

STENHOLM] will be recognized for 30 minutes, and a Member opposed, the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget, will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

§ 5. Voting

Under Article V of the Constitution, passage of a joint resolution proposing an amendment to the Constitution requires a two-thirds majority of each House.⁽¹⁾ Such a joint resolution may be passed by each House only with a quorum present. During consideration of such a joint resolution by either House, only a simple majority (not a two-thirds majority) is required for adoption of an amendment to the joint resolution, including an amendment to the text of the proposed amendment to the Constitution itself. The Chair puts the question on final passage of such a joint resolution first to a voice vote, as the yeas and nays are not required.

1. The relevant portion of Article V reads as follows: "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution. . . ."

Vote Required on Final Passage

§ 5.1 The vote required in the House for adoption of a joint resolution proposing an amendment to the Constitution is two-thirds of those Members present and voting, a quorum being present, and not two-thirds of the total membership.

On Sept. 18, 1969,⁽¹⁾ the House was considering House Joint Resolution 681, proposing an amendment to the Constitution relating to the election of the President and Vice President. After consideration was completed, the Speaker⁽²⁾ put the question on passage. The Speaker then responded to parliamentary inquiries as follows:

The SPEAKER. The question is on the passage of the joint resolution.

PARLIAMENTARY INQUIRIES

Mr. [Durward] Hall [of Missouri]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state the parliamentary inquiry.

Mr. HALL. Mr. Speaker, in view of article V of the Constitution, am I correct in my calculation that it requires 289 Members voting for passage?

The SPEAKER. The answer to the gentleman's parliamentary inquiry is

1. 115 CONG. REC. 26007, 91st Cong. 1st Sess.
2. John W. McCormack (MA).

that it requires two-thirds of the Members present and voting thereon, a quorum being present.

Mr. HALL. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HALL. Mr. Speaker, is this consistent with article V which says:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution.

Would that be two-thirds of the total membership or two-thirds of those present and voting?

The SPEAKER. In accordance with the precedents of the House⁽²⁾ and decisions of the Supreme Court,⁽³⁾ it requires two-thirds of those present and voting thereon, a quorum being present.

The Chair's response to the gentleman's parliamentary inquiry is that it requires two thirds of those present and voting thereon, a quorum being present.

The question is on the passage of the joint resolution.

§ 5.2 A two-thirds vote is required to pass a joint resolution proposing an amendment to the Constitution when the joint resolution is considered under the discharge process.

2. See, *e.g.*, 5 Hinds' Precedents §§ 7027, 7029, 7030 and 8 Cannon's Precedents § 3503.
3. See, *e.g.*, National Prohibition Cases, 253 U.S. 350 (1920).

On Dec. 14, 1937,⁽¹⁾ Speaker William B. Bankhead, of Alabama, in response to a parliamentary inquiry, stated that the requirement for a two-thirds vote to pass a joint resolution proposing a constitutional amendment applied even when the joint resolution was the object of a successful discharge petition. The proceedings are discussed in § 4.12, *supra*.

Vote Required to Amend Joint Resolution

§ 5.3 An amendment to a joint resolution proposing an amendment to the Constitution is adopted by a majority vote.

On Feb. 24, 1931,⁽¹⁾ the House was considering House Joint Resolution 292, a joint resolution proposing an amendment to the Constitution addressing the assembly of Congress. The Speaker,⁽²⁾ in response to a parliamentary inquiry, stated that only a majority of the House (and not two-thirds) was required to adopt an amendment to the joint resolution.

The SPEAKER. The previous question is ordered under the rule.

1. 82 CONG. REC. 1517, 75th Cong. 2d Sess.
1. 74 CONG. REC. 5906, 71st Cong. 3d Sess. See also 5 Hinds' Precedents § 7031 (point of order) and 8 Cannon's Precedents § 3504 (parliamentary inquiry).
2. Nicholas Longworth (OH).

The question is on the amendment.

Mr. [Lamar] JEFFERS [of Alabama] and Mr. [Charles] CRISP [of Georgia] demanded the yeas and nays.

The yeas and nays were ordered.

Mr. [John] KETCHAM [of Michigan]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KETCHAM. Will the Chair please advise the Members by what majority the amendment would have to carry? Is a two-thirds majority necessary?

The SPEAKER. No; a majority is only necessary on an amendment.

Yeas and Nays Not Required

§ 5.4 The yeas and nays are not required on the question of passing a joint resolution proposing an amendment to the Constitution.

On Mar. 9, 1928,⁽¹⁾ the Speaker, Nicholas Longworth, of Ohio, responded to an inquiry by Mr. John Q. Tilson, of Connecticut, as to whether the yeas and nays were required on joint resolutions proposing amendments to the Constitution, as follows:

The SPEAKER. There is no rule which provides for a yea-and-nay vote, and the Chair will quote from the Manual, section 224:⁽²⁾

Ayes and nays not required to pass a resolution amending the Constitution

The question is on the passage of the resolution.

1. 70 CONG. REC. 4430, 70th Cong. 1st Sess. See also 5 Hinds' Precedents §§ 7038, 7039.
2. Now *House Rules and Manual* § 192 (2007) ("The yeas and nays are not required to pass a joint resolution proposing to amend the Constitution. . . .").