



“The House Rules Committee”

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 Lecture #12
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Rules Committee: Outline

Introduction

- a. Announcements
- b. Updates

Basic Bill Becomes a Law Refresh...

“Regular Order,”

Amendments and Leaders

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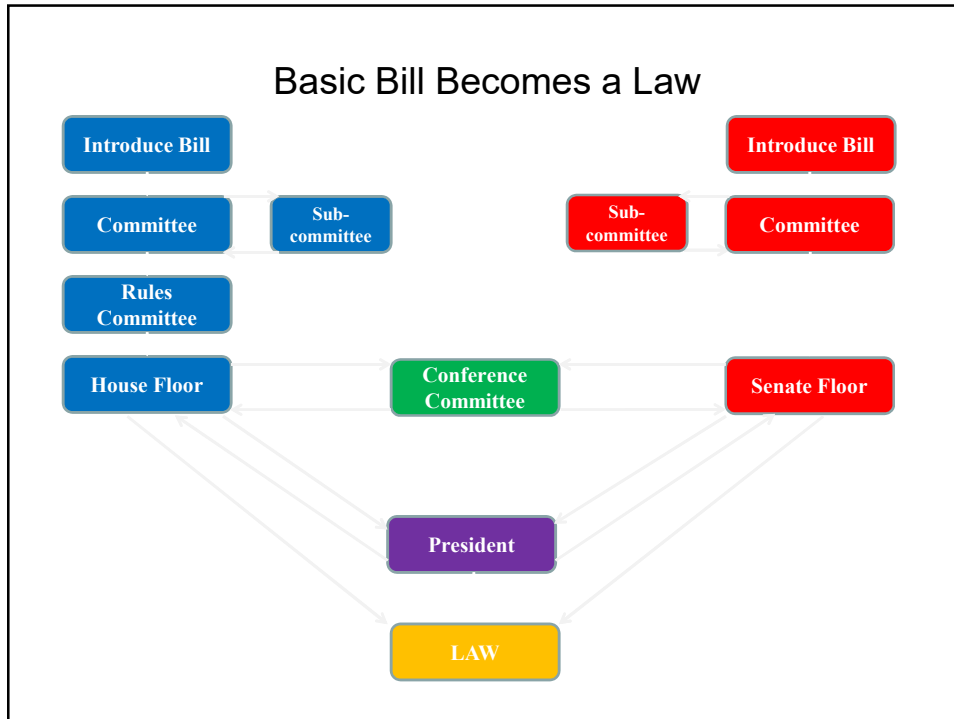


Assorted House Floor Issues

- a. Rule Alternatives: Suspension
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Vick et al. (2020)

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“Regular Order,” Amendments and Leaders

In October of 2015, Rep. Paul Ryan (R-WI) was elected Speaker of the House. Among other promises, Ryan pledged to allow more floor amendments through open processes and to return the House to “regular order” (DeBonis 2015).



Ryan’s predecessor, former-Speaker John Boehner (R-OH), had been aggressively criticized by members of both parties for his usage of special rules to bar amendments.

Rep. Justin Amash (R-MI): “When we offer amendments, they have to be approved by leadership before we get a vote on them and that’s not how our system is supposed to work,” he said. “Our system was designed to reflect the will of the people... And the speaker’s job is to ensure the system is open and [lawmakers] are given a fair opportunity to present their amendments.” “[The system] really broken.”



“Regular Order,” Amendments and Leaders



Above: Ryan and Pelosi, neither of whom have any reason to root for LSU.

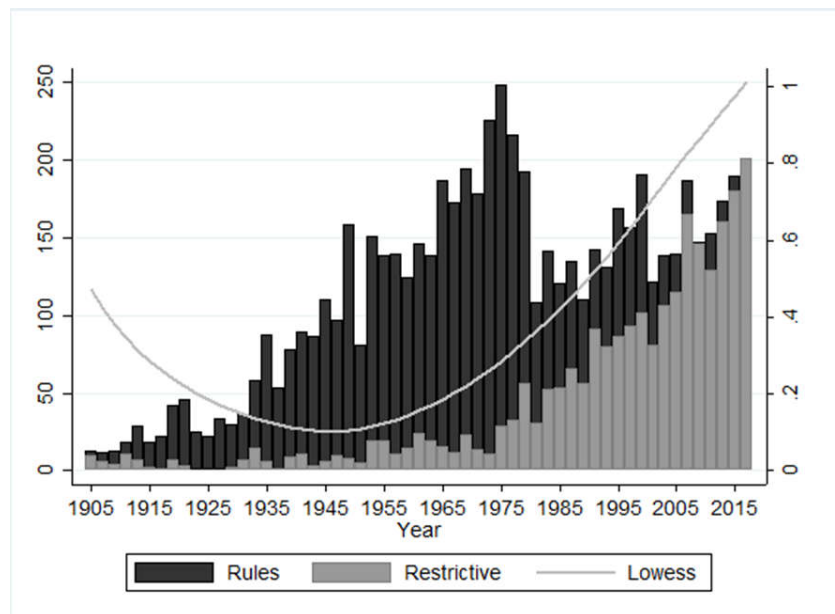
By May of 2018, Speaker Ryan and the 115th Congress had broken the record for the most closed rules in congressional history.

Ryan’s abdication of his promise for more open rules was not surprising given the difficulties inherent in contemporary lawmaking. Indeed, both Boehner and his predecessor, Rep. Nancy Pelosi (D-CA) made similar “regular order” pledges on which they subsequently failed to deliver.

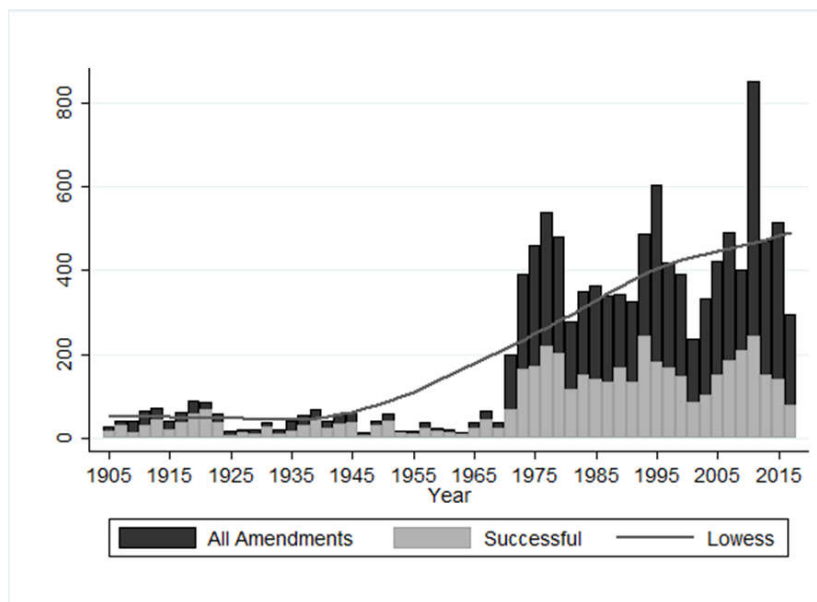
Legislation is getting longer and more complex (Curry 2015), interest group involvement has increased substantially over the past few decades (Drutman 2015), polarization has increased, and partisan control of Congress is highly competitive (Lee 2016).

This has led leadership to seek tighter control over the House floor in an effort to promote both their party’s policy goals and protect their electoral interests.

Rule Types over Time



Why More Restrictive Rules? More Amendments



The Rules Committee

[Politico 3/21/18](#) - In January, a year after he took office, Attorney General Jeff Sessions took his first shot at marijuana, repealing an Obama-era document that had established a hands-off attitude for U.S. attorneys in dozens of states that have legalized pot. Though long-expected, revoking the Cole Memo nonetheless caused anxiety throughout the financially galloping marijuana industry and confirmed for most observers that he was the chief antagonist of legal marijuana in Washington.

But while the nation's top law enforcement officer has made it abundantly clear over the years that he views marijuana as a scourge equal to heroin, it turns out the unofficial title of Washington's most powerful marijuana opponent belongs to someone else named Sessions: Pete, the longtime congressman from Texas' 32nd district in Dallas. No relation to the attorney general, Pete Sessions nevertheless shares the former Alabama senator's unforgiving attitudes toward all things cannabis.



What Pete Sessions has, however, that Jeff Sessions doesn't have is the power to change laws. Very quietly, but with implacable efficiency, Pete Sessions has used his position as the chair of the House Rules Committee to stymie or roll back amendments that protected legal marijuana in the 29 states that have approved it (30 states if you count Louisiana). States that have grown increasingly dependent on tax revenue from newly legal marijuana businesses, and investors who are pumping millions into an industry that is projected to hit \$28 billion globally by 2024, have sought assurances that federal authorities wouldn't try to invoke national drug law that still classifies marijuana as one of the most serious of all illegal drugs. Short of changing federal drug law, legislators in the states with forms of legal pot have sought the next best protection: using the power of the purse to curtail enforcement. But Sessions, with the approval of House leadership, has thwarted his colleagues. He neutralized one amendment that sailed through with a comfortable bipartisan majority and smothered others that would pass if they were ever allowed to see the light of day.

The Rules Committee



Above: Rep. Sean Patrick Maloney (D-NY), the sponsor of the contractor amendment.

With legalization efforts advancing around the country, it seemed to nearly everyone that 2016 would be the last time the marijuana prohibitionists would control the chamber. But this optimism did not account for the power of Pete Sessions, who knew there was still a way to stop the inexorable march of marijuana legalization, even when the legalizers had the votes.

The turning point came on an issue that had nothing to do with marijuana. On May 19, 2016, a vote was held on a floor amendment meant to protect LGBT rights in the federal contracting process. The amendment had enough votes to pass, but House leadership kept the vote open long enough to flip a sufficient handful of votes to defeat it. Shouts of "Shame!" erupted from the House floor, and headlines referred to the aftermath as "chaos."

In a House Republican Conference meeting on June 8, members decided the way to avoid such embarrassments going forward was to use the Rules Committee to structure the appropriations process so that such "poison pill" amendments would be out of order. If the amendments couldn't be offered, there would be no votes and therefore no bad publicity. It was a complete reversal of House Speaker Paul Ryan's promise to operate the House under regular order. "My goal as speaker is to return to what we call regular order... so that Congress works more smoothly, and more democratically," Ryan said in December 2015, a pledge that lasted all of six months. Now that Sessions has jammed up the Rules Committee for two years, Ryan's spokeswoman told POLITICO Magazine that, "Chairman Sessions has run the committee in a fair manner while advancing a robust agenda and the priorities of this majority."

The Rules Committee

Pro-marijuana advocates didn't learn that their issue had been put on the blacklist until Tuesday night, June 21. That's when Sessions' committee ruled a marijuana banking amendment out of order. Perhaps it would have received more attention if everyone's attention had not turned to the party conventions and the 2016 presidential campaign. Democrats, for the first time ever, added a plank to their party's platform aimed at reforming the nation's marijuana laws.

Meanwhile, Sessions killed at least three more marijuana amendments. One gave veterans better access to medical marijuana. Another was Rohrabacher-Farr, which could hardly be called a "poison pill," since it had already passed the House twice. And the third was an amendment known as McClintock-Polis, named for Tom McClintock (R-Calif.) and Jared Polis (D-Colo.), which aimed to do for states that had legalized recreational marijuana what Rohrabacher-Farr had done for the medical marijuana states. McClintock-Polis had failed narrowly in 2015, but it was understood to have the votes to pass in 2016. Thanks to Sessions, it never got to the floor.

[Marijuana Advocates] will need every penny if they want to dislodge Sessions from the House Rules Committee, where he's been chairman since 2013, which makes this year his sixth, and theoretically final year, but a spokeswoman for Rep. Tom Cole, the Oklahoma Republican and vice chair of the Rules Committee, told POLITICO Magazine that Cole "supports the reappointment of Chairman Sessions should the Speaker do so, and the Congressman [Cole] has no desire to seek the chairmanship himself."



Rules Committee

Why a Rule? Priority.

Who serves on the Rules Committee? How does one become Chair?

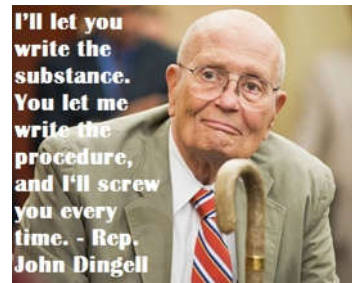
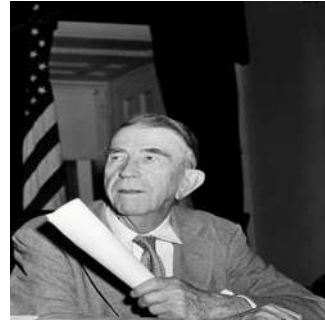
9 to 4 majority party advantage on Rules...

History: Power stems from reforms in the late 19th Century.

Rules can block germane amendments, provide time limits.

Types of rules: closed, open, structured. Why is it so important to control the amending process?

Minority input on Rules?



Open Rule



The most common rule type for many congresses is the **open rule**. An open rule will include language to the effect of "amendments will be considered under the 'five-minute' rule. This means any amendment can be offered and five-minutes will be permitted for debate and/or discussion.

Standard Open Rule

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3462) to authorize appropriations to carry out the activities of the Department of Justice for fiscal year 1982, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, **the bill shall be read for amendment under the five-minute rule.** It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and **all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived.** At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Modified-Open Rule



A **modified-open rule** is generally considered an open rule with some non-discriminatory limitation. Generally, this takes the form of a time limit or a pre-printing requirement. In the case of a pre-printing requirement, the rule specifies that amendments will only be considered if they are printed in the Congressional Record by a certain time period. Practically, what this means is that the majority wants to know what amendments are coming ahead of time. The language will look like this rule from the 104th Congress: "No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII before the beginning of consideration of the bill for amendment." Time limits will simply state that any amendments can be offered, but they will state that consideration of the bill and amendments will end at a specified time (i.e. at 5 p.m.) or after an allotted time period (i.e. two hours).

Modified-Open: Preprinting Requirement

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes. The first reading of the bill shall be dispensed with. **Points of order against consideration of the bill for failure to comply with section 302(f) or 303(a) of the Congressional Budget Act of 1974 are waived.** General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. **After general debate the bill shall be considered for amendment under the five-minute rule.** It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI or section 302(f) or 303(a) of the Congressional Budget Act of 1974 are waived. **No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII prior to its consideration.** At the conclusion of consideration of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Modified-Open: Time Limit on Amendments

Providing for the consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes. Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, and the first reading of the bill shall be dispensed with. **All points of order against consideration of the bill for failure to comply with the provisions of clause 2(1)(6) of rule XI and clause 3 of rule XIII are hereby waived.** After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, **the bill shall be considered for amendment under the five-minute rule**, by titles instead of by sections, and each title shall be considered as having been read. **No amendment on the subject of military assistance to El Salvador shall be in order in the House or in the Committee of the Whole.** Subject to clause 6 of rule XXIII, debate on all amendments to the bill shall not exceed eight hours....

Closed Rule



A **closed rule** is the most restrictive type of rule. It bars any amendments from being offered. The rule text will generally not reference amendments of any kind. Instead, it will specify control over debate and then include language like the following: "The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except ne motion to recommit with or without instructions."

A Standard Closed Rule

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 1430) to provide for a temporary increase in the public debt limit. All points of order against the bill and against its consideration are waived. Debate on the bill shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. **The previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.** Sec. 2. Upon its passage by the House, H.R. 1430 shall be considered to constitute reconciliation legislation pursuant to section 7(a) of the conference report to accompany the concurrent resolution (H. Con. Res. 64) setting forth the congressional budget for the United States Government for the fiscal years 1994, 1995, 1996, 1997, and 1998.

The debate supports this as a purely closed rule. Here's the manager, Moakley (D-MA):

"[A] closed rule on a debt limit bill is traditional, especially for a new President, and closed rules in this circumstance have won overwhelming bipartisan support every time in the past."

And on the minority side, here's Solomon (R-NY):

"The new Members were told of the tradition and custom of closed rules on debt limit bills. They were told of procedural problems-of futile previous question fights, of germaneness rules, of closed rules, and on and on and on. But, Mr. Speaker, one of those new Members cut right through the smoke that was thrown in his face by the Rules Committee. He put it quite simply and eloquently when he said the American people do not care about these procedural customs and traditions and precedents and obstacles. They do not really understand them."

A Modified-Closed Rule

A **modified-closed** rule is also highly restrictive. It will bar nearly all amendments, but may specify that an amendment will be offered by the Committee Chairman or his/her designee (or a set of amendments may be offered that have been approved of by the committee). A modified-closed rule also includes rules that are completely closed in one section, but open, modified-open or structured in other sections.



Standard Modified-Closed Rule

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 13580) to increase the public debt limit, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill, and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, **the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means.** Amendments offered by direction of the Committee on Ways and Means may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit.

A Structured Rule



A ***structured rule*** is a restrictive rule that provides for only certain amendments to be in order. These are usually list in a report of the Committee on Rules. An announcement for a structured rule is typically made several days in advance. Amendments are then proposed and screened by the Rules Committee. Those found to be acceptable are printed in the report. The language will often look like this: "No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules accompanying this resolution."

A Standard Structured Rule

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. ***In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part 1 of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except the amendments printed in part 2 of the report of the Committee on Rules.*** Said amendments shall be considered in the order and manner specified and shall be considered as having been read when offered. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order against the amendment offered as a substitute by Representative Goodling of Pennsylvania for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Amendments Under Structured Rules

Congress	Majority			Minority			All		
	Submitted	Allowed	Percent	Submitted	Allowed	Percent	Submitted	Allowed	Percent
109	634	249	0.39	795	198	0.25	1,429	447	0.31
110	808	408	0.50	781	200	0.26	1,589	608	0.38
111	1,846	548	0.30	2,386	837	0.35	4,232	1,385	0.33
112	581	331	0.57	1,217	524	0.43	1,798	855	0.48
113	846	510	0.60	939	371	0.40	1,785	881	0.49
114	1061	609	0.57	1,131	475	0.42	2,192	1,084	0.49
115	1,594	933	0.59	2,289	750	0.33	3,883	1,683	0.43
Total	7,370	3,588	0.49	9,538	3,355	0.35	16,908	6,943	0.41

Waiver Only/Special Order

Some rules, generally covering secondary consideration or appropriation bills, will not reference the amending process in any way. These will generally be coded either a "7", indicating it provides a ***waiver only*** for an appropriation bill or secondary consideration. Similarly, the rule might be coded a ***special order*** if no waiver is present in the rule. Special orders merely make it in order for a bill to be considered. If the rule provides for consideration of a conference report, it should be coded either waiver only or special order.

As long as the waiver variable is checked "1", the distinction between these two categories should not matter.



Waiver Only/Special Order Rules

H. Res. 230. Resolved, upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1722) to provide emergency unemployment compensation, and for other purposes. **All points of order against the conference report and against its consideration are hereby waived.** The conference report shall be considered as having been read when called up for consideration.

House resolution 242. Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 9103, "A bill for the appointment of additional district judges for certain courts of the United States to provide for annual conferences of certain judges of United States courts, to authorize the designation, assignment, and appointment of judges outside their districts and for other purposes," and to consider the same under the general rules of the House.

Waiver Only/Special Order Rules

Resolved, That all points of order against consideration of the bill (H.R. 5399) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes, are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clause 2 of rule XXI are hereby waived: beginning on page 2, lines 6 through 9; beginning on page 2, lines 24 through 26; beginning on page 4, lines 7 through 11; beginning on page 5, line 21 through page 7, line 3; beginning on page 7, line 19 through page 8, line 11; beginning on page 8, line 24 through page 10, line 4; beginning on page 11, line 3 through page 12, line 22; beginning on page 13, line 12 through page 19, line 22; beginning on page 22, lines 1 through 9; beginning on page 22, line 17 through page 23, line 12; beginning on page 23, line 20 through page 27, line 10; beginning on page 28, line 5 through page 34, line 23; and beginning on page 35, line 4 through page 41, line 10. It shall be in order to consider en bloc the amendments numbered one printed in the report to the Committee on Rules, if offered by Representative Fazio of California, or his designee. Said amendments en bloc shall be debatable for not to exceed twenty minutes equally divided and controlled by the proponent and a Member opposed thereto. Said amendments en bloc shall not be subject to amendment, or be subject to a demand for a division of the question in the House or in the Committee of the Whole. Said amendments en bloc may amend portions of the bill not yet read for amendment, and if adopted shall become original text for the purpose of further amendment under the five-minute rule. It shall be in order to consider en bloc the amendments numbered two printed in the report of the Committee on Rules, if offered by Representative Fazio, or his designee. Said amendments en bloc shall be debatable for not to exceed forty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments en bloc for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. It shall be in order to consider the amendment numbered three printed in the report of the Committee on Rules, if offered by Representative Fazio of California, or his designee. Said amendments en bloc shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent and a Member opposed thereto. All points of order against said amendment for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. Said amendment shall not be subject to amendment.

Self-Executing Rule

Q: I think I need help with coding Hres 183. Discussion of it begins on page 6884 of the 1st part of the 96th Congress.

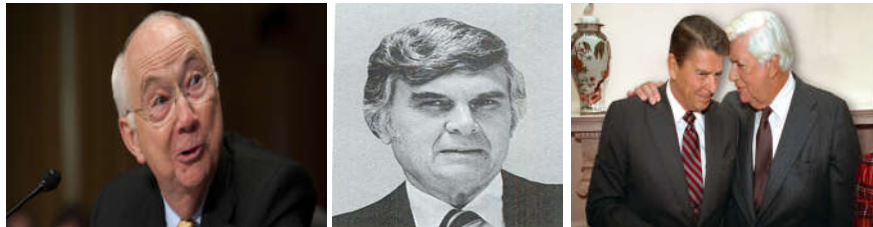
A: Really cool case and a tough rule. It's a great example of one you should be e-mailing me about. For coding purposes, what you need to know is that this rule is closed (it doesn't allow any amendments), by providing the House concurs in the Senate amendments to its bill it covers post-enactment (so conf = 1) and it is self-executing (i.e. it specifies that upon the adoption of the rule, the House agrees to the bill as amended by the Senate—so there's no subsequent vote on HR 2534). There are recorded votes on both previous question motion and the resolution. Here's the longer nerd rant—and I apologize for the length, it hits on a topic I'm fascinated by.

H. RES. 183

Resolution concurring in Senate amendments to the bill (H.R. 2534) to provide for a temporary increase in the public debt limit, and for other purposes

Resolved, That upon the adoption of this resolution the bill (H.R. 2534) to provide for a temporary increase in the public debt limit, and for other purposes, together with the Senate amendments thereto, is taken from the Speaker's table to the end that the Senate amendments be, and the same are hereby, agreed to.

Self-Executing Rule



A: There are few things in Congress more controversial than raising the debt limit. While its often confused with a government shutdown (which occurs when appropriations are not passed), it is a completely different animal with starker and more uncertain consequences. In 1917, Congress enacted the Second Liberty Bond act, which set a general limit on borrowing. It was turned into an aggregate limit on the national debt in 1939 (76 PL 201). Since then, Congress has had to amend the Second Liberty Bond act to increase the amount of debt it could incur. In the absence of a debt limit increase, the U.S. Treasury may default on bills incurred by the government leading to "serious negative repercussions for economies and financial markets around the world (Austin 2015, 2)."

This was generally done without controversy until 1953, when "a White House request to raise the limit in 1953 was sidetracked in the Senate, 'where the ceiling was viewed as an instrument for forcing economy on the executive branch of the government' (Kessler 2013)." Raising the debt limit is exceptionally unpopular with the public, who know very little about it. So it's become a prime opportunity for the minority party (regardless of whether it's the Democratic or Republican Party) for messaging (Lee 2016). Simultaneously, majority leaders will often combine measures increasing the debt are often combined with other, less popular provisions, assuming it can rely on the threat of "crisis" to sway enough members to support it.

Self-Executing Rule

A: This measure is a great example of debt ceiling politics. HR 2534 provided for an increase in the debt ceiling for roughly six months. House conservatives advocating for a balanced budget tried unsuccessfully to amend the bill to mandate that unbalanced budgets could only be adopted by a two-thirds vote (this proposal was offered by Reps. Phil Gramm (D-TX), Trent Lott (R-MS) and James Jones (D-OK)—Gramm would later join the Republican Party). Their attempt to do so was blocked by Hres 133 (they wanted to reject the previous question motion on that rule so they could offer the amendment). While their attempt failed, the House did reject that debt ceiling increase (HR 1894). After the House narrowly passed HR 2534, Senate conservatives under Bob Dole (R-KS) proposed an amendment mandating a three-fifths majority for deficit financing. This failed, but the Senate adopted two compromise amendments before passing the bill on March 27. This necessitated the House pass HR 2534 again.

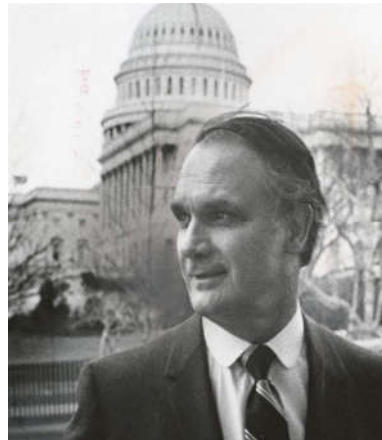
The Treasury department announced it would default if the debt limit was not extended by April 3rd. House Democrats lacked the votes to pass the bill as amended by the Senate, so its consideration was delayed until April 2nd. Rather than vote directly on the Senate amendments, the House reported a rule, Hres 183, which stated that "upon the adoption of this resolution the bill (H.R. 2534) to provide for a temporary increase in the public debt limit, and for other purposes, together with the Senate amendments thereto, is taken from the Speaker's table to the end that the Senate amendments be, and the same are hereby, agreed to (Congressional Record, 96th Congress, April 2, 1979, 6884)."

House Democrats argued that a crisis was imminent. Rep. Al Ullman (D-OR), the House Ways and Means Chair, called the vote "the most important vote that any of us cast in this session of Congress" and accused opponents of "playing with dynamite and the future of [the] country (Congressional Record, 96th Congress, April 2, 1979, 6884-6886)." Rep. Parren Mitchell (D-MD) asserted that rejecting the rule would "destroy this country (Congressional Record, 96th Congress, April 2, 1979, 6886)." And House Speaker Thomas P. "Tip" O'Neill (D-MA) took the unusual step of giving a House speech, arguing: "[T]here are those over on this side of the aisle who say we should not use the pulmotor on the sick patient because the doctor could have administered effective medicine last week. The truth is, the crisis is now (Congressional Record, 96th Congress, April 2, 1979, 6886)."

Self-Executing Rule

A: Opponents were not convinced. Rep. Delbert Latta (R-OH), the ranking member on the Rules Committee, downplayed the effects of a no vote: "We can complete some meaningful action on this legislation today by voting down the previous question to permit the offering of a meaningful amendment... We operate in a state of crisis from time to time. I realize that we have a problem here, but the Treasury did get through today (Congressional Record, 96th Congress, April 2, 1979, 6886)." Rep. Bob Bauman derided the majority, noting that "this same 'crisis' argument made every time we come to the question of increasing the debt limit... What these liberals really fear is a balanced budget (Congressional Record, 96th Congress, April 2, 1979, 6889)." Rep. Dan Lundgren (R-CA) claimed supporters of the balanced budget were "victims of apparent blackmail [at the hands of congressional leaders] (Congressional Record, 96th Congress, April 2, 1979, 6890)."

While 31 Democrats ultimately voted against the previous question motion, it did pass 237-139. The resolution then passed by a slightly less comfortable margin of 231-183. The extension was then signed into law. You'll run into an almost identical fight later in the year. The House will reject a debt limit extension (HR 5229) in September of 1979. Eventually it will pass—and the Senate will agree to—another six-month extension bill (HR 5369) with two days to spare before a Treasury default.



Martial Law Rule

H. RES. 294

Resolved, That the requirement of clause 4(b), rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to any resolution reported from that committee on or before the calendar day of November 27, 1991, to provide for the consideration or disposition of any bill, amendment thereto, or conference report thereon, on the following measures:

(A) a bill to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes;

(B) a bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes;

(C) a bill to control and prevent crime;

(D) a bill to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

(E) a joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes;

(F) a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by states as a source of a State's expenditures for which Federal financial participation is available under the Medicaid program and to maintain the treatment of intergovernmental transfers as such a source; and

(G) a bill to provide funding for the Resolution Trust Corporation, and for other purposes.

Sec. 2. The Speaker is authorized through the calendar day of November 27, 1991 to declare recesses at any time, subject to the call of the Chair.

Sec. 3. The Speaker is authorized to entertain motions to suspend the rules through the calendar day of November 27, 1991, subject to the requirement of an announcement on the floor of the House by the Speaker or his designee at least one hour before the consideration of any motion to suspend the rules.

This is a martial law rule from the 102nd Congress...

It waives the same day rule for House rules until November 27th for rules governing conference reports and bills on seven matters: (A) highway legislation (HR 2950, Hres 317); (B) the banking bill (S 543, Hres 298, Hres 318); (C) crime control (HR 3371, Hres 301); (D) trade with Czechoslovakia and Hungary (HR 1724, Hres 306); (E) an act correcting appropriation errors (HJR 157, Hres 309); (F) an act delaying changes to Medicaid (HR 3595, considered by UC on 11/27/91); and (G) funding for the Resolution Trust Corporation (Hres 298, S 543).

This appear to be first time many members heard the term "martial law rule." It's also the earliest recorded usage of the term according to CRS (see Rybicki, Elizabeth. "Availability of Legislative Measures in the House of Representatives (The "Three-Day Rule")."

Martial Law Rule

Rep. David Dreier (R-CA) asked the rule manager, Rep. Butler Derrick (D-SC) where the term originated, to which Derrick responded "I have no idea." Shortly afterwards, Rep. Robert Walker (R-PA) expressed surprise in learning the term was not coined by fellow minority party members, rather Dreier first heard it employed by majority leadership earlier in the day. Here's Walker: "So this is not just a term we are making up on this side in order to talk about this rule? This is a term that the majority leader used to describe what was coming to the floor today?" Dreier responded by saying he "heard the term first used yesterday at lunch from the Speaker when he talked about this. I was really taken aback."



Here's Derrick on why the rule is needed and what it does: "Mr. Speaker, House Resolution 294 is a rule to expedite the business of the Congress in the waning days of the session. The rule waives clause 4(b) of Rule XI against any rule which is reported from the Rules Committee on or before the calendar day of November 27, 1991 if the rule provides for consideration or disposition of a bill, conference report, or amendment on: Highways, banking, crime, unemployment, supplemental appropriations, Medicaid moratorium, or RTC funding...Mr. Speaker, as we near the close of the session, this rule will enable us to expedite consideration of the important business of the Congress. I urge all Members to support the resolution."

And Rep. Bob McEwen (R-OH) playing off of the term earlier in the debate: "Mr. Speaker, yesterday the distinguished majority leader aptly described this as the martial law resolution. According to my dictionary, martial law is a temporary rule imposed by military authorities on the civilian population in time of war or when civil authority has broken down. Mr. Speaker, I do not know exactly whether the majority leader is saying by this resolution that it considers the House to be in a state of war or simply that the leadership's civil authority has been destroyed. But in either case, I strongly oppose this military edict from on high."

Martial Law Rule



Congressional Quotes
@sassycongress

1991: Rep. Bob Walker (R-PA) is shocked to learn that the term "martial law rule" was not coined by fellow minority party members. It was apparently first employed by majority leadership.

Mr. WALKER. So this is not just a term we are making up on this side in order to talk about this rule? This is a term that the majority leader used to describe what was coming to the floor today?

9:07 AM - 13 Oct 2018

2 Retweets 5 Likes

1 2 5

We've just "gone viral."

King of the Hill Rule

What a nightmare! Isn't it awesome?

King of the hill rule, as noted by Derrick. It's structured, providing for only amendments printed in the report.

Here's Derrick on the rule: "As I noted when the House considered House Resolution 152 last Thursday, the procedure we are using to govern consideration of H.R. 1748 is a bit unusual. In order to begin general debate on H.R. 1748 this past Monday, and to allow consideration of the Aspin amendment in the nature of a substitute yesterday, it was necessary for the Rules Committee to report a rule for H.R. 1748 last week.

However, since Members needed time to draft amendments to the bill and to the Aspin substitute, and the Rules Committee needed time to consider an appropriate process for the consideration of a very large number of amendments; it was decided to report a rule at that time which provided only for general debate on the bill and for consideration of the Aspin substitute, and to report out a second rule this week which would govern consideration of further amendments to bill. The Rules Committee met yesterday, heard testimony from approximately 50 Members, and began the process of deciding how to structure a reasonable rule when there are more than 200 amendments that Members wish to offer. In this endeavor the Rules Committee worked very closely with the chairman and ranking minority member of the Armed Services Committee, in order to ensure that the rule would provide for a fair and orderly consideration of the important issues in H.R. 1748. By last night, the basic structure and most of the details of the rule had been worked out, but a few questions were unresolved. Rather than push ahead with a rule that might threaten the bipartisan cooperation that has marked this process so far, or delay the start of the amendment process for another day, the Rules Committee decided to report this rule, which provides only for debate of several important issues and the consideration of seven amendments that will be considered today."

Latta in opposition: "Mr. Speaker, this is the rule-a-day season, and tomorrow we will have another rule on this bill. Hopefully that will terminate the rules procedure on this particular bill... I think it is an unusual process fraught with a lot of danger to democracy as it should be practiced here on the floor of the House of Representatives. This is yet another in a series of restrictive rules we have had on this floor the likes of which we have not seen in the decade or more that I have served in this body."

H. Res. 152

Resolved, That during the further consideration of the bill (H.R. 1748) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe the military personnel levels for each Department for fiscal years 1988 and 1989, and for other purposes, the amendment in the nature of a substitute made in order as original text for the purpose of amendment by House Resolution 152 shall be considered as having been read for further amendment under the five-minute rule, and no further amendments to the bill or the said amendment in the nature of a substitute, as modified, shall be in order except the amendments designated in the report accompanying this resolution or subsequent resolutions reported from the Committee on Rules and adopted by the House, and said amendments shall be considered only in the order and in the manner specified, and shall be considered as having been read when offered. Debate on each of said amendments shall not exceed the time designated in said reports, to be equally divided between the proponent and an opponent.

When the Committee of the Whole resumes its sitting on the legislative day of Wednesday, May 8, 1987, it shall be in order to consider the amendment by, and if offered by, Representative Wickham, of Alaska, or his designee, and said amendment shall not be subject to amendment or to a demand for a division of the question in the Committee of the Whole or in the House. Following disposition of said amendment, it shall then be in order to debate the subject matter of the ABM II Treaty for a period not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. At the conclusion of such debate, it shall be in order to consider an amendment by, and if offered by, Representative Dickson of Washington or his designee, which amendment shall be subject to amendment. It shall then be in order to consider the amendment by, and if offered by, Representative Dickson, of his designee, which amendment shall not be subject to amendment or to a demand for a division of the question. If both of the foregoing two amendments are adopted, only the latter amendment shall be considered as finally adopted and reported back to the House. Following disposition of said amendments, it shall be in order to debate the subject matter of the ABM II Treaty for not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Armed Services. It shall then be in order to consider the amendment by, and if offered by, Representative Hironaka of California or Robinson of Arkansas, or their designee, which shall not be subject to amendment. It shall then be in order to consider the amendment by, and if offered by, Representative Weldon of Pennsylvania, or his designee, all points of order against said amendment for failure to comply with the provisions of rule 7, rule XVI are hereby waived, and said amendment shall not be subject to amendment. Following the disposition of said amendment, it shall then be in order to consider the amendment by, and if offered by, Representative Martin of Illinois, or his designee, and said amendment shall not be subject to amendment or to a demand for a division of the question. If said amendment is not adopted in the Committee of the Whole, it shall then be in order to consider the amendment by, and if offered by, Representative McChardy, or his designee, and said amendment shall not be subject to amendment or to a demand for a division of the question. Following the disposition of said amendment, the Committee of the Whole shall rise without motion and no further amendment to the bill shall be in order except as subsequently determined by the House.

King of the Hill Rule

Here's the vote on the PQ motion and the rule:

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

The previous question was ordered.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 303, nays 108, not voting 22, as follows:

[Roll No. 861]

YEAS—303

Ackerman	Coats	Gallo
Akaka	Coelho	Garcia
Alexander	Coleman (TX)	Gaydos
Anderson	Collins	Gejdenson
Andrews	Conte	Gibbons
Anthony	Conyers	Gilman
Applegate	Cooper	Glickman
Aspin	Courter	Gonzalez
Atkins	Coyne	Goodling
Badham	Crockett	Gordon
Barnard	Daniel	Gradison
Bateman	Darden	Grandy
Bates	Davis (MI)	Grant



King of the Hill Rule

Q: Is this a King of the Hill rule?

HRES 198

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4242) to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against section 742 of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule.

No amendments to the bill shall be in order in the House or in the Committee of the Whole except amendments recommended by the Committee on Ways and Means which shall be in order at any time, and shall not be subject to amendment but shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and the following amendments, which may be offered only in the Committee of the Whole, which shall be considered only in the following order if offered, and which shall be considered as having been read if offered, and against which all points of order for failure to comply with the provisions of clause 5, rule XXI are hereby waived:

- (1) an amendment in the nature of a substitute consisting of the text of the bill H.R. 4269 if offered by Representative Udall of Arizona, and said substitute shall not be subject to amendment but shall be debatable for not to exceed one hour, equally divided and controlled by Representative Udall and a Member opposed thereto;
- (2) And (2) an amendment in the nature of a substitute consisting of the text of the bill H.R. 4260 if offered by Representative Conable of New York, said substitute shall be in order even if the amendment designated (1) above has been adopted, and said substitute shall not be subject to amendment but shall be debatable for not to exceed one hour, equally divided and controlled by Representative Conable and the chairman of the Committee on Ways and Means.

At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, but if more than one amendment in the nature of a substitute has been adopted in the Committee of the Whole, only the last such amendment adopted shall be reported to the House; if such amendment in the nature of a substitute is rejected on a separate vote in the House, any Member may demand a separate vote in the House on any of the amendments recommended by the Committee on Ways and Means adopted in the Committee of the Whole. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Example – King of the Hill Rule

A: Great case. Yeah, this is a King of the Hill rule on HR 4242, which is President Reagan's signature tax plan.

The bill is drafted by the Ways and Means Committee Chair, Rep. Dan Rostenkowski (D-IL). It includes a 15% cut to the individual income tax rate. The rule provides for consideration of two substitute amendments. The first is a liberal proposal by Rep. Mo Udall (D-AZ) that exclusively targets low-income tax payers and was not going to pass.

The second is President Reagan's preferred proposal, sponsored by Reps. Barber Conable (R-NY) and Kent Hance (D-TX). It's a 25% cut. So the rule provides for a king of the hill provision, stating "if more than one amendment in the nature of a substitute has been adopted in the Committee of the Whole, only the last such amendment adopted shall be reported to the House."

As the rule manager, Rep. Richard Bolling (D-MO) notes: "this is a most unusual rule and probably the most unusual tax bill in the history of the Republic. It is billed as being the biggest tax bill that we have ever had."

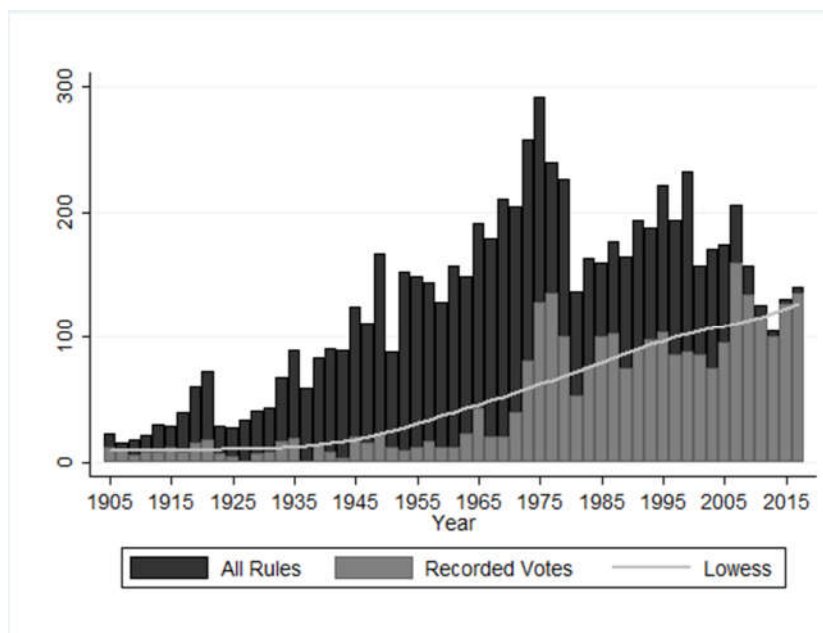
Republicans are fairly supportive of the rule with one exception: it bars them from offering a motion to recommit with instructions. Thus, they're trying to reject the PQ motion so they could offer it. Here's Rep. Jim Jeffords (R-VT) on that: "And so if we want to have a motion to recommit with instructions to remove obnoxious provisions which we feel are obnoxious, as we discussed in the Rules Committee yesterday with respect to oil and the tax giveaways limited to six industries, then it will be necessary for us to vote down the previous question; is that correct?"



House Special Rules by Rule Type, 1905-2018

Rule Type	Count	Category
Closed	782	Restrictive
Modified-Closed	580	Restrictive
Structured	782	Restrictive
Open	3,976	Open
Modified-Open	168	Open
Waiver Only	301	Other
Conference Report	519	Other
Senate Amendment	283	Restrictive
Go to Conference	52	Other
Special Order/Miscellaneous	175	Other
Martial Law	169	Other
Suspension of the Rules	240	Other
Total	8,027	

Rules by Vote Type



Getting on the House Floor: Alternatives

In the absence of a House special rule, there are a few mechanisms for bills to get to the House floor. Unanimous consent is rare, but does happen on occasion in the House. A second option, a motion to ***suspend the rules and pass***, is far more common.

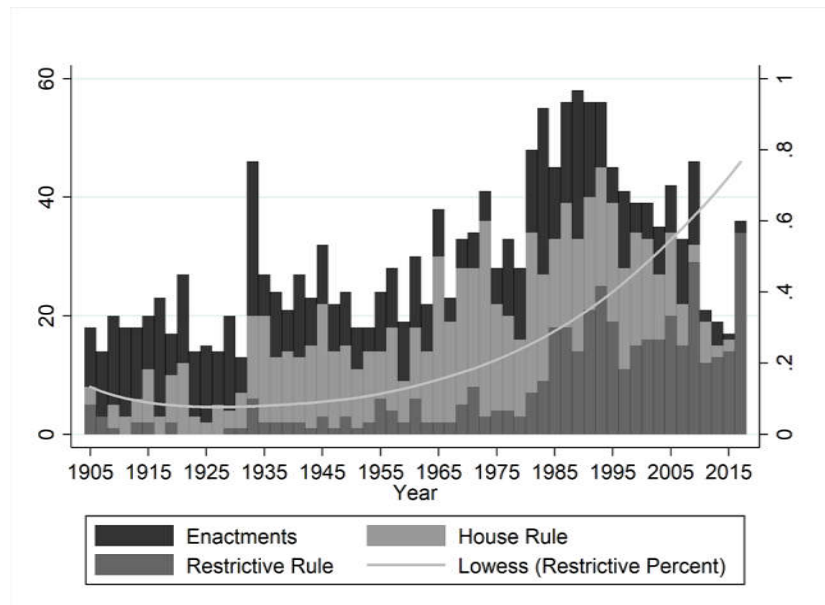


Above: Former Rep. William Jefferson (D-LA), being sentenced to 13 months in prison.

A motion to suspend the rules and pass a bill is a procedure generally used to quickly pass legislation in the House. It is in order on certain days (currently Monday and Tuesday of each week and the last six days of a session), typically reserved for non-controversial legislation and allows the Speaker to entertain motions made by members seeking to bypass the traditional calendar.

Debate is limited to forty minutes, evenly divided between supporters and opponents. Floor amendments are prohibited. Currently, and for much of the House's history, passage of the motion is dependent on the support of two-thirds of members voting majority.

Enactments by Floor Consideration Mechanism



Committee of the Whole



Above: Former Rep. Vito Marcantonio (Socialist-NY), dapper as all hell.

Article 1, Section 5 of the U.S. Constitution specifies that “each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.” The Committee of the Whole is the House or Senate chamber in another form (like a large committee). It developed in response to the Constitution’s quorum provision. Generally, it is used for the purpose of debate and dispensing with amendments. Every legislator is a member. In the modern Congress, it is frequently associated with the U.S. House. The presiding officer is chosen by the Speaker of the House and is normally a member of the majority party who does not hold the chair of a standing committee.

Procedurally, the Committee of the Whole differs from the House of Representatives even though they have identical membership. The Committee of the Whole only requires 100 House members for a quorum. In the modern Congress, only 25 members are required to force a recorded rather than voice vote. Historically, recorded voting in the House (but not Senate) Committee of the Whole was prohibited. This changed in the House after the adoption of the Legislative Reorganization Act of 1970 (first applied in the 92nd Congress). All amendments adopted in the Committee of the Whole are considered after the Committee of the Whole dissolved. Members can reserve the right to request a recorded, division, teller or voice vote on specific amendments (even those that were defeated in the Committee of the Whole).

Committee of the Whole

The CHAIRMAN. Under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Brooks, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee having had under consideration the bill (H.R. 3014) to regulate the labeling and advertising of cigarettes, and for other purposes, pursuant to House Resolution No. 421, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

All amendments adopted by the Committee of the Whole need to be adopted by the full chamber. Generally, this is pretty non-controversial and the amendments will get adopted “en bloc” or “en gros”. For the purposes of this project, you do not need to code these en gross or en mass ratifications of the committee of the whole’s decisions.

However, any member can request a separate vote on any amendment adopted by the Committee of the Whole. Until 1973, requesting a separate vote was the only way to get a recorded vote on an amendment adopted by the Committee of the Whole in the House. If an individual member asked for a separate vote on a specific amendment he reserved, than we would like you to go back and add an additional vote type to those amendments.

Points of Order

Of the powers presiding officers possess, ruling on points of order is the most substantial. A point of order is raised by a member who believes a chamber rule is being violated. Generally, points of order touch on one of two important procedural facets: the right to continue debate or the right to offer amendments. As such, rulings have the power to end debate or significantly alter the substantive content of legislation.



Above: LBJ trying to give the “Johnson treatment” to Richard Russell (D-GA), his mentor.

When a point of order is presented to the chair, he or she can choose to uphold (sustain) it, reject it, or submit it to the floor for consideration by the full chamber. Points of order that the chair upholds or rejects are subject to an appeal from the full chamber. Most points of order submitted to the Senate floor are debatable, an advantage for filibustering minority coalitions. Appeals of rulings also are debatable, but the appeal is subject to a non-debatable motion to table that requires only a simple majority to pass.

Appeals in the House occur far less frequently than the Senate.

Questions, Concerns, Angry Rants?

