorado (Mr. HEFLEY) was right in his letter. I think he had the intellectual honesty and integrity on this floor when he spoke. He is going to vote for the rule because he believes that some offensive aspects of the proposal have been taken out. But I tell my friend that the most egregious, long-lasting, impacting change remains in this package.

Therefore, I urge my colleagues on behalf of the American people, on behalf of the integrity of this institution, on behalf of our commitment to ensure ethical conduct on behalf of the American people, that this not be passed.

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

I would like to respond to my very good friend from Maryland by saying that I may not be as eloquent today as I was when I was in the minority, but I continue to share my very strong commitment to ensure the integrity and the behavior of Members of this institution. I also will say as my friend said, it is very clear that the gentleman from Colorado (Mr. HEFLEY), chairman of the Committee on Standards of Official Conduct, has made it clear that he is supportive of this package. I and my colleagues looked at these recommendations, all of which emerged from members and former members of the Committee on Standards of Official Conduct. I also believe that it is very possible for us to maintain the highest ethical standards and to continue to ensure, to now ensure that due process is entitled to Members of this institution as they proceed with matters before that committee.

So I believe that this package is one which should enjoy strong bipartisan support, because when it comes to matters of ethics it will address the concern and the protection of Members of both the minority and the majority, as well as this institution as a whole.

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

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from West Virginia (Mr. MOLLOHAN), the ranking member of the Committee on Standards of Official Conduct.

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

Mr. MOLLOHAN. Mr. Speaker, I would like to address the ethics-related provisions that are in this package at the insistence of the Committee on Rules. I had the honor of serving as ranking member of the Committee on Standards of Official Conduct in the last Congress. It was an honor to serve with the gentleman from Colorado (Chairman HEFLEY), as he always managed to chair the committee in a completely bipartisan manner.

The headlines in this morning's paper say "GOP Abandons Ethics Changes." It turns out that the headline is at best only half right. It is true that the most outrageous ethics undermining provision has been deleted from the rules package, but other provisions, provisions that would make major changes in the way the Committee on Standards of Official Conduct handles enforcements of the rules, they remain.

There should be no misunderstanding that these provisions that remain would seriously undermine the ethics process in the House, both because of the changes they would make in committee procedures, but, and equally important, because of the partisan way in which they are being adopted. If there is to be a meaningful, viable ethics process in the House, it must be a genuinely bipartisan process. That

point should be self-evident. How could there be a legitimate ethics process that is operated on a partisan basis? And to have a bipartisan process, it is absolutely essential that any major changes in the rules be made on a truly bipartisan basis. What is more, because of the importance and the sensitive nature of the ethics rules, it is also essential that any proposed changes be considered in a thoughtful, considered, and open way, with all Members being given the opportunity for input, Democrats and Republicans.

Until today, the House recognized these fundamental points. Until today, the House has not attempted to make major changes in the ethics rules or the Committee on Standards of Official Conduct procedures in a slapdash way, with literally only hours of consideration, and on a party line vote.

It will probably come as no surprise that the materials issued by the Committee on Rules that attempt to justify these amendments are based entirely on misstatements of the current rules. For example, under the benign sounding heading, "Restore Presumption of Innocence," the Committee on Rules memorandum states, "Currently, if the chairman and ranking minority member take no action on a properly filed complaint within 45 days, the matter automatically goes to an investigative subcommittee." Fine. But that statement is incomplete and, therefore, misleading.

The rules that have been in effect since 1997 clearly provide that at any time that a complaint is before the chairman and ranking member for consideration, either one of them may place the complaint on the committee's agenda, and when either one of them does that, an investigative committee cannot be established without a majority vote of the committee.

Another example, Mr. Speaker. Under the heading "Due Process for Members," the Committee on Rules memorandum states that, "Under the current rule, the chairman and ranking member or the committee may take action against a Member without a complaint, notice, or the opportunity to be heard."

This statement clearly implies that the committee may determine that a Member has committed a violation or impose a sanction without the Member having such rights, and that suggestion, Mr. Speaker, is flatly wrong. The rules are replete with the rights for Members who are accused of any violation.

When you turn to the actual text of the "due process" amendments, you find that what these amendments are concerned with is not committee actions that impose sanctions or determine violations, but instead on committee letters or statements that "reference the official conduct of a Member." It may be well that the rules should provide certain rights to a Member whose conduct is going to be discussed in a letter or statement that

the committee issues publicly, but what should those rights be? They should be determined through a deliberative, fair, bipartisan process.

But one specific right that this proposed rule provides to those Members is the right to demand an immediate trial in front of an adjudicatory subcommittee of the Committee on Standards of Official Conduct. But in the circumstances that the rule addresses, that trial would take place before the committee has conducted any formal investigation of the matter. No committee that is serious about conducting its business would allow itself to be put in that circumstance. So the effect of this amendment would be that whenever any alleged misconduct is brought to the committee's attention, the committee may be forced to choose between either launching a formal investigation of the matter or dismissing it entirely. Both of these rule changes lack careful consideration and, more seriously, are brought to us today through a partisan process.

I'd like to address the ethics-related provisions that are in this package at the insistence of the Rules Committee. I had the honor of serving as ranking member of the Ethics Committee in the last Congress, and I also served on the committee for 6 years during another time of controversy in the late 1980s. It was an honor to serve during the last 2 years with Chairman HEFLEY, as he always managed the committee in a completely bipartisan manner.

A headline in this morning's newspaper says, "GOP abandons ethics changes." It turns out that the headline is at best only half right. It's true that the most outrageous ethics-undermining provision has been deleted from the rules package, but other provisions—provisions that would make major changes in the way the Ethics Committee handles enforcement of the rules—remain.

There should be no misunderstanding that these provisions that remain would seriously undermine the ethics process in the House, both because of the changes they would make in committee procedures, and, equally important, because of the partisan way in which they would be adopted.

If there is to be a meaningful, viable ethics process in the House, it must be a genuinely bipartisan process. That point should be self-evident—how could there be a legitimate ethics process that is operated on a partisan basis? And to have a bipartisan process, it's absolutely essential that any major changes in the rules be made on a truly bipartisan basis. What's more, because of the importance, and the sensitive nature of the ethics rules, it's also essential that any proposed changes be considered in a thoughtful, considered, and open way, with all Members being given the opportunity for input—Democrats and Republicans.

Until today, the House recognized these fundamental points. Until today, the House has not attempted to make major changes in the ethics rules or the Ethics Committee procedures in a slapdash way, with literally only hours of consideration, and on a party-line vote.

It will probably come as no surprise that the materials issued by the Rules Committee that attempt to justify these amendments are

based entirely on misstatements of the current rules. For example, under the benign-sounding heading, "Restore Presumption of Innocence," the Rules Committee memorandum states, and I quote:

"Currently, if the chairman and ranking minority member take no action on a properly filed complaint within 45 days, the matter automatically goes to an investigative subcommittee."

That statement is incomplete—and therefore misleading. The rules that have been in effect since 1997 clearly provide that at any time that a complaint is before the chairman and ranking member for consideration, either one of them may place the complaint on the committee's agenda, and when either one of them does that, an investigative subcommittee cannot be established without a majority vote of the committee.

Another example: under the heading, "Due Process for Members," the Rules Committee memorandum states that, and I quote:

"Under the current rule, the chairman and ranking member, or the committee, may take action against a Member without a complaint, notice, or the opportunity to be heard."

This statement clearly implies that the committee may determine that a Member has committed a violation or impose a sanction without the Member having such rights, and that suggestion is flatly wrong. The rules are replete with rights for Members who are accused of any violation, and because of the bipartisan makeup of the committee, Members are typically accorded rights well beyond those required by the rules.

When you turn to the actual text of the "due process" amendments, you find that what these amendments are concerned with is not committee actions that impose sanctions or determine violations, but instead committee letters or statements that "reference the official conduct of a Member." It may well be that the rules should provide certain rights to a Member whose conduct is going to be discussed in a letter or statement that the committee issues publicly, but what should those rights be?

They should be determined through a deliberative, fair, bipartisan process. But one specific right that this proposed rule provides to those Members is the right to demand an immediate trial in front of an adjudicatory subcommittee of the Ethics Committee. But in the circumstances that the rule addresses, that trial would take place before the committee has conducted any formal investigation of the matter. No committee that is serious about conducting its business would allow itself to be put in that circumstance. So the effect of this amendment would be that whenever any alleged misconduct is brought to the committee's attention, the committee may be forced to choose between either launching a formal investigation of the matter, or dismissing it entirely. There would be no chance for an expedited resolution of the case, even in those instances in which the committee believes it already has all the basic facts, and the conduct involved probably does not warrant a formal sanction. Both of these rule changes lack careful consideration and, more seriously, are brought to us today through a partisan process.

But the proposed amendment that raises even more concern is the one that provides for automatic dismissal of any complaint that

is not acted upon within a period as short as 45 days. When the House last considered Ethics Committee procedures, in 1997, it rejected, on a bipartisan vote, an amendment that would have required the automatic dismissal of any complaint that is not acted upon within 180 days.

The reason that amendment was rejected is that it was recognized that such a time limit would encourage deadlock on the committee, and partisanship among the committee members. Under a time limit, if one side or the other is uncomfortable about dealing with a particular complaint, those Members don't have to discuss it or otherwise try to deal with it—by their just doing nothing, the complaint will disappear. Yet now this provision for automatic dismissal has reappeared, and this time it has a far shorter time frame for committee consideration than the nearly identical provision that the House soundly rejected in 1997.

I want to close by asking all Members, including all Members of the leadership on both sides of the Aisle, to give some serious consideration—not just today, but in the weeks and months ahead—to whether you genuinely want to have a meaningful ethics process in the House, and what we as Members, individually and collectively, have to do in order for such a process to exist. As I said at the outset, for this process to exist, it has to be a truly bipartisan one, and it has to be treated with seriousness and respect. It has to be recognized that the basic purpose of the process is to consider and address legitimate ethics concerns, and if Members are successful in using the process for partisan, political purposes, it is going to fail. The approval of these amendments would seriously undermine the process and, for that reason alone, this rules package should be defeated.

Mr. DREIER. Mr. Speaker, I am very happy to yield 3 minutes to the gentleman from New York (Mr. BOEHLERT), the very distinguished chairman of the Committee on Science.

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

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of this balanced rules package. I want to speak particularly to the provisions regarding homeland security. To determine whether a proposed regime to oversee homeland security is appropriate, one cannot just look at a flow chart. The simplest structure is not necessarily the best, nor is one that is unduly complex. One has to look at how a proposed structure will actually function and what it can and cannot accomplish.

The homeland jurisdiction being proposed in this package strikes the right balance between a system that is too centralized and one that is too diffuse. First, I should say that the most important and necessary change regarding governance of the Department of Homeland Security was made 2 years ago when we created a Subcommittee on Homeland Security on the Committee on Appropriations. But having a single committee that can look across the Department of Homeland Security from an authorizing perspective is also a sensible move, and the new committee created in this package will do that.

□ 1600

What would not make sense, however, simple as it might seem, is giving sole authority over all aspects of homeland security to the new committee. Homeland security is too diffuse and important a government activity to rest with one committee. Almost every activity of every Federal agency has some relationship to homeland security, and almost every activity of the Department of Homeland Security impinges on the activities of other agencies.

An appropriate congressional oversight structure has to take account of that basic fact. A structure that overly centralized homeland security oversight would make it harder to evaluate the Department of Homeland Security in the context of the other activities of the Federal Government. An overcentralized structure could also make a congressional committee a captive of the agency that it oversees.

I know that it is very easy to denigrate arguments against a single, centralized Select Committee on Homeland Security as so much turf fighting. But in reality it is simply intellectually lazy to assume that a centralized structure would enable Congress to do its work more effectively.

I found especially ironic a Washington Post editorial that called for a highly centralized structure. The editorial argued that a centralized committee would be more efficient because the Department of Homeland Security would not have to answer questions from a lot of different committees. Well, it would also be more efficient if the Department did not have to respond to questions from a lot of different news outlets, but presumably The Post would argue that there are advantages to forcing the Department to respond to reporters with a variety of areas of expertise and a variety of perspectives.

The Post certainly would not want the only news outlet to be an in-house publication. So I want to applaud the House leadership for doing what it has done, and I stand in strong support of this rules package.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, the chairman of the Committee on Standards of Official Conduct is correct when he says that ethics reform must be bipartisan and if the House is to have meaningful bipartisan ethics process, changes of this magnitude can be made, as they were in 1997, only after thoughtful, careful consideration on a bipartisan basis. There has been no effort to look at the rules changes on ethics in a bipartisan manner.

In 1997 when I co-chaired the Committee on Ethics Reform along with Bob Livingston, the changes that we made were done after deliberation, and after Democrats and Republicans, working together, came before the House and we did make major changes.

And we instituted the 45-day rule for assigning a proper complaint for investigation; but we changed the rules in 1997. We made it clear that you can move towards an informal investigation without a finding that it merits further inquiry or a resolution of preliminary inquiry because we did not want any matter of guilt or wrongdoing for the committee to be able to get the facts necessary to decide whether to go to formal investigation.

Yet this rules change which would allow after 45 days inaction to dismiss a complaint makes inaction action, and it can be done on a very partisan basis. Now, that is wrong. That is not how it should be.

The rules as they are currently configured in order to move a complaint past the committee, you have to have the bipartisan agreement of the committee because you have to have a vote in the committee. It guarantees a process will move forward in a bipartisan manner and, in fact, the Committee on Standards of Official Conduct has operated in a bipartisan manner because of the way the rules are configured.

If this rule is changed, you are making it much more likely that the Committee on Standards of Official Conduct will act in a very partisan matter because they will be able to delay for 45 days, which does not take a lot of effort to figure out how to delay for 45 days. We have enough lawyers on the Committee on Standards of Official Conduct that will be able to figure out that one. And it will be done on a partisan basis that will leave a cloud on the Member and a cloud on this institution. You should not have that in this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from California (Mr. GEORGE MILLER).

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I rise in opposition to the rules package.

Every House Member should vote to put the House on record against ethical and procedural abuses that contaminate this institution.

The stench of special interest corruption is overwhelming Congress, and repulsing the public. It is time the House Rules reflected the ethical standards and common sense of the American people.

I came to this House 30 years ago, and our historic incoming class brought with it one of the strongest tides of reform ever seen: rules were changed, chairmen were replaced, procedures were modernized so that the voice of the people was heard, and respected, in this House of the people.

Ten years ago, the Republicans took control of the House, promising a new era of reform. To read the national newspapers, it is evident to everyone—except themselves—that the Republicans have betrayed their promise of reform. They have tolerated misconduct and enshrined special interests as never before.

Today, we give them, and all Members, an opportunity to restore public trust by voting for

two commonsense amendments to the House rules.

First, no sitting Member should negotiate for a new job with any organization that has had business before his or her committee for a year. That's not hard to understand: no one should be shaping public policy with an eye on a future private sector salary.

Second, no bill should be brought to the House floor unless Members have had 3 days to read it first. That's not hard to understand: we should not be passing bills that are hundreds of pages in length—sometimes over 1,000 pages—without ever having seen what is in the bill. Ronald Reagan thought it was a bad idea; surely today's House Republicans can agree.

Let's be honest about it: 99 percent of the American people outside the Beltway will agree with both of these principles—no negotiating for new jobs with special interests; Members should know what they are voting on before it becomes law. We shouldn't even have to have a debate. But we do.

Less than a month ago, the Nation was stunned to learn that the committee chairman who had fashioned a blatantly pro-drug industry, anti-senior, anti-consumer prescription drug law was retiring and taking a job with the pharmaceutical industry. In fact, our former colleague assumes his job with PhRMA today, just as we are taking our oaths of office.

Mr. Tauzin will reportedly be earning a salary nearly 13 times what he earned when he wrote that pro-industry bill—one of the best paid lobbyists in Washington.

He earned it. That prescription drug law will enrich him, but it takes billions of dollars out of the pockets of America's senior citizens—by prohibiting them from purchasing cheaper drugs from Canada, and by prohibiting the Federal Government from negotiating with the pharmaceutical industry—his new employer—for lower drug prices. That's worth billions to the drug industry.

While the deal was not announced until last month, the discussions began a year ago, as was widely reported at the time. In fact, a top aide to the Republican leadership was quoted last January 24 on CNN.com as saying that Republican Congressman Tauzin's negotiation with PhARMA "doesn't look very good."

It doesn't look "very good" today either, as millions of seniors face higher drug prices thanks to the Tauzin bill, and Bill Tauzin takes office to improve the tattered image of the drug industry.

We all know this stinks. And so do our constituents. Let's put an end to it today by barring negotiations for private jobs by Members of Congress. That's what our constituents would want us to do.

And at the same time, let's put an end to the outrageous practice of voting on complex and lengthy bills before Congress has had time to read them—bills like that prescription drug bill Bill Tauzin wrote while he was listening to PhARMA's whispers in his ears.

Isn't it bad enough that Republicans majority writes the bills in secret, without input from the Democrats who represent 48 percent of the country? Without scrutiny by the press? Without review by the public?

Must we also vote on secret legislation, without reading it, without knowing the tax breaks and earmarked spending for special interests that have been stuck in without any review?

I urge all Members to put party aside and vote the way your constituents would want you to vote: an end to private job negotiations while serving in public office, and full disclosure of the contents of legislation before we vote.

Mr. Speaker, I also vigorously oppose the proposed rule change that would allow an ethics investigation to end after 45 days of the Ethics Committee of five Democrats and five Republicans remained deadlocked.

Today, the Republicans are once again putting partisan politicians ahead of ethics by moving forward with their plan to shield their embattled majority leader—TOM DELAY—from any further investigation.

The goal of this change is to block the Ethics Committee from considering pending and future matters that could prove to be damaging to their party.

Under the present rules, if the chair and the ranking minority member of the Ethics Committee cannot agree whether to investigate a complaint, the committee begins an initial investigation into the matter.

But, under the Republicans' proposed rule change, the Republican chairman of the Ethics Committee—who is handpicked by the Speaker—could simply refuse to examine a complaint.

After 45 days, the complaint would be dropped, without even an initial investigation into the matter.

This new rule would allow Republicans to block pending ethics matters and prevent future investigations from moving forward. And the reason is very simple: there are at least two matters currently pending against Republican leaders, including Majority Leader TOM DELAY.

Contrary to this morning's press reports, the Republicans haven't backed away from their attempts to shield DELAY from further investigation, they've simply become a little more deceptive in how they're doing it.

Last year, when the Ethics Committee admonished DELAY three times, it deferred action on another serious charge—his role in funneling illegal soft money into Texas races through his State PAC—until after the investigation against him had been completed.

The rule change now proposed by his Republican colleagues would allow the Republican chairman of the committee to block any further investigation of DELAY's activities, shielding the minority leader from further admonishments even if he is indicted by a grand jury.

Also pending is an investigation of Republican lobbyist, Jack Abramoff, and former DELAY staffer, Michael Scanlon, and their ties to several Republican members. Changing the ethics rules would permit the Republicans to halt any investigation of the Abramoff scandal and the Members who could be implicated in their outrageous looting of Native Americans.

I urge a "no" vote on this unbalanced and improper rules package.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, we are making a terrible mistake here today by changing the rule in terms of the provision that would simply require no action after a 45-day period because, as the earlier speaker immediately preceding me indicated, what we will have

done is change a nonpartisan committee that is based on a nonpartisan process into one that provides for a partisan veto over action where the behavior of an individual Member or Members is at question. That, I suggest and submit, is something that this institution will suffer from.

There has been much discussion recently regarding this package. It was anticipated that there would be additional provisions that were not submitted today, but let us be clear what is at risk here. It is the confidence of the American people in the integrity of this institution. Perception, as we all know, is reality. And when the American people understand very clearly that we now have a Committee on Standards of Official Conduct in which either side has a veto, it will undermine the confidence of the people in our ethical process.

My question to the proponents would be, what is wrong with the current rules? We have operated on them.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. GENE GREEN), a member of the Committee on Standards of Official Conduct.

Mr. GENE GREEN of Texas. Mr. Speaker, I thank the gentlewoman for yielding me time.

The gentlewoman is correct: I currently serve on the Committee on Standards of Official Conduct. And despite what I read in the morning papers, the Republican leadership is eliminating a major traditional ethics standard of the House. While we are relieved that the Republican leadership did not go as far as they wanted to, I do not think we can be happy with the trend that is clearly downwards as it is today.

The new rule means no ethics violations will be investigated of party leaders, whether they be Republican or Democratic, control their members, since a tie vote means a dismissal. The logical result is more partisan political pressure on the committee members.

America was intended to be a city on a hill with the highest standards for the government in the world; and sadly, today we are lowering those standards.

The majority is proud of their political power and their skills at political games, and politics is an important part of our business; but principles must be held above politics because no man can serve two masters, both principles and politics.

When we are guided by only political consideration in the House leadership today, the House abandons its principles and the moral compass.

I do not enjoy serving on the committee. I do know something about legislative ethics, having first been elected to the State house of representatives after a tremendous Sharpstown bank scandal in Texas 1972. Born and raised in Texas, I understand what it means about conservative government, but I cannot begin to explain how

eliminating a traditional ethics standard is conservative in the slightest.

The House leadership can fool some of the people some of the time, like they did today when the papers said they were dropping ethics changes, when they clearly continue to weaken the standards. However, the people recognize this for what it is, a weakening of our government's ethics in pursuit of political parity by one party, be it Democrat or Republican.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I rise in opposition to the proposed changes in the ethics rules.

I served for 8 years on the Committee on Standards of Official Conduct, and it is not an enviable assignment. But Members who have never served on the committee would be proud of how these tasks are approached. It is a committee that is evenly split. In the 8 years I served, we had unanimous votes.

The Members who serve think about the institution. They are there to serve the American people and the institution. It has not been a partisan body. It has been one that holds other Members to a high ethical standard. These rules will undermine the Committee on Standards of Official Conduct, and the process of using the Committee on Rules rather than the Committee on Standards of Official Conduct to deliberate on the changes is also undercutting the Committee on Standards of Official Conduct.

I recommend that we do not support these rule changes. And I also want to mention on the homeland security provision of the rule, it is a huge mistake to "murky up" the jurisdiction over cybersecurity. We are at tremendous risk for a cyberattack, and the changes in that area will make us less safe.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. TAYLOR) for purposes of a colloquy.

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman from California (Mr. DREIER) for yielding me time.

Mr. Speaker, my question to the gentleman concerns the change to the rules that would allow Members to use campaign funds to purchase cell phones. As you know, there is a law that prohibits a Member of Congress from using the resources of their office or their office to solicit campaign funds.

It is my hope that allowing campaign cell phones to be used in a congressional office is not in any way a backdoor attempt to allow a Member to use a campaign cell phone from their congressional office or any Federal facility to raise funds to get around this prohibition that currently exists in law.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I will be happy to respond to the gentleman.

Let me say we are in the midst of a discussion about ethics at this point. Obviously, it is our goal to maintain the highest ethical standards. We have a law, which is actually a criminal law, which states that it is a violation of 18 U.S. Code 607 for the solicitation of campaign contributions from Federal property.

The idea behind this change that is included in this rules package is that Members should not be required to carry two separate cell phones with them. This would allow campaign funds to be used for the purchase of a cell phone that might be used for calling your office or other official purposes. But the law which prevents the solicitation of campaign contributions from Federal property in fact is maintained and is one we that feel very strongly about.

Mr. TAYLOR of Mississippi. Just for a clarification, the use of a campaign cell phone in this building?

Mr. DREIER. In any Federal building whatsoever. On Federal property is what the law says. It is a violation of the law.

Mr. TAYLOR of Mississippi. To solicit campaign funds with a campaign cell phone.

Mr. DREIER. It is a violation of the law.

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Speaker, I rise in opposition to what I consider a shameless rules package which will undermine the ethical standards held by this House.

After the elections in November, the first thing the Republican majority did was to lower the House's ethical standard. In an act of unprecedented shamelessness, they changed the rule of their party to permit an indicted member of their party to remain in a leadership position. Yesterday, in the face of an overwhelming bipartisan and public condemnation they changed their rules back.

This is not shocking. What is shocking is that they ever considered it in the first place. Even more shocking, just if you think you have seen it all, is that the majority considered deleting the most fundamental of ethics rules which says that Members of the House should be held to the highest standards of ethical conduct.

□ 1615

It says a Member shall conduct himself at all times in a manner that should reflect creditably on the House of Representatives.

Dropping this rule is unthinkable. Yet Republicans only decided to keep it last night when the issue became too hot for them to handle.

Thank heavens it became too hot for them to handle, but what is completely

apparent to the public and those who follow the Congress is that the Republicans did not leave it at that. They went on to make new mistakes, to undermine the ethical standard of the House.

Instead of a bipartisan effort to strengthen the ethical process, the Republicans have engaged in a completely partisan exercise that should be an affront to every Member on either side of the aisle who has served in this body. The proposed changes which are still in this rules package are destructive, and they are unethical.

Mr. Speaker, I know of what I speak. I served on the Committee on Standards of Official Conduct for 6 years, and then for a seventh year I served as a part of the bipartisan committee to rewrite the ethics rules. It is bipartisan, evenly divided, and we came up with new ethics rules, some of which survived the floor that year in 1997.

The package that was put together was meant to be fair to Members as well as uphold the high ethical standards. It says that Members should be judged by their actions and by the rules of the House and the law. So it was only about what took place, the facts and the law. It was not about rumor. It was not about hearsay. It was about the facts, the rules of the House and the law.

There was a process which was fair to Members because, as I say, as someone who has 7 years on the ethical process, that it is very hard to make judgments about our peers. It is a very, very difficult task, and we want to be fair, but we have a higher responsibility to uphold that ethical standard.

So it was put forth and has been the rules of the House and the Committee on Standards of Official Conduct that in order to cease or dismiss a case, we had to have a majority of the Committee on Standards of Official Conduct. That would be eliminated today. That would be eliminated today.

So, on a partisan basis, there could be no cases that go forward. Either party with half the votes in the committee, evenly split, could cease and desist any complaints from going forward. That is simply not right.

The point of the Committee on Standards of Official Conduct is to have a process in which to deal with ethics complaints against Members. The point of the Committee on Standards of Official Conduct is not to whitewash or to have a system that says nothing will ever move forward.

What could the Republicans be afraid of that they would so fundamentally undermine the ethical process of the House to say we are going to establish a system where nothing will ever go forward? This simply is wrong. We owe it to the public, we owe it to each other to uphold that ethical standard.

So, as I say, on the first day of this new Congress, the Republican majority is publicly demonstrating what has been evident for some time, and that is its arrogance, its pettiness, its shortsighted focus on their political life

rather than to decide how we are each of us fit to govern.

Here is the thing. We have this rules package before us. They did some flash last night so that the press is saying, oh, they blinked. They did blink on a couple of different scores, but the fundamental challenge to the ethical standard of the House being enforced is still in this rules package, and it should be rejected.

Democrats have made two proposals. One of them is to remove this change, and that would be a vote on the previous question, and then on the motion to recommit we address two other abuses of power that should be addressed in this bill.

One is what I will call the Tauzin rule, and the Democratic motion to commit would forbid a Member of Congress to negotiate with an outside entity that has business before his or her committee and before the Congress, in the current Congress or in a previous Congress, called the Tauzin rule because Mr. Tauzin, who managed the Medicare bill, was at the time being courted by the pharmaceutical industry which was to benefit from provisions in the prescription drug bill, a rumored \$2 million a year salary for selling America's seniors down the river. That is simply wrong. Has this become an auction house?

The public has to think and believe that when we are here and we are on the public payroll and we are Members of Congress that our accountability is to them and not to our next job. I call that the revolving door, shorthand for the Tauzin rule, and the impact of that is a very, very bad prescription drug bill that put pharmaceutical companies first, seniors last.

In our motion to commit we also address the 3-day rule. As many of my colleagues recall in recent memory, there was occasion on the floor when a huge bill of many thousands of pages, containing nine appropriations bills, seven of which never appeared on the floor of the United States Senate, came before this House where the matter was overnight passed in the Committee on Rules, came to the floor the next morning without any chance of Members being able to read the bill. It came under the martial law rule the Republicans use by which they say we waive the 3-day rule by a simple majority. It should take two-thirds, but by a simple majority we waive the 3-day rule. Well, why was it important? It was important that day because there was a great deal in that bill that Members did not know about that they were voting on and should not they know that, but very specifically in that bill and it was not found out until the bill went to the Senate, who had more time to read the bill because it went over there several hours after it was heard here, and in that bill it said that the chairman of the Committee on Appropriations in the House and the Senate or his or her designee could look at the tax returns of American taxpayers. Where did that

come in? It is a total orphan. It is a total orphan. No one was going to take responsibility for that.

Because of the egregiousness of that and the violation of privacy of the American people, I insisted that the Members come back to vote on that rather than just have it be done by unanimous consent to remove that provision from the law. Why did I call Members back? So that the American people will know because of the abuse of power in this House, ignoring of the 3-day rule, that Members cannot even see what they are voting on before they vote on it, and something like looking at your tax returns could be sneaked into the bill, without any safeguards to protect people from that.

That is just one example. Another example is the Medicare prescription drug bill which came to the floor without proper time for review as well. The list goes on and on.

In our motion to commit, we address the abuse of power of a powerful chairman, negotiating for a job while he was a Member of Congress, who had control of the bill over the industry, which was offering him \$2 million a year. That is how much it cost to sell the American seniors down the river, and I hope that even if you separate yourself from any of the examples and just say I sent you to Congress to represent me, you do that in what you say there and how you vote, and I expect that you know what you are voting on.

The message to the American people here this afternoon is a vote for the motion to commit, is a vote for Members to be able to read a bill before they vote on it. Is that asking too much? The Republicans say it is. So a yes vote on the motion to commit gives Members the 3 days which under the rules of the House they are entitled to. A vote for the motion to commit stops the unethical process of Members negotiating with people outside, whose bills they are managing inside this Congress, in this Congress or in the previous Congress.

The previous question vote would say no to the Republicans in their evisceration of the ethical process of this House by saying that you do not need a majority to dismiss a case; you can just do it if all the Members of your party on the committee decide to stick with you on it. It is simply not right, and this should not be partisan. That is really what is really sad about it.

Everything that we have done in the ethics process has had some level of respect to the extent that it has because it has been bipartisan, bipartisan in writing the rules, evenly divided committee, cooperation between the chair and ranking member.

Today is a major departure from that, and I guess maybe I have just spent too many long hours for too many long years in the Committee on Standards of Official Conduct room trying to respect the rights of Members and our higher responsibility to uphold an ethical standard. To see the Repub-

licans today run roughshod, rigging the rules, negotiating for jobs, no reading of the bill, it is an outrage. It is an absolute outrage.

So I urge my colleagues to vote yes on the previous question, yes on the motion to commit, and by all means, however you vote on those, no on this very shameful rules package.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from New York (Ms. SLAUGHTER) has 1 minute remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield for the purpose of making a unanimous consent request 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 distinguished gentlewoman because ethics equals integrity. I will submit my statement into the RECORD. Vote a resounding no on the resolution that is on the floor, and I hope that we will come before our peers and recognize that ethics equals integrity.

Mr. Speaker, I rise in opposition to the proposed changes to the House Rules under the Privileged Resolution before the committee of the Whole House. Taken together, this package of proposals will gut the House Rules.

Our colleagues on the other side of the aisle would like to completely gut and render ineffective the current Rule XI, which provides that a properly filed ethics complaint that has not been addressed by the Chair and Ranking Member of the Ethics Committee gets referred to an investigative committee. The Republican proposal would provide that, unless the committee votes by majority to take action on a properly filed complaint, no action will be taken after 45 days.

This change to Rule XI would take away an important oversight power and allow partisan politics to kill legitimate and colorable ethics complaints. A change like this would be an embarrassment to what this nation calls a "democracy." Furthermore, by allowing members to intentionally deadlock the vote of the Ethics Committee to kill a claim, we would be acting in contravention of the spirit of the U.S. Constitution that guarantees procedural due process.

We should strengthen the House ethnics rules rather than eviscerate them for the American people whom we represent. Rules so relaxed that Members can negotiate with a corporation, lobbying firm, or trade association that has business before their committee should not be further stripped. The honor that was bestowed upon this House upon its establishment must be maintained. Members must be held accountable for their action.

Moreover, Members should be given adequate time in which to read legislation that will be voted upon. Since the legislation that we pass in this august body affects the entire nation—which includes the Districts represented by Minority Members, it is an injustice that insufficient time has been given for review of legislation.

In the proposal that has been brought before the House does not contain the changes that are needed. It would be irresponsible for this body to accept what is before us.

The proposed Rule X amendment to create a Standing Committee on Homeland Security, on the other hand, is a smart one. It is only appropriate that this Committee be made permanent and be given jurisdiction over "overall homeland security policy." Important organizational and administrative aspects of the Department of Homeland Security, DHS, require oversight to ensure effective and efficient operation.

DHS is a conglomeration of 22 federal agencies with more than 180,000 employees and a budget of \$36 billion. Because the Department is still in its infancy stages, it is critical that committee oversight be applied to track and quickly eradicate deficiencies.

The Congress has just passed the National Intelligence Reform Act, or S. 2845, that will change the way our intelligence is collected and processed. DHS will be an important partner to our intelligence agencies in order to keep America safe. In addition, with the challenges that we have had with adequately funding first responders, it is very important that Congress retain a close relationship to the Department.

Mr. Speaker, I oppose the rules package that is before this body, and I urge my colleagues to defeat it. I yield the balance of my time. Further, a rules change that changes the quorum for this body without a constitutional change is minimally undermining our constitutional values.

Vote "no" on this resolution and "yea" on the motion to recommit.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

I urge every Member of this House to vote no on the previous question. If the previous question is defeated, I will offer an amendment to strike from the proposed rules package a provision that effectively guts our already ailing ethics process. This provision would halt the investigation of properly filed ethics complaints if, after 45 days, the chair and ranking Member of the Committee on Standards of Official Conduct have not set up an investigation committee.

I urge the Members on both sides of the aisle to vote no on this previous question so we can delete this offensive provision.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment in the RECORD immediately prior to the vote on the previous question.

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

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, after the vote on the previous question, I will call for a yes vote on the motion to commit. My motion to commit will prohibit sitting Members of Congress from negotiating for future employment with any person who has a direct interest in the legislation referred to any committee on which that Member serves.

It also includes a rules change that would require a two-thirds vote in the House to waive the requirement in our standing rules that Members must have 3 days to read the committee reports.

Mr. Speaker, I ask unanimous consent to insert a statement as part of that immediately prior to the vote on the motion to commit.

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

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I urge a no vote on the previous question.

I call on all Members of this House, particularly the freshmen casting their first vote, please vote for ethics today. Do not vote against the Constitution. Vote for this House that you will love and revere as all of us do on both sides of the aisle. Please vote no on the previous question and vote yes on the motion to recommit.

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

□ 1630

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the Chair may reduce to 5 minutes the minimum time for electronic voting on the motion to commit and the vote on the adoption of H. Res. 5 if the votes immediately follow a 15-minute vote, notwithstanding intervening proceedings attending the administration of the oath of office to Members-elect.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this rules package.

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

There was no objection.

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

Mr. Speaker, we have a great rules package that is coming before us, a rules package which I believe is deserving of bipartisan support. The reason I say it is deserving of bipartisan support is that is the word that has been used by Members on both sides of the aisle to describe exactly what we have been doing here and should be doing here.

Mr. Speaker, this package includes a number of very important provisions. It allows us to deal with the prospect of a horrendous attack on this institution, and it allows us to continue this institution's operations so the American people will understand that this institution stands even at a time of great crisis. This rules package allows for the establishment of a new permanent standing committee on homeland security, as the Speaker outlined in his opening remarks here today. I believe that is something that will allow Democrats and Republicans to spend time working on that issue.

Mr. Speaker, this is a rules package which allows for bipartisan process at

the ethics committee level. The Committee on Standards of Official Conduct is the committee which has the responsibility of working to ensure the integrity of all of the Members of this institution. The package we have before us does just that.

I believe that the statement made by the chairman of the Committee on Standards of Official Conduct, the gentleman from Colorado (Mr. HEFLEY), is very clear. He understands that the provisions included in this package will in fact maintain the integrity of this institution. He was not going to support the earlier package; he is supporting this package. The issue of bipartisanship is important because in this package we ensure that we will not see the politicization of the ethics process which tragically we have seen in the past, because it will require bipartisanship, which all Members are talking about, if we do proceed with the investigatory process.

That is the right thing to do, and I believe this package should in fact enjoy the support of Democrats and Republicans alike because it is designed to protect this institution and its Members.

Mr. Speaker, the House is an institution built upon its rules. Accordingly, it is appropriate that one of the first orders of business of the 109th Congress will be to adopt a rules package which is both true to its traditions and forward-thinking in its outlook.

The package we have before us represents the work product of many Members. During the initial stages of compiling this package, back in November, the Rules Committee received 40 difference proposals from both Democrats and Republicans.

In addition, our committee staff has actively sought the input of the officers of the House, its committees, and its caucuses to get their perspectives on the kinds of changes we can make to facilitate the work of the House.

While not every proposal we received was incorporated into this package, I assure you that each received substantial consideration by the Speaker and the Rules Committee. And, as always, the Rules Committee will continue to review our rules and operations to see where other improvements can be made.

Mr. Speaker, all of the ideals contained in this resolution reflect the considered judgment of our colleagues, and will ultimately improve our ability to carry out our constitutional responsibilities. While I will detail each of these changes in the section-by-section that I will place in the RECORD, I want to elaborate on just a few of these changes.

The gentleman from Virginia (Mrs. JO ANN DAVIS) is the author of one important provision directing committees to review matters within their jurisdiction to ferret out duplicative government programs as part of their oversight planning at the beginning of each Congress.

There are a number of instances where we are conforming the rules to reflect current House practice, such as with the designation of leadership members of the Budget Committee and the taking of recesses in committee to allow flexibility on our schedules.

We are also making the ability to consider suspensions on Wednesdays permanent in

this Congress after our successful experiment in the 108th Congress.

The package includes important provisions to allow us to function in situations where large numbers of Members are incapacitated. The "provisional quorum" language includes a number of safeguards to ensure that this institution can continue to operate during times of turmoil and democracy will be preserved.

As we search for permanent solutions to the problems facing us in the post-9/11 era, this is an important step in meeting our responsibilities.

We will also eliminate the Corrections Calendar. While this was originally intended to make it easier to consider legislation making corrections to outright errors in law, it turned out to be more cumbersome than other procedures, such as consideration under suspension of the rules.

And yes, Mr. Speaker, in a change guaranteed to draw applause from my colleagues, the House rules will now allow us to make reference to the Senate and its Members, so long as those references are confined to the question under debate and avoid personality. The Senate has long had similar provisions and this new rule merely conforms our rules to theirs.

I know that my colleagues and I share the desire to maintain our traditions of dignity and decorum in proceedings, and will do so even with this rules change.

On another topic, the package makes a series of changes to our ethics rules.

We included two provisions suggested by the chairman and ranking member of the Standards Committee: (1) clarifying the rule on officially connected travel to allow a family member other than a spouse or child to travel with the member at the sponsor's expense, and (2) conforming the rules of the House to current law which allow the use of campaign funds to pay for certain official expenses, such as a cellphone.

We also included provision suggested by the gentleman from Connecticut (Mr. LARSON) to conform the rules of the House to current law with regard to the 90-day pre-election limit on franked mail.

The package also includes two other provisions addressing our ethics rules. The first gives Members the same rights to choose their counsel before the Ethics Committee that they would enjoy if they were a respondent in a court case.

The second change addresses an inequity in the Standards Committee process requiring an investigative subcommittee if the chairman and ranking member don't act within 45 days. This change restores the presumption of innocence in our process.

As important as each of those changes are, Mr. Speaker, perhaps the most important change in this resolution will be the creation of a new standing Committee on Homeland Security.

It represents a far-reaching and critically important part of our overall strategic effort to protect the American people. The 9/11 Commission unanimously called for this action. They saw the need, and we believe most Members do, too.

Over the past 3 years, the Congress has asked the American people to accept change in countless ways. We have mandated change at the Federal, State, and local levels. We have asked for change from our allies and forced change upon our enemies.

And we saw the need for change over 2 years ago, and we responded, first with the enactment of the Homeland Security Act of 2002, and then with the formation of the Select Committee on Homeland Security. Their final report, a thorough and complete study of homeland security jurisdiction as it relates to House rules, was transmitted to my committee at the end of last year.

These measures made it clear to me and many other Members that steps need to be taken to further ensure the safety of the American people. The Rules Committee thoroughly reviewed the Select Committee's report and recommended a comprehensive and thoughtful reform effort that mirrors the recommendations of the 9/11 Commission: the formation of a permanent Committee on Homeland Security.

This change in House rule X, which governs the committee and their legislative jurisdictions, is delicately crafted architecture. It draws to the new committee only jurisdiction directly related to our defense against terrorism. Thus, it creates a primary committee while recognizing the other legitimate oversight roles of existing committees. It acknowledges the expertise and experience residing in other committees and leaves with them jurisdiction that may have a homeland security implication but not a direct policy relationship.

The House must have one central point where we, as national legislators, sort out the critical questions of securing our homeland without sacrificing our free society or a stable economy.

However, we envision a system of "purposeful redundancy." By that we mean more than one level of oversight and an atmosphere in which the competition of ideas is encouraged.

With this jurisdiction and the legislative history that I will place in the RECORD, the Department of Homeland Security will have more certainty as to which committee has the primary responsibility for homeland security. At the same time, the American people will live with the assurance that we are working to prevent anything from falling through the cracks.

Mr. Speaker, the new committee will have jurisdiction over: (1) Overall homeland security policy; (2) the organization and administration of the Department of Homeland Security; and (3) functions of the Department of Homeland Security relating to border and port security (except immigration policy and non-border enforcement), customs (except customs revenue), the integration, analysis, and dissemination of homeland security information, domestic preparedness for and collective response to terrorism, research and development, and transportation security.

By approving this resolution, the House will do what the Speaker and the 9/11 Commission has asked it to do: consolidate jurisdiction of the House in one committee. This committee will be dedicated to setting national homeland security policy and to effectively overseeing that the Department of Homeland Security carries out its mission.

Mr. Speaker, in making these changes, I want to note several points for the record.

First, referrals to the Select Committee on Homeland Security in the 108th Congress will not be considered a precedent for referrals in the 109th Congress.

Second, at the request of Mr. THOMAS, I am placing a document into the RECORD regarding

understandings between the Department of Treasury and the Department of Homeland Security.

Third, because the Department continues to evolve, references to a department, agency, bureau, office, or subdivision include a reference to successor entities to the extent that the successor engages in homeland security activities now conducted by the department, agency, bureau, office, or subdivision referred to in the legislative history.

For example, the Homeland Security Act of 2002 transferred the Office of Domestic Preparedness to the Department of Homeland Security, to "have the primary responsibility within the executive branch of Government for preparedness of the U.S. for acts of terrorism." Subsequently, its name has been changed by the Department to "Office of State and Local Government Coordination and Preparedness (SLGCP)" although its mission stays the same.

Finally, I welcome questions from my colleagues about jurisdictional matters related to this change. However, I want to caution all Members that referrals are solely within the Speaker's power, and, in my answers, I will not infringe upon the power.

Once again, I appreciate the input from all of you regarding the 109th rules package, and I feel that with your assistance, we will make the rules of the House stronger and make for a safer country.

Mr. LEVIN. Mr. Speaker, I strongly oppose the changes in the House ethics rules that the Republican majority is seeking to adopt today. The proposed Republican rule changes would cripple the ethics process in the House and dramatically lower the bar for standards of official conduct.

Late yesterday, the Republican majority in the House released the details of its rules package for the 109th Congress. Some of the newspapers reported this morning that the majority had abandoned its efforts to loosen rules governing Members' ethical conduct, but this is not the case. While the majority backed away from some of its rule changes, the most egregious ethics change remains. This provision would make it much more difficult for the Committee on Standards of Official Conduct to investigate allegations of wrongdoing by Members of the House.

Under current rules, if the Ethics Committee deadlocks on whether or not to pursue an ethics complaint against a Member of the House, the matter automatically goes to an investigative subcommittee. Under the proposed change, a complaint against a Member would be tabled unless a majority votes to take action on it within 45 days. Since the committee is evenly split with five Republicans and five Democrats, either political party could simply block an ethics complaint by stonewalling and running out the clock.

There is no doubt that if the proposed rule change had been in effect during the last Congress, no action would have been taken against the Members of the House who were reprimanded as a result of the Ethics Committee's investigation of bribery allegations raised in connection with the vote on the Medicare Prescription Drug Act of 2003. The committee would have deadlocked and the entire matter swept under the rug 45 days after the complaint was made.

I was listening to the debate on this earlier. The chairman of the Ethics Committee said

that he does not favor this change. He said he would like it removed. Why then is the majority leadership pursuing this change, when it is opposed by the ranking Republican on the Ethics Committee?

At a time when public confidence in Congress is so low and the Nation faces so many challenges, it is inexplicable that the first order of business in the new session is to water down the ethics rules in the House and make it even more difficult to discipline lawmakers who abuse their office.

This should not be a partisan matter. The proposed rule change harms the integrity and credibility of the House as an institution, and that reflects badly on all of us, Republicans and Democrats alike. I urge all my colleagues to join me in opposing this assault on ethics enforcement in the House.

Mr. BACA. Mr. Speaker, I rise in opposition to the rules package that we have before us today.

It is outrageous that my Republican colleagues have placed before us a rules package that at best lacks integrity, and at worst is completely unethical.

As the highest body of elected officials in our country, we should be held to the highest ethical standards.

But instead, my Republican colleagues have opted to put before us a rules package that actually lowers our ethics standards, so that they may promote their own agenda, at whatever cost.

This rules package makes it far more difficult for ethics investigations to take place. By requiring a majority of the ethics committee before an investigation can even begin, we are in great danger of diminishing the integrity of our great institution.

With this new rule, the majority party can effectively block any ethics investigation of a member of their party. This is an abuse of power.

And it's not just Democrats who oppose this plan. Americans across the country have expressed their opposition to this plan.

My Democratic colleagues and I have a better plan that will strengthen the ethics rules to improve congressional accountability and to make sure that legislation is properly considered.

The Republican plan fails to close a loophole that allows legislation to be considered before members have read it. Last year this led to the passage of a provision that would have let the Federal Government deeply invade citizens' privacy by reading their tax returns. I am appalled that the Republicans have failed to include the Democratic provision to tighten this loophole.

Mr. Speaker, I urge my colleagues to vote "no" on the resolution, so that we do not allow this rules package to become law.

Mr. DREIER. Mr. Speaker, I am inserting for the RECORD the following legislative history regarding the changes made by this resolution to Rule X, along with supporting materials.

LEGISLATIVE HISTORY TO ACCOMPANY CHANGES TO RULE X

RULE X AND THE COMMITTEE ON HOMELAND SECURITY

Legislative history

Overall homeland security policy—The jurisdiction of the Committee on Homeland Security over "overall homeland security policy" is to be interpreted on a government-wide or multi-agency basis similar to the

Committee on Government Reform's jurisdiction over "overall economy, efficiency, and management of government operations and activities. . . ." Surgical addresses of homeland security policy in sundry areas of jurisdiction occupied by other committees would not be referred to the Committee on Homeland Security on the basis of "overall" homeland security policy jurisdiction. For example, the Committee on Homeland Security shall have jurisdiction over a bill co-ordinating the homeland security efforts by all of the critical infrastructure protection sectors. Jurisdiction over a bill addressing the protection of a particular sector would lie with the committee otherwise having jurisdiction over that sector.

Organization and administration of the Department of Homeland Security—The jurisdiction of the Committee on Homeland Security would apply only to organizational or administrative aspects of the Department where another committee's jurisdiction did not clearly apply. The Committee's jurisdiction is to be confined to organizational and administrative efforts and would not apply to programmatic efforts within the Department of Homeland Security within the jurisdiction of other committees.

Homeland Security Oversight—This would vest the Committee on Homeland Security with oversight jurisdiction over the homeland security community of the United States. Nothing in this clause shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review homeland security activities to the extent that such activity directly affects a matter otherwise within the jurisdiction of that committee.

Individual committee concerns

Agriculture—The jurisdiction of the Committee on Homeland Security over "border and port security" shall be limited to agricultural importation and entry inspection activities of the Department of Homeland Security under section 421 of the Homeland Security Act of 2002. The Committee on Agriculture shall retain jurisdiction over animal and plant disease policy including the authority reserved to the Department of Agriculture to regulate policy under section 421 of the Homeland Security Act of 2002, and the Animal Health Protection Act, the Plant Protection Act, the Plant Quarantine Act, and the Agriculture Quarantine Inspection User Fee Account. The Committee on Agriculture shall retain jurisdiction over the agricultural research and diagnosis mission at the Plum Island Animal Disease Center.

Armed Services—The Committee on Armed Services shall retain jurisdiction over warfighting, the military defense of the United States, and other military activities, including any military response to terrorism, pursuant to section 876 of the Homeland Security Act of 2002.

Energy and Commerce—The Committee on Homeland Security shall have jurisdiction over measures that address the Department of Homeland Security's activities for domestic preparedness and collective response to terrorism. The words "to terrorism" require a direct relation to terrorism. The Committee on Homeland Security's jurisdiction over "collective response to terrorism" means that it shall receive referrals of bills addressing the Department of Homeland Security's responsibilities for, and assistance to, first responders as a whole. The Committee on Energy and Commerce (and other relevant committees) shall retain their jurisdiction over bills addressing the separate entities that comprise the first responders. For example, the Committee on Energy and Commerce shall retain its jurisdiction over a bill directing the Department of Health and

Human Services to train emergency medical personnel.

Financial Services—The Committee on Financial Services shall retain jurisdiction over the National Flood Insurance Program and Emergency Food and Shelter Program of FEMA, and the Defense Production Act. The Committee on Financial Services shall retain its jurisdiction over the anti-money laundering, terrorist financing, and anti-counterfeiting activities within the Department of the Treasury and the financial regulators.

Government Reform—The Committee on Homeland Security shall have jurisdiction over "the organization and administration of the Department of Homeland Security." The Committee on Government Reform shall retain jurisdiction over federal civil service, the overall economy, efficiency, and management of government operations and activities, including Federal procurement, and federal paperwork reduction. The Committee on Government Reform shall retain jurisdiction over government-wide information management efforts including the Federal Information Security Management Act. The Committee on Homeland Security shall have jurisdiction over integration, analysis, and dissemination of homeland security information by the Department of Homeland Security, and the Committee on Government Reform shall retain jurisdiction over measures addressing public information and records generally including the Privacy Act and the Freedom of Information Act. The Committee on Government Reform shall have jurisdiction over the policy coordination responsibilities of the Office of Counternarcotics Enforcement.

Intelligence—The Permanent Select Committee on Intelligence shall retain jurisdiction over the intelligence and intelligence-related activities of all departments and agencies of the Federal Government, including the Office of the Director of National Intelligence and the National Counterterrorism Center as defined in the Intelligence Reform and Terrorism Prevention Act of 2004.

Judiciary—The Committee on the Judiciary shall retain jurisdiction over immigration policy and non-border enforcement of the immigration laws. Its jurisdiction over immigration policy shall include matters such as the immigration and naturalization process, numbers of aliens (including immigrants and non-immigrants) allowed, classifications and lengths of allowable stay, the adjudication of immigration petitions and the requirements for the same, the domestic adjudication of immigration petitions and applications submitted to the Department of Labor or the Department of Homeland Security and setting policy with regard to visa issuance and acceptance. Its jurisdiction over non-border enforcement shall be limited to those aspects of immigration enforcement not associated with the immediate entry of individuals into the country, including those aspects of the Bureau of Immigration and Customs Enforcement. The Committee on Homeland Security shall have jurisdiction over border and port security including the immigration responsibilities of inspectors at ports of entry and the border patrol. As used in the new Rule X(1)(1)(9) and this legislative history, the word "immigration" shall be construed to include "naturalization" and no substantive change is intended by the new rule's not containing the word "naturalization."

Science—The Committee on Science shall retain some jurisdiction over the research and development activities of the Department of Homeland Security as such matters are incidental to the Committee on Science's

existing jurisdiction (except where those activities are in the jurisdiction of another committee).

Transportation and Infrastructure—The Committee on Transportation and Infrastructure shall retain jurisdiction over the Coast Guard. However, the Committee on Homeland Security has jurisdiction over port security, and some Coast Guard responsibilities in that area will fall within the jurisdiction of both committees. Jurisdiction over emergency preparedness will be split between the Committee on Transportation and Infrastructure and the Committee on Homeland Security. The Committee on Transportation and Infrastructure shall retain its jurisdiction under clause 1(r)(2) over “federal management of emergencies and natural disasters.” This means that the committee retains its general jurisdiction over the emergency preparedness and response operations of the Federal Emergency Management Agency (FEMA). Bills addressing FEMA’s general preparation for disaster from any cause shall be referred to the Committee on Transportation and Infrastructure. The Committee on Homeland Security shall have jurisdiction over the Department of Homeland Security’s responsibilities with regard to emergency preparedness only as they relate to acts of terrorism. Thus, the Committee on Homeland Security shall have jurisdiction over the responsibilities of the Office for Domestic Preparedness, in accordance with section 430 of the Homeland Security Act of 2002.

As indicated earlier, the Committee on Homeland Security’s jurisdiction over “collective response to terrorism” means that it would receive referrals of bills addressing the Department of Homeland Security’s responsibilities for, and assistance to, first responders as a whole and not over measures addressing first responder communities individually.

The Committee on Homeland Security shall have jurisdiction over the functions of the Department of Homeland Security relating to transportation security, while the Committee on Transportation and Infrastructure shall retain its jurisdiction over transportation safety. In general, the Committee on Homeland Security would have jurisdiction over bills addressing the Transportation Security Administration and the Committee on Transportation and Infrastructure would have jurisdiction over bills addressing the various entities within the Department of Transportation having responsibility for transportation safety, such as the Federal Aviation Administration and the Federal Motor Carrier Safety Administration. The jurisdiction of the Committee on Homeland Security does not include expenditures from trust funds under the jurisdiction of other committees, including but not limited to the Highway Trust Fund, the Airport and Airway Trust Fund, the Harbor Maintenance Trust Fund, the Federal Buildings Fund, and the Inland Waterways Trust Fund.

Ways and Means—The jurisdiction of the Committee on Ways and Means over “customs revenue” is intended to include those functions contemplated in section 412(b)(2) of the Homeland Security Act of 2002 and includes those functions as carried out in collection districts and ports of entry and delivery.

SECRETARY OF THE TREASURY,

Date: May 15, 2003.

SUBJECT: Delegation from the Secretary of the Treasury to the Secretary of Homeland Security of general authority over Customs revenue functions vested in the Secretary of the Treasury as set forth in the Homeland Security Act of 2002.

By virtue of the authority vested in me as the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b) and section 412 of the Homeland Security Act of 2002 (Pub. L. 107-296) (Act), it is hereby ordered:

1. Consistent with the transfer of the functions, personnel, assets, and liabilities of the United States Customs Service to the Department of Homeland Security as set forth in section 403(1) of the Act, there is hereby delegated to the Secretary of Homeland Security the authority related to the Customs revenue functions vested in the Secretary of the Treasury as set forth in sections 412 and 415 of the Act, subject to the following exceptions and to paragraph 6 of this Delegation of Authority:

(a)(i) The Secretary of the Treasury retains the sole authority to approve any regulations concerning import quotas or trade bans, user fees, marking, labeling, copyright and trademark enforcement, and the completion of entry or substance of entry summary including duty assessment and collection, classification, valuation, application of the U.S. Harmonized Tariff Schedules, eligibility or requirements for preferential trade programs, and the establishment of record-keeping requirements relating thereto. The Secretary of Homeland Security shall provide a copy of all regulations so approved to the Chairman and Ranking Member of the Committee on Ways and Means and the Chairman and Ranking Member of the Committee on Finance every six months.

(ii) The Secretary of the Treasury shall retain the authority to review, modify, or revoke any determination or ruling that falls within the criteria set forth in paragraph 1(a)(i), and that is under consideration pursuant to the procedures set forth in sections 516 and 625(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1516 and 1625(c)). The Secretary of Homeland Security periodically shall identify and describe for the Secretary of the Treasury such determinations and rulings that are under consideration under sections 516 and 625(c) of the Tariff Act of 1930, as amended, in an appropriate and timely manner, with consultation as necessary, prior to the Secretary of Homeland Security’s exercise of such authority. The Secretary of Homeland Security shall provide a copy of these identifications and descriptions so made the Chairman and Ranking Member of the Committee on Ways and Means and the Chairman and Ranking Member of the Committee on Finance every six months. The Secretary of the Treasury shall list any case where Treasury modified or revoked such a determination or ruling.

(b) Paragraph 1(a) notwithstanding, if the Secretary of Homeland Security finds an overriding, immediate, and extraordinary security threat to public health and safety, the Secretary of Homeland Security may take action described in paragraph 1(a) without the prior approval of the Secretary of the Treasury. However, immediately after taking any such action, the Secretary of Homeland Security shall certify in writing to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Ways and Means and the Chairman and Ranking Member of the Committee on Finance the specific reasons therefor. The action shall terminate within 14 days or as long as the overriding, immediate, and extraordinary security threat exists, whichever is shorter, unless the Secretary of the Treasury approves the continued action and provides notice of such approval to the Secretary of Homeland Security.

(c) The Advisory Committee on Commercial Operations of the Customs Service (COAC) shall be jointly appointed by the Secretary of the Treasury and the Secretary of Homeland Security. Meetings of COAC

shall be presided over jointly by the Secretary of the Treasury and the Secretary of Homeland Security. The COAC shall advise the Secretary of the Treasury and the Secretary of Homeland Security jointly.

2. Any references in this Delegation of Authority to the Secretary of the Treasury or the Secretary of Homeland Security are deemed to include their respective delegates, if any.

3. This Delegation of Authority is not intended to create or confer any right, privilege, or benefit on any private person, including any person in litigation with the United States.

4. Treasury Order No. 165-09, “Maintenance of delegation in respect to general authority over Customs Revenue functions vested in the Secretary of the Treasury, as set forth and defined in the Homeland Security Act of 2002,” dated February 28, 2003, is rescinded. To this extent this Delegation of Authority requires any revocation of any other prior Order or Directive of the Secretary of the Treasury, such prior Order or Directive is hereby revoked.

5. This Delegation of Authority is effective May 14, 2003. This Delegation is subject to review on May 14, 2004. By March 15, 2004, the Secretary of the Treasury and the Secretary of Homeland Security shall consult with the Chairman and Ranking Member of the Committee on Ways and Means and the Chairman and Ranking Member of the Committee on Finance to discuss the upcoming review of this Delegation.

6. The Secretary of the Treasury reserves the right to rescind or modify this Delegation of Authority, promulgate regulations, or exercise authority at any time based upon the statutory authority reserved to the Secretary by the Act.

JOHN W. SNOW,
Secretary of the Treasury.

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to H. Res. 5, to the Republican rules package. Specifically, I oppose the proposed changes to rule X, which among other things creates a permanent standing Committee on Homeland Security and grants legislative jurisdiction to that committee. I am not opposed to the creation of a permanent Homeland Security Committee. Indeed, I believe that the Homeland Security Committee should be made permanent and should be granted jurisdiction over the overall homeland security policy of the Federal Government. Further, I believe that a Homeland Security Committee is needed to oversee the internal administration of such a large Federal agency as the Department of Homeland Security, DHS, which has over 180,000 employees.

Although H. Res. 5 includes these provisions, I oppose its grant of legislative jurisdiction to the new committee of areas that have previously been the jurisdiction of other committees. I oppose this grant of jurisdiction, not because of some desire to protect existing committees’ “turf”, but because transfer of these security issues to a new committee divests from the responsibility for those issues from those Members who have substantial experience and expertise—in some cases developed through decades of work—on them. The existing committees are best equipped to give the full House the benefit of carefully thought out recommendations that provide effective security without unnecessary risks to safety or economic efficiency. It will take years for a new committee to be able to develop the expertise to provide the House and the Nation with reports and recommendations of the quality that existing committees provide.

It is not enough to say that members with particular areas of expertise will have an opportunity to be heard on these issues. The most effective way to influence policy is to be part of the debate and discussion in the early stages of policy formation; simply voting yes or no when legislation makes it to the House floor is generally not sufficient participation to craft policy.

I take this position on the basis of my 30 years of experience in the House, during which time I have given high priority to security, particularly the security of our transportation system.

H. Res. 5 would divest responsibility for DHS' transportation and port security functions from the Transportation and Infrastructure Committee, T&I Committee, and transfer it to the Homeland Security Committee. However, transportation and port security cannot be considered in a vacuum. Developing sound security legislation requires balancing security risks against the economic and safety impacts of such measures on transportation industries and their customers. For example, we would not want to install technology on aircraft to protect against missile attacks if that technology would create disproportionate safety risks.

In addition, security mandates are only one type of requirement imposed on transportation industries. Other requirements include safety, consumer protection, environmental, accessibility, and competitiveness statutory or regulatory mandates. Any security legislation or regulation must be considered in the context of the costs and benefits of all such requirements governing transportation industries.

The Committee on Transportation and Infrastructure has the responsibility and the expertise to broadly consider security risks, weigh all costs and benefits of proposed requirements, and determine the likely effects of such actions on transportation industries, their customers, and the existing framework of other statutory and regulatory requirements. The T&I Committee, time and again, has proven it's capable to ensure that the U.S. transportation system is efficient and safe, as well as secure. In the aftermath of the Pan Am Flight 103 tragedy, the T&I Committee developed the landmark Aviation Security Improvement Act of 1990 (P.L. 101-604), which mandated background checks for airline and airport employees and the deployment of bomb detection equipment for baggage at our Nation's airports. During the 1990s, our committee continued to respond to the changing security needs through oversight and legislation.

In the aftermath of the September 11 attacks, the T&I Committee developed and considered the Aviation and Transportation Security Act of 2001, ATSA. ATSA established a new Transportation Security Administration, TSA, federalized the screening workforce, and required the screening of all checked baggage to protect against terrorist threats. The Aviation Subcommittee alone has held 19 hearings on aviation security issues since September 11. Since September 11, the T&I Committee has also spearheaded important maritime and port security legislation including the Maritime Transportation Security Act of 2002, and the Coast Guard and Maritime Transportation Act of 2004.

The T&I Committee has the member expertise, the staff, and the institutional memory to deal with these issues. I believe that the qual-

ity of congressional oversight and legislation on these issues will suffer if these issues are simply transferred wholesale to a new committee. It will take years for the new committee to develop the institutional background and expertise that currently resides in our committee.

Finally, the Republican Conference drafted these changes to rule X in isolation. Democrats were afforded no role in crafting this critical security policy.

I believe the proposed changes to rule X do not further the security of this Nation. Instead, I fear that they will hamper security by divesting from those Members with the experience and institutional knowledge of these issues the direct responsibility to craft security policy.

For all of these reasons, I oppose H. Res. 5.

Ms. HARMAN. Mr. Speaker, I am pleased that the rules package includes a provision that will make the Homeland Security Committee a permanent committee. More importantly, we will be giving the committee real oversight and legislative jurisdiction. But I am disappointed that the majority has only given shared jurisdiction to the Homeland Security Committee in some areas. This creates the potential for ongoing turf battles that the 9/11 Commission warned against.

I am also discouraged that the majority has decided to add a third day of suspension bills to the legislative calendar each week. An increasing amount of legislation is being passed by the House under a suspension of the Rules. This is unnecessary and keeps us from doing the real business of the House—budgeting, appropriations and oversight.

A perfect example of this is the massive omnibus appropriations bill passed for fiscal year 2005 just a few weeks ago. This bill was rushed to the floor, ignoring the House rule requiring a 3-day review period before voting on conference reports. Only after the House voted on the bill, careful scrutiny of the language uncovered a provision allowing certain Members and staff access to any American's tax return.

Not only was this an embarrassing episode for the House leadership, it continued a troubling trend. In 4 out of the last 5 years, the majority has made a massive omnibus bill the only option to fund the government. This take-it-or-leave-it approach is not acceptable and is fiscally irresponsible.

Congress has also been asleep at the switch when it comes to funding for Iraq and the war on terrorism. This administration continues to fund the war on terrorism by supplemental appropriations. This is not a temporary war. Congress needs to stand up to this White House, stand up for honest budgeting, and require that funding for Iraq and the war on terrorism be made on-budget, and through the regular appropriations process.

By appropriating through omnibus bills and budgeting by supplemental, Congress is surrendering its constitutional duties. The results of this practice are ballooning deficits—the CBO confirmed that the 2004 deficit is the largest in history, \$413 billion—a lack of follow-through to determine how appropriated funds are being spent.

Without proper oversight as a backstop, problems in the executive branch can spin out of control. Members are learning about problems for the first time through the newspapers, not as a result of tough oversight hearings. This kind of lax or nonexistent oversight con-

tributes to situations like we saw in Abu Ghraib prison. Now we have learned about secret, permanent detention facilities in the United States where possible terrorists are held indefinitely, without any legal status.

Mr. Speaker, we need to take a hard look at our priorities and get back to doing the business of the House. We should be moving forward with a tough, focused oversight agenda, and a schedule that devotes more time to priority, must-pass legislation and less time to suspension bills. Instead, it appears that we are adopting a rules package today that will bring us more of the same.

Mr. DINGELL. Mr. Speaker, as has been the case for a number of years, the rules package put forward by my Republican colleagues continues to trample on the rights of the minority. It will do nothing to stop the abusive practices in this House such as the 3-hour vote on the Medicare bill in the middle of the night. In fact, it allows the Speaker added discretion to reconsider votes that the Republican majority loses. In addition, the new rules require an affirmative vote by the Ethics Committee before any action can be taken. This, in effect, gives my Republican colleagues the right to block any investigation.

I would like to focus on one portion of the package that will create a permanent Committee on Homeland Security. While I am sure some of my colleagues believe that the new committee will improve our security, unfortunately this new committee will be nothing more than a costly addition to the expenditures of the legislative branch, and it will likely breed a new wave of "turf warfare" among the committees of the House. We simply do not need a special committee every time we face a crisis.

The process under which we are being asked to approve this change is particularly troublesome. I call your attention to the last time the House felt compelled to create a new committee. In 1980, some Members of the House believed that it would be wise to create an energy committee. It used a careful process in which a committee on committees was created, consisting of Democrats and Republicans. When that committee reported its recommendations to the House, substitutes were permitted, and the result reflected a thoughtful understanding of how best to achieve the objectives.

In contrast, we are now being asked to consider a proposal which was sent to us just yesterday. It was hatched in secret by our Republican colleagues without the input of any Democrats. While many of my Democratic colleagues may agree with the need for a new committee, the right of the minority to have their views considered and voted upon has been trampled once again.

I also oppose the notion that a new committee is needed. If the main concern is one of oversight, we can use our existing committees to do the job. If Members still believed that a new committee was necessary, it need not have legislative jurisdiction.

I am certain that is such a committee had legislative recommendations of merit, the appropriate committees along with proper actions by respective party leaders would ensure the bill would come to the floor.

Instead, I foresee a new committee that will seek to increase its powers by introducing bills granting all manner of new authorities to the Department of Homeland Security. In addition,

thoughtful bills addressing aspects of homeland security reported by the existing committees will now be delayed as the new committee will seek referrals. And needed responsiveness by the executive branch to the existing committees may be hindered.

While the 9/11 Commission urged a reorganization of congressional committees to deal with homeland security, it is odd that this new committee will have no jurisdiction over the issues that were identified by the Commission that led to the 9/11 tragedy. The new committee will have no jurisdiction over the intelligence community, the law enforcement community, or immigration enforcement.

It is a shame that the first day of this new Congress should be marked by an attempt to authorize a new committee without so much as an open markup to consider its merits. Moreover, it would be extremely unwise to ignore the expertise and experience of existing committees as we address homeland security issues, but we are starting down that path today.

Mr. LARSON of Connecticut. Mr. Speaker, I strongly oppose the radical new provision included in this rules package resolution which would violate the Constitution by allowing the Speaker and a small group of Members to usurp the powers of a majority of the House and act with only a "provisional quorum" instead of the real thing.

The proposal would deny the plain language of section 5 of article I of the Constitution and create a new category of quorum—a "provisional quorum"—which the Constitution expressly forbids. It destroys the very idea of the quorum. It would also demolish a 99-year-old precedent, based on the Constitution, that a quorum of the House consists of a majority of the membership chosen, sworn, and living.

For each House Member deprived of the right to exert an impact on the work of the House, either through physical presence in or absence from the Chamber, the approximately 600,000 persons represented by each Member would be deprived of their rights to democratic representation in the legislative body structured to be closest to the American people. This proposal transfers the rights of those "closest to the people" to those closest to the House floor.

The proposal takes the guise of a rules change which the House has no power to pass, since the Constitution determines what kind of body the House is, and what it can—and can not—do.

Under this proposal, a majority of Members of the House could be alive and well and fully cognizant, but unable to reach the floor, while the few who are present could usurp their authority and the powers of the House.

Article I, section 5 of the Constitution states that a quorum consists of a majority, and, in the absence of a majority, all that the remaining minority of Members of the House can do is either adjourn from day to day or vote to compel the attendance of absent Members. There are no other options—no matter how inconvenient that fact may be for any faction on the floor of the House during a time of emergency.

The fact that the Constitution authorizes a minority to compel the attendance of the absentees clearly indicates that the absentees are needed to conduct business. The Constitution does not guarantee that a minority of the House will necessarily succeed in compel-

ling the attendance of absent Members to create a constitutional quorum. And such a result could indeed cause a crisis, which H. Res. 5 would do nothing to remedy. Unfortunately, during the last Congress the House refused to make serious progress toward ensuring continuity of government.

Let's consider how the plan before us today actually might operate.

Suppose that, in the aftermath of a catastrophic emergency which caused mass casualties and disrupted transportation and communications nationwide, a presiding officer existed in the House who might either be the Speaker or another Member of the House acting as "Speaker pro tempore" from a list of names left by a deceased Speaker.

Suppose that the presiding officer decided, if a quorum of the majority of Members failed to appear within a specified time period, that Members who weren't present on the House floor or any other designated place of meeting ceased to be Members for purposes of determining a quorum.

Suppose the rump minority of Members who had managed to reach the floor wanted to pass major legislation, including a declaration of war or authorization for use of military force, send constitutional amendments to the States for ratification, expel Members from their seats, or elect a new Speaker to become Acting President of the United States, all using a "provisional quorum" of one-half of the Members present, plus one.

Could they do these things? The proposed rule says they could. The Constitution says they could not.

The resolution gives the Member presiding the effective power to temporarily define out of existence those Members who don't respond to a specified series of quorum calls. These Members' seats would not be considered vacant, but they would fall into a kind of extra-constitutional limbo until the missing Members—or a majority of the total membership—reappeared in the House. It is even possible that some states might seek to replace Members who do not answer the "provisional quorum" call in the House by ordering special elections even though the Members might be known to be alive.

All Members are equal under the Constitution, and the right to membership in this House is not determined by a Speaker, Speaker pro tempore, or a rump of a minority of the body. It is determined by a vote of the people, and only a constitutionally constituted House may exercise the power to determine the qualifications of its Members and whether they have been duly elected.

The Supreme Court has ruled that the House may not add qualifications for membership beyond those expressly stated in the Constitution. If a Member has been duly elected and taken the oath, he remains a Member, and can only be removed through resignation, or through expulsion. There is no constitutional requirement that a Member must appear on the floor to maintain membership, or that House membership can somehow lapse.

It is surprising that some who only last year during debate on the "Continuity of Representation Act", H.R. 2844, spoke eloquently about the status of a House consisting only of Members elected by the people are now supporting a proposal to define those elected Members out of existence.

Members who are trapped at an airport because the transportation system is inoperative,

for example, do not simply cease to exist, nor can their powers be vested in other Members, willingly or not. Their absence has potential consequences, including the inability of the House to act until the collective body is "assembled" again, as the Constitution requires.

The resolution would also do an end run around the issue of "disability", a matter not addressed in the Constitution and one which requires a constitutional amendment to resolve, as the 25th Amendment did in the case of the President. Disabled Members—whom we might describe as those either physically injured or mentally incapable so as to be incapable of participating in the work of the House—have the same status as those who are fully functional. The Constitution makes no mention of disabled Members, but it does not give the House the power to pretend they don't exist. The House has never expelled or otherwise attempted to remove a sitting Member on the grounds of disability.

Proponents of the proposal before us today claim to address the problem of incapacitated Members, but only by effectively ignoring it. Under the provisional quorum rule, these Members would presumably not be able to appear on the floor and would be automatically excluded from the provisional quorum. It's a very convenient solution to the disability problem, though blatantly unconstitutional.

The House could adopt the provisional quorum plan as a House rule if the Constitution were amended to authorize it to do so; however, the Constitution does not.

The argument that the House is somehow exercising a constitutional power to make its own rules is also spurious. The House may only make rules which the Constitution permits it to make. The House may not reinvent itself at will as a different kind of legislative body by pretending that it is simply changing its rules.

At the very least, the House should debate the provisional quorum issue as a separate resolution, following hearings by the Rules Committee, with the Speaker in the chair to signal the historic nature of the debate and the radical action proposed to be taken. Burying the issue within this resolution with other controversial rule changes is an outrage.

The 108th Congress proved to be a huge disappointment because of its failure to effectively address many issues involving the stability of our structure of government, deficiencies brought to the forefront by the September 11 attacks, as well as a disturbing tendency to paper over controversies with legislation which fails to substantively address the problem.

For example, the House rejected a constitutional amendment offered by Representative BAIRD of Washington which would have reconstituted the House quickly through temporary appointments, pending special elections, if a large number of Members were killed. I had introduced a different version of the proposal, H.J. Res. 89. Members opposed to the concept—which is admittedly extremely controversial—refused to allow real hearings and debate. Even though prospects for passage of a constitutional amendment were extremely slim, a substantial debate would have served to educate the Congress and the American people on the importance of these issues, and perhaps provide impetus in a search for alternatives. A major effort like this has to start somewhere.

Instead, the House passed, but the Senate subsequently did not consider, H.R. 2844, the

"Continuity of Representation Act", which created an unrealistically fast, unfair, undemocratic and unworkable scheme to fill vacant House seats through a mandatory national 45-day special election period. This bill was referred principally to the House Administration Committee, where I was able to make an official record of its many flaws.

Neither House passed simple legislation which would have corrected an oversight in the legislation creating the Department of Homeland Security in 2002, which failed to place the supposedly critical new cabinet officer somewhere—anywhere—in the statutory line of success to the Presidency.

Though hearings were held, neither House addressed significant issues of Presidential succession, such as the role of the Speaker and President pro tempore and lame duck Cabinet members in the succession lineup, and the ability of some officials to "bump" others serving as acting president under the current Federal statute.

Mr. Speaker, I plan to urge further action on congressional continuity issues in the new year, to work with my colleagues on the Committee on House Administration to assert our own jurisdiction more effectively and to push other relevant committees to do the same. We need both more effective action, and better internal cooperation, to accomplish these goals.

The material previously referred to by Ms. SLAUGHTER is as follows:

EXPLANATION OF 3-DAY LAYOVER
SUPERMAJORITY VOTE REQUIREMENT

1. Committee Reports. Clause 4(a)(1) of Rule XIII requires committee-reported bills to lay over for three days before consideration in the House. The purpose of this rule, which dates from the legislative Reorganization Act of 1970, is to give Members who did not participate in committee deliberations time to consider the committee's work. The three-day layover period gives Members time to familiarize themselves with the legislation and to prepare for House debate, which could include drafting amendments to the committee-reported bill. When he was a minority Rules Committee Member, Chairman Dreier explained the importance of this rule in the following way:

"Why is it that we have the 3-day layover? Very simple, Mr. Speaker, I do not think you would enter into a business agreement or purchase a home or engage in any kind of major activity without having read it first. The idea behind the 3-day layover is very simple. It is there so that we may in fact allow Members to have the opportunity to review legislation before they exercise their constitutional right and vote for it or against it."

Although Chairman Dreier was very critical of special rules that waived the 3-day layover when he was a minority Rules Committee member, his committee routinely reports special rules waiving 3-day layover of committee-reported legislation. In the 108th Congress, the Rules Committee waived the 3-day layover of committee-reported legislation 31 times.

The purpose of this amendment is to restore regular order to the committee reporting process. It would allow the House to adopt a rule waiving the 3-day layover of committee-reported legislation only with a two-thirds vote—in the same way the House must approve a rule calling for same-day consideration of a bill by a two-thirds vote.

2. Conference Reports. House-Senate conferences are a critical part of the Congressional deliberative process because they produce the final legislative product that be-

comes the law of the land. The conference is where the final compromises are made and the final statutory language on the bill's toughest issues is negotiated and drafted. As Chairman Dreier wrote back in 1993:

"Deliberative democracy is just as important at the end of the legislative process as it is at the formative subcommittee stages or the amendatory floor stage. In fact, the case can be made that it is even more important that Congress be fully informed and deliberate on that final product since that is the version that will become law."

Because only a restricted group of House Members participate in conferences and because conference reports can contain significant policy changes from the House-approved version of a bill, the standing House Rules provide Members a number of protections against the conference process. Perhaps the most important protection is the one found in clause 8(a)(1)(A) of House Rules XXII, which requires conference reports and joint explanatory statements to lay over for three days after publication in the Congressional Record. The purpose of this rule is very clear. Since most Members do not participate in the conference, they need time to study and familiarize themselves with the conference product. Conference reports on major legislation run sometimes hundreds of pages and often contain small, technical-looking changes in bill language that can have large policy effects. They can also contain provisions that serve the interests of a small group of conferees, but do not reflect the intentions of the broader house membership.

Although conference reports are privileged and could come directly to the Floor for consideration without a rule, they are routinely considered under special rules because they are often in technical violation of one or more sections of Rule XXII or the Budget Act of 1974. While it is understandable that the majority may need to use special rules to waive certain points of order against the content or consideration of conference reports in particular situations, the Majority has made it the practice to grant "blanket waivers" to virtually every conference report the House considers. Twenty-five of the 28 special rules the Rules Committee granted on conference reports in the 108th Congress waived 3-day layover. In other words, it has become standard practice to jam conference reports through the House before most Members know what is in them.

One of the troubling consequences of this policy is that Members only learn about the details of a conference report after it has already passed the House. Some of these conference reports reconfirm the truth of the old saying that "the devil is in the details." Chairman Dreier made this very same argument, when, as a minority Rules Committee member, he opposed waiving the 3-day layover on conference reports. He wrote:

"The House and Senate have been repeatedly embarrassed over the years by conference reports on voluminous pieces of legislation which have been voted on before even properly printed or distributed, let alone understood. Only after their enactment have some of the provisions come back to haunt the Congress."

The 108th Congress has had its share of embarrassing episodes involving the quick approval of conference reports that were later discovered to contain controversial provisions added into bills during the conference stage. For example:

One of the earliest actions of the 108th Congress was to repeal the embarrassing provision Republican leaders had slipped into the Homeland Security conference report at the end of the 107th Congress that protected Eli Lilly and a number of other pharma-

ceutical companies from civil liability for their production of the vaccine preservative Thimerosal.

The Energy Bill conference added scores of obscure provisions that had not appeared in the House or Senate bills, including the embarrassing "greenbonds initiative," which turned out to be subsidy to build a Hooters restaurant in Shreveport, Louisiana.

The recent conference report for the FY05 Omnibus funding bill included a provision giving Appropriations Committee Members and staff access to the Internal Revenue Service tax returns of U.S. Citizens.

To avoid future embarrassing episodes such as these and to restore Members' rights to have three days to study a conference report, this section would allow the House to adopt a rule waiving the 3-day layover of conference report only with a two-thirds vote.

PREVIOUS QUESTIONS FOR H. RES. 5—109TH
CONGRESS OPENING DAY RULES PACKAGE

In section 2:

AMENDMENT TO H. RES. 5 OFFERED BY MS.
SLAUGHTER OF NEW YORK

Strike section 2(k)(2) (relating to dismissal of complaints) and redesignate the succeeding paragraph accordingly.

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

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

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the order of the House of today, this vote will be followed by a 5-minute vote on the motion to commit and a 5-minute vote on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 222, nays 196, not voting 9, as follows:

[Roll No. 4]

YEAS—222

Aderholt	Cantor	Flake
Akin	Capito	Foley
Alexander	Carter	Forbes
Bachus	Castle	Fortenberry
Baker	Chabot	Fossella
Barrett (SC)	Chocola	Fox
Bartlett (MD)	Coble	Franks (AZ)
Barton (TX)	Cole (OK)	Frelinghuysen
Bass	Conaway	Galleghy
Beauprez	Cox	Garrett (NJ)
Biggert	Crenshaw	Gerlach
Bilirakis	Cubin	Gibbons
Bishop (UT)	Culberson	Gilchrest
Blackburn	Cunningham	Gillmor
Blunt	Davis (KY)	Gingrey
Boehlert	Davis, Jo Ann	Gohmert
Boehner	Davis, Tom	Goode
Bonilla	Deal (GA)	Goodlatte
Bonner	DeLay	Granger
Bono	Dent	Graves
Boozman	Diaz-Balart, L.	Green (WI)
Boustany	Diaz-Balart, M.	Gutknecht
Bradley (NH)	Doolittle	Hall
Brady (TX)	Drake	Harris
Brown (SC)	Dreier	Hart
Brown-Waite,	Duncan	Hastings (WA)
Ginny	Ehlers	Hayes
Burgess	Emerson	Hayworth
Burton (IN)	English (PA)	Hefley
Buyer	Everett	Hensarling
Calvert	Ferguson	Herger
Camp	Fitzpatrick (PA)	Hobson

Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaull (TX)
McCotter
McCrery
McHenry
McKeon

NAYS—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaever
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett

McMorris
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Nunes
Nussle
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roh-Lehtinen
Royce
Ryan (WI)

Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancred
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

Sanders
Schakowsky
Schiff
Schwartz (PA)
Sessions
Scott (VA)
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt

NOT VOTING—9

Capps
Feeney
Jones (NC)

Larsen (WA)
McHugh
Miller, Gary

Velázquez
Visclosky
Wasserman
Schultz
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

□ 1705

Messrs. SANDERS, DeFAZIO, and MEEHAN changed their vote from “yea” to “nay.”

Mr. WELLER changed his vote from “nay” to “yea.”

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

MOTION TO COMMIT OFFERED BY MS. SLAUGHTER
Ms. SLAUGHTER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion to commit.

The Clerk read as follows:

Ms. SLAUGHTER moves to commit the resolution H. Res. 5 to a select committee composed of the Majority Leader and the Minority Leader with instructions to report the same back to the House forthwith with the following amendments:

In section 2, add at the end the following new subsections:

WAIVER OF THREE-DAY LAYOVER REQUIREMENT
REQUIRES TWO-THIRDS VOTE

SEC. . Clause 6(c) of rule XIII of the Rules of the House of Representatives is amended by striking the period at the end of subparagraph (2) and by adding at the end the following new subparagraphs:

“(3) a rule or order proposing a waiver of clause 4(a)(1) of rule XIII or of clause 8(a) or 8(b) of rule XXII by a vote of less than two-thirds of the Members voting, a quorum being present; or

“(4) a rule or order proposing a waiver of subparagraph (3) by a vote of less than two-thirds of the Members voting, a quorum being present.”.

POST-EMPLOYMENT RESTRICTIONS FOR
MEMBERS

SEC. . Rule XXIII of the Rules of the House of Representatives is amended by redesignating clause 13 as clause 14 and by adding after clause 12 the following new clause:

“13. No Member, Delegate, or Resident Commissioner may negotiate for future employment with any person who has a direct interest in legislation referred to any committee during this or the preceding Congress while that Member, Delegate, or Resident Commissioner serves on that committee.”.

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

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

There was no objection.

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

There was no objection.

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

The question was taken; and the Speaker pro tempore announced that the yeas 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. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 196, nays 219, not voting 12, as follows:

[Roll No. 5]

YEAS—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaever
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon

NAYS—219

Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burton (IN)
Buyer

Green, Al
Green, Gene
Grijalva
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-
McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)

Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman
Schultz
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fossella
Foxy
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger

Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Nunes
Nussle
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts

Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Capps
Doyle
Feeney
Fortenberry

Jones (NC)
Larsen (WA)
McHugh
Miller, Gary

Northup
Peterson (PA)
Serrano
Watson

□ 1719

Mr. RYAN of Wisconsin and Mr. COX changed their votes from “yea” to “nay.”

Mr. HASTINGS of Florida changed his vote from “nay” to “yea.”

Stated against:

Mr. FORTENBERRY. Mr. Speaker, on rollcall No. 5 I was inadvertently detained. Had I been present, I would have voted “nay.”

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

□ 1715

The SPEAKER pro tempore (Mr. LAHOOD). The question is 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. This is a 5-minutes vote.

The vote was taken by electronic device, and there were—yeas 220, nays 195, not voting 12, as follows:

[Roll No. 6]

YEAS—220

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Hall
Harris
Blunt
Boehler
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite
Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fossella
Foxy
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger

Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Blunt
Boehler
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite
Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
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Davis, Tom
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DeLay
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Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fossella
Foxy
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)

NAYS—195

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry

Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capuano
Cardin

Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer

Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, AL
Green, Gene
Grijalva
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Hooley
Hoyer
Imilee
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)

Kind
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarelli
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)

Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Linda
T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Wasserman
Schultz
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Capps
Doyle
Feeney
Hastings (WA)

Jones (NC)
Larsen (WA)
McHugh
Miller, Gary

Northup
Peterson (PA)
Serrano
Watson

□ 1530

Miss McMORRIS changed her vote from “nay” to “yea.”

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.

PERSONAL EXPLANATION

Mrs. CAPPS. Mr. Speaker, I was not able to be present for the following rollcall votes and would like the RECORD to reflect that I would have voted as follows: Rollcall No. 3—“nay”; rollcall No. 4—“nay”; rollcall No. 5—“yea”; rollcall No. 6—“nay.”

ELECTION OF MEMBERS TO COMMITTEE ON RULES

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 6) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 6

Resolved, That the following Members be and are hereby elected to the following standing committee of the House of Representatives:

Committee on Rules: Mr. Dreier, Chairman; Mr. Lincoln Diaz-Balart of Florida; Mr.