

Special Rules in the House of Representatives: Purpose and Content

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A special rule (or rule) is a House resolution (H.Res.) that regulates floor consideration of one or more measures identified in its text. Special rules serve two main purposes: (1) to enable the House to consider specific measures by granting them privileged status, and (2) to establish the procedural framework for floor consideration of measures brought up under a rule. The Committee on Rules has jurisdiction to report resolutions that combine these two functions, and this ability enables the majority party leadership, with support from the Rules Committee and a voting majority, to manage the floor agenda and shape the decisions that come before the full House. With few exceptions, special rules can create, address, or avoid almost any parliamentary situation.

The House may choose to consider legislation under suspension of the rules or by unanimous consent, but on major legislation a special rule is generally preferred because of the procedural flexibility it affords. Special rules can establish a variety of procedures for considering specific pieces of legislation, but most special rules include several common elements. Generally, a special rule will (1) identify the procedural forum the House would use to consider a particular measure, (2) allocate time for Members to engage in general debate, (3) establish the base text open for debate and amendment, (4) specify the nature of the amendment process (if any), (5) adjust (or “waive”) the standing rules in whole or in part to negate points of order from being raised, and (6) provide for the motion to recommit on initial consideration of a bill or joint resolution.

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Special Rules and the System of Privilege

Time, especially floor time, is a precious commodity in the workload-packed and deadline-driven environment on Capitol Hill. Thousands of legislative proposals are introduced each year in Congress, many of which are considered at length by one or more congressional committees, but relatively few are brought to the floor of the House of Representatives for consideration by the entire body. Congress lacks the time necessary to consider every measure its Members introduce or its committees report. Choices must therefore be made regarding what proposals the House will consider, when it will do so, and under what procedural circumstances.

A daily order of business is defined in House Rule XIV, but on most days when the House meets, after the first three items specified in the rule have been completed—a prayer offered by the Chaplain, approval of the House Journal, and recitation of the pledge of allegiance to the flag—the House will agree to set aside the remaining elements of the daily order in favor of an alternative schedule of floor activity supported by the majority party. However, for action to occur in contravention of the daily order, a particular bill or resolution would need to have privilege or gain privilege through another process in order to be called up.¹ While Rule XIV provides the House with a “default setting” to conduct its business, most measures reach the floor as privileged interruptions of the daily order.² Privilege in this context refers to the special legislative status accorded to certain kinds of matters that allow them to be brought to the floor.

Resolutions reported from the Rules Committee to adjust the standing rules or the order of business before the House are themselves privileged for floor consideration if offered at the committee’s direction.³ These “order of business” resolutions—more commonly called “special rules” or simply “rules”—allow the House to make the measure(s) identified in the special rule privileged for the floor under procedural terms defined in the rule itself.⁴

Before privilege can be conferred on legislation via special rule, a majority of the House (with a quorum present) must first agree to the resolution. Special rules almost always prevail, usually along party lines, largely because they are written in such a way as to ensure majority party support. Any Member may testify before the Rules Committee prior to a special rule being issued—an early warning system of potential trouble ahead—while party whip operations may be called upon to more precisely gauge Member sentiment regarding the terms of a rule. Success can also be attributed to the close and collaborative working relationship that normally exists between the majority party leadership and the majority Members of the Rules Committee.⁵

Provisions of a Special Rule

The usage of special rules has changed over time, largely in response to the composition and needs of House majorities during different eras. The history of this evolution is beyond the scope

¹ Clause 1 of House Rule XIV contemplates adjustments to the prescribed daily order of business by allowing it to be “varied by the application of other rules and except for the disposition of matters of higher precedence.”

² Early on, special rules were called “special orders” because they proposed an order of business that did not adhere to the “regular order” prescribed in Rule XIV.

³ Special rules are privileged for consideration on the basis of House Rule XIII, clause 5(a)(4).

⁴ Clause 1(o) of House Rule X establishes the jurisdiction of the Rules Committee over “Rules and joint rules (other than those relating to the Code of Official Conduct) and the order of business of the House.”

⁵ Rule 12(b) of the GOP Conference of the 118th Congress (2023–2024) allows the Speaker to nominate the Republican members of the Rules Committee, subject to approval by the full conference. Democrats use the same appointment procedure when serving in the majority.

of this report, but there is no shortage of good scholarship on the subject.⁶ The focus of this report is to summarize the key ingredients of a typical special rule in use today and to unpack the procedural import of language commonly found in special rules using a contemporary example. Generally, a special rule will (1) identify the procedural forum the House would use to consider a particular measure, (2) allocate time for Members to engage in general debate, (3) establish the base text open for debate and amendment, (4) specify the nature of the amendment process (if any), (5) adjust (or “waive”) the standing rules in whole or in part to negate points of order from being raised, and (6) provide for the motion to recommit on initial consideration of a bill or joint resolution.

Common to all special rules is language that confers privileged status to the measure(s) identified in the rule.⁷ If more than one measure is being made privileged, the sections of a special rule usually correspond with the specific bills or resolutions being made in order.

Procedural Forum for Consideration

Measures to which amendments will be offered usually come to the floor in the more flexible procedural environment formally called “The Committee of the Whole House on the State of the Union”—or “Committee of the Whole” for short—which was designed to allow for broader participation among Members in debate and amendment.⁸ Measures that do not require an extensive amendment process usually get debated “in the House” under the one-hour rule.⁹ House Rule XVIII defines how legislation gets considered when the House is operating as a “Committee of the Whole,” but a special rule will adjust Committee of the Whole proceedings to fit current parliamentary circumstances and expedite a measure’s consideration.

The first sentence of a special rule usually identifies the procedural environment where debate and amendment would occur.¹⁰ Language thereafter often includes various adjustments to the standing rules to expedite consideration, but only in specific application to the measure(s) identified in the rule. For instance, H.Res. 260 (118th Congress) contained typical special rule language and is shown below in **Figure 1**. This particular rule established parameters for debate

⁶ One key point that emerges from this research is that special rules now regulate floor activity to a far greater extent than they once did on the measures they apply to. See Stanley Bach and Steven Smith, *Managing Uncertainty in the House of Representatives: Adaption and Innovation in Special Rules* (Brookings Institution Press, 1988). On how “order of business resolutions” developed into special rules, see Stanley Bach, “From Special Orders to Special Rules: Pictures of House Procedure in Transition,” presented at the Annual Meeting of the American Political Science Association, San Francisco, CA, 1990, <http://www.stanistan.org/docs/1/4.pdf>.

⁷ Measures inherently privileged for consideration, such as general appropriations legislation, still obtain privilege in the language of a rule even though such a grant is technically not necessary. Use of a rule for otherwise privileged legislation may be preferable in order to waive any applicable points of order that might arise or to constrain the amendment process in some way.

⁸ Proceedings that occur when the House meets as a Committee of the Whole are discussed in CRS Report RL32200, *Debate, Motions, and Other Actions in the Committee of the Whole*, by Bill Heniff Jr. and Elizabeth Rybicki. In current practice the procedural forum specified in the rule depends on the number of amendments the rule makes in order. Measures requiring no amendments or a single amendment usually get considered “in the House” under the terms of the special rule, while the Committee of the Whole is generally used when multiple amendments have been made in order.

⁹ Clause 2 of House Rule XVII states that no Member may consume “more than one hour in debate on a question in the House.” See CRS Report 98-427, *Considering Measures in the House Under the One-Hour Rule*, by James V. Saturno.

¹⁰ Common rule language conferring privilege for consideration in Committee of the Whole is the following: “At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill [number and official title].” Typical language conferring privilege for consideration in the House is “upon adoption of this resolution it shall be in order to consider in the House the bill [number and official title].”

and amendment of H.R. 1 (118th Congress), a bill entitled the “Lower Energy Costs Act.” The first sentence of H.Res. 260 provided for consideration of H.R. 1 in “Committee of the Whole”—and not “in the House”—at a time to be determined by the Speaker.

Figure 1. Language of a Special Rule

House Resolution 260, 118th Congress

H. RES. 260

Resolved, That at any time after adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1) to lower energy costs by increasing American energy production, exports, infrastructure, and critical minerals processing, by promoting transparency, accountability, permitting, and production of American resources, and by improving water quality certification and energy projects, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed seven hours, with three hours equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce or their respective designees, three hours equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources or their respective designees, and one hour equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure or their respective designees. After

Source: *Congressional Record*, daily edition, vol. 169 (March 28, 2023), p. H1474.

General Debate

A period of general debate usually precedes any amendment process, allowing Members to speak on a measure in broad terms. During this period, which is often limited to one hour, debate time is placed in the control of “managers”—in most cases, the chair and ranking minority member of the relevant committee(s) of jurisdiction—who would be expected to yield discrete portions of that time to Members on their side of the aisle seeking to engage in debate.

Most bills brought to the floor under a rule have a one-hour limit on general debate. The language of H.Res. 260, however, allocates seven hours and places that time under the control of the chair and ranking member of three of the five committees—Energy and Commerce, Natural Resources, and Transportation and Infrastructure—with legislative jurisdiction over the provisions of H.R. 1.

Waivers

Another key aspect of a special rule is its ability to adjust the standing rules of the House in application to the specified measure.¹¹ If, for instance, the text of a bill or the manner in which it would be considered would violate the standing rules, then the language of the special rule might include a waiver of any relevant points of order a Member could otherwise make. Clause 3 of House Rule XIII, for example, requires committees to include specific items and information in their reports on legislation, such as a tabulation of recorded votes taken during committee deliberations, any supplemental or dissenting views on the measure (if properly noticed and filed), and a cost estimate prepared by the Congressional Budget Office (if available). Clause 4 of the same rule mandates a 72-hour layover period for most committee reports before the reported measure would be eligible for floor consideration.¹² If the House wants to take action on a measure before the committee report has met the availability requirement, or fails to include one or more required elements, it can do so by agreeing to a special rule that waives the standing rules in whole or in part (in this case, Rule XIII).

In rare cases the language of the rule may include surgical waivers of specific standing rules, but most often a “blanket” waiver is provided to prevent any points of order that might otherwise lie against consideration of a measure, the text of the measure itself, or amendments to it.¹³ In the example of H.Res. 260 (**Figure 1**), notice that the third sentence provides that: “All points of order against consideration of the bill [H.R. 1] are waived.”¹⁴

In the absence of such a waiver, points of order may be lodged against a measure’s consideration—for instance, on account of a deficient committee report. If a point of order is sustained, consideration of the measure would not proceed until the procedural violation was addressed.

Points of order may also be raised against specific propositions contained in a measure, or amendments to it. For instance, clause 4 of House Rule XXI prohibits committees other than the Appropriations Committee from reporting measures that contain appropriations, while clause 7 of House Rule XVI establishes a germaneness standard for any amendments, including committee amendments.

In addition to safeguarding consideration of H.R. 1 against points of order, H.Res. 260 also protects the text of the bill itself and any amendment to it from parliamentary objection. The operable language shown in **Figure 2** states that “All points of order against provisions in the bill, as amended, are waived.” Amendments made in order under the rule are also shielded from objection by language stating: “All points of order against such further amendments are waived.” By their ability to adjust the standing rules in application to a specific measure, special rules can be considered special in a quite literal sense.

¹¹ Rules may also waive procedural requirements defined in statute, such as budgetary restrictions established by the Congressional Budget Act of 1974, which operate with the same force and effect of the standing rules.

¹² Special rules reported by the Rules Committee are subject to a different layover requirement of one legislative day.

¹³ A rule may also leave a measure or specific portions of it unprotected against points of order, in which case a Member properly recognized could raise parliamentary objection.

¹⁴ Some points of order against considering a measure are based on provisions of the Congressional Budget Act of 1974. See CRS Report R47413, *Points of Order in the Congressional Budget Process*, by James V. Saturno and Megan S. Lynch.

Figure 2. Additional Provisions of H.Res. 260

general debate the bill shall be considered for amendment under the five-minute rule. The amendment printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment to the bill, as amended, shall be in order except those printed in part B of the report of the Committee on Rules. Each such further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto, to final passage without intervening motion except one motion to recommit.

Source: *Congressional Record*, daily edition, vol. 169 (March 28, 2023), p. H1474.

Base Text

Two additional features of H.Res. 260 shown in **Figure 2** deserve inspection: the text being established for debate and amendment (referred to as the *base text*), and the mechanics of the amendment process itself. Turning to the base text first, in most cases the Rules Committee will establish a measure reported from committee as the basis for debate and amendment. As repositories of expertise on subjects within their jurisdiction, committees embody a division of labor within the House that facilitates the consideration of thousands of measures across a wide range of issues. By reporting a measure favorably, a committee is signaling to the House that the proposal has been sufficiently vetted and deserves consideration by all Members.

When a committee reports a measure favorably, it will often package its recommended changes as a single, all-encompassing amendment—formally called an “amendment in the nature of a substitute”—that proposes to replace the entire text of the bill with the language of the committee-approved amendment. The expectation in these cases is that the base text made in order under a special rule would reflect the language recommended by committee (not the version of the bill as introduced). The special rule achieves this by including a provision that automatically approves (or “self-executes”) the committee-reported amendment. In these cases, the language of the rule will state that “the amendment in the nature of a substitute recommended by the [committee of jurisdiction] now printed in the bill shall be considered as adopted.” When a

rule provides that one or more amendments will be “considered as adopted,” it means that no separate vote would occur on the amendment(s).

Alternatively, legislation made in order under a rule can be presented to Members in the form it was introduced. Though perhaps introduced only recently, the text of the measure is likely to have been negotiated in advance by majority leadership and the relevant committees of jurisdiction. In some cases, introduced text will combine multiple measures reported by one or more committees into a single package. The language of H.R. 1, for instance, was drawn from dozens of energy-related bills that had been previously reported by several committees with jurisdiction over various aspects of national energy policy.

Deference to the work of committees is not absolute, and textual adjustments may need to be made for any number of reasons (for instance, if circumstances surrounding an issue change in unanticipated ways following committee action). In many cases, the base text (and any changes being made to it) will be presented to the House in the form of a Rules Committee print, which is made available on the Rules Committee website.¹⁵ Many Rules Committee prints show the same text being recommended by committee, but if the print contains different text, it will identify this fact by indicating that “modifications” have been made, or that the print is “showing new text” or the text of a measure “as introduced.” The textual sources of each print are shown in brackets at the top of the first page.

Similar to how an introduced bill (like H.R. 1) established as base text may be the product of multiple bills, a Rules Committee print might embody the language of several bills that have been combined in a single package. Take, for instance, Rules Committee Print 118-11, a broad aviation-related measure that included language drawn from bills recommended by three separate committees. The first, H.R. 3796 (118th Congress), a revenue bill that had been previously reported by the Ways and Means Committee, addressed the airport and airway trust fund. A second bill, H.R. 3559 (118th Congress), authorized various aviation-related research and development programs recommended by the Committee on Science, Space, and Technology. These bills were then combined with a third bill reported by the Committee on Transportation and Infrastructure, H.R. 3935 (118th Congress), and presented to the House as Rules Committee Print 118-11. The bracketed sentence atop the Rules print conveys this combination with the following statement:

Showing the text of H.R. 3935, as ordered reported by the Committee on Transportation and Infrastructure, with modifications, H.R. 3559, as ordered reported by the Committee on Science, Space, and Technology, with modifications, and H.R. 3796 as reported by the Committee on Ways and Means, with modifications.

When the Rules Committee packages legislative text as a committee print, it usually includes “self-executing” language in the special rule automatically establishing that text as the baseline for debate and amendment. For example, H.Res. 597 (118th Congress), the rule that established procedures for H.R. 3935 (118th Congress), included language to modify the version of H.R. 3935 reported by the Committee on Transportation and Infrastructure with text contained in Rules Print 118-11, which was incorporated into H.R. 3935 automatically by the following language:

In lieu of the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, an amendment in the nature of a

¹⁵ A committee print is a document published by a congressional committee. Committee prints are generally numbered by Congress and the sequence in which a committee produced them. For instance, Rules Committee Print 118-11 was the 11th print of the Rules Committee in the 118th Congress. Prints of the Rules Committee from the current and recent congresses are made available by the Rules Committee at <https://rules.house.gov/rules-and-resources/rules-committee-prints>.

substitute consisting of the text of Rules Committee Print 118-11 shall be considered as adopted in the House and in the Committee of the Whole.

A special rule can adjust legislative text in other ways as well. Another approach, which is more typical of relatively minor adjustments, is to modify bill text based on language that gets printed in the Rules Committee's report on the special rule. Much like when adjusted text is presented to the House in the form of a Rules Committee print, the language printed in the relevant section of the Rules Committee report would be considered as adopted at the time the measure is raised under the provisions of the self-executing special rule. Notice that the language of H.Res. 260 adds new text to H.R. 1 automatically. As the rule states: "The amendment printed in part A of the report of the Committee on Rules accompanying this resolution [H.Rept. 118-30] shall be considered as adopted in the House and in the Committee of the Whole." No vote occurred directly on the Part A amendment. It was enjoined with the bill at the time it was called up under the terms of H.Res. 260.¹⁶

Amendment Process

A special rule will also define the amendment process contemplated for each measure and in most cases will limit the availability of amendment opportunities during a bill's consideration. Special rules that prevent any Member from offering an amendment are described as *closed* rules, while those that restrict amendment opportunities in some way—but do not block them altogether—are called *structured* rules. Although rare in current practice, a special rule that contains no amendment limitations beyond what the standing rules require—for instance, the germaneness requirement in clause 7 of House Rule XVI—would be characterized as an *open* rule.¹⁷ A rule with minimal restrictions on the ability to offer amendments but not fully open—for example, by requiring only that an amendment be printed in the *Congressional Record* in advance of consideration—would be referred to as *modified open*.¹⁸

As many special rules do, the language of H.Res. 260 (see **Figure 2**) created a *structured* amendment process whereby only those amendments identified by the Rules Committee in its report on the special rule would be eligible to be offered to H.R. 1. The operative wording here is the sentence of the rule that reads: "No further amendment to the bill, as amended [by the Part A amendment], shall be in order except those printed in part B of the report of the Committee on Rules." The text of each amendment made in order—37 in total in this case—can be found under the relevant heading of the Rules Committee report.¹⁹

Additional sentences of H.Res. 260 affirm its characterization as a structured rule. House rules require amendments to be read in full, absent unanimous consent to the contrary, but that requirement is routinely waived under a structured rule, as this rule does (amendments get printed

¹⁶ This particular amendment added a sunset provision, or expiration date, after which the authority conveyed in Title IV of Division B of H.R. 1 ("Federal Land Use Planning") would no longer be legally binding. The text of this amendment can be found on page 7 of H.Rept. 118-30, the report of the Rules Committee on H.Res. 260.

¹⁷ See "The Germaneness Rule" section of CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

¹⁸ These four main types of special rules are defined by the Rules Committee on its website: See Committee on Rules, "Special Rule Types," <https://rules.house.gov/about/special-rule-types>.

¹⁹ For a detailed account of current practice surrounding the construction, consideration, and execution of structured special rules, see CRS Report R47314, *Offering an Amendment on the House Floor Under a Structured Rule: Current Practice*, by Michael Greene and Elizabeth Rybicki. Topics addressed in this report include how Members may submit amendments to the Rules Committee for possible inclusion under the rule and testify before the committee, the markup of the rule by the Rules Committee, floor consideration of the rule under the one-hour rule, and the methods of debating and voting on amendments.

in advance). Amendment consideration proceeds in the order listed in the Rules Committee's report and must be offered by the designated Member, who would control time to speak in favor of the amendment. A Member opposed to the amendment may seek recognition to control time to speak against it. Each side is normally afforded five minutes per amendment, and pro forma amendments "to strike the last word" by rank-and-file Members are not in order under a structured amendment arrangement unless explicitly provided for.²⁰

H.Res. 260 also stipulates that actions otherwise allowed by the standing rules—such as the ability to offer an amendment to another amendment (a second-degree amendment), or to insist that an amendment containing separate and distinct propositions be divided into parts and considered individually—would not be permitted.²¹ Finally, to shield the amendments made in order from procedural challenge (for instance, on germaneness grounds), the rule waives points of order against the amendments.

When the House meets to consider legislation in Committee of the Whole, it must exit that procedural forum and resolve (or transform) itself back into the House proper before a vote on final passage may occur. The full House would also need to agree to any amendments approved during Committee of the Whole proceedings that were reported back to the House. Although House Rule XVIII allows the House to resolve into and rise out of Committee of the Whole by nondebatable motion, the terms of a special rule often perform these actions automatically. As H.Res. 260 states: "At the conclusion of consideration of the bill for amendment the Committee [of the Whole] shall rise and report the bill, as amended [by the Part A amendment], to the House with such further [Part B] amendments as may have been adopted."

Motion to Recommit

The procedural terms the House chooses to adopt in the form of a special rule can make significant adjustments in how legislation would otherwise be considered under the standing rules. There is, however, an important limitation in clause 6(c) of House Rule XIII that protects the right of the minority to offer a nondebatable motion to recommit prior to a vote being held on final passage of a bill (H.R./S.) or joint resolution (H.J.Res./S.J.Res.).²² If approved, the motion would return (or recommit) the measure to the relevant committee of jurisdiction, which could choose to take additional action on it.

The last sentence of H.Res. 260 affirms the minority's prerogative to make this motion and also orders the previous question on all approved amendments and the bill itself, foreclosing the possibility of additional debate or amendment of H.R. 1. Any motion offered at this stage of the proceedings—except for the guaranteed motion to recommit—is precluded by the phrase "without intervening motion."²³

²⁰ In some cases, provision is made in the language of a structured rule to allow for a discrete number of pro forma amendments to be offered. These amendments (debate opportunities) would be placed under the control of bill managers for distribution to Members on their side.

²¹ The prerogative to divide an amendment is provided for in clause 5 of House Rule XVI ("Motions and Amendments"). Clause 6 of the same rule allows amendments in two degrees: an amendment to the text of a measure, called a "first degree" amendment, and an amendment to that amendment (a "second degree" amendment). See the "General Principles" and "The Amendment Tree" sections of CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

²² The motion to recommit is protected only during a measure's initial consideration in the House and not when the House is considering a Senate bill for which the text of a House-passed measure has been substituted. In those cases, the motion to recommit would have been available during initial proceedings on the House-passed measure.

²³ This includes the motion to adjourn, the motion of highest precedence in clause 4 of House Rule XVI. However, at the time a special rule is called up, one motion to adjourn is in order under clause 6 of House Rule XIII.

Conclusion

The use of special rules embodies the majoritarian principle that underlies House proceedings and the authority conveyed in Article I, section 5 of the Constitution, which provides that “Each House may determine the Rules of its Proceedings.” Only with majority approval of the full House do their terms become binding, but with few exceptions special rules can create, address, or avoid almost any parliamentary situation. To Speaker Thomas Brackett Reed (R-ME), a pioneer in the use of special rules as an instrument of majority rule, the latitude they afford the House is desirable. He remarked in 1888:

If the majority do not govern, the minority will and if the tyranny of the majority is hard, the tyranny of the minority is simply unendurable. The rules, then, ought to be so arranged as to facilitate the action of the majority.²⁴

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²⁴ William A. Robinson, *Thomas B. Reed: Parliamentarian* (Dodd Mead, 1930), p. 182.