

Congress of the United States
Washington, DC 20515

March 23, 2020

The Honorable James P. McGovern
Chairman
Committee on Rules
H-312, The Capitol
Washington, DC 20515

Dear Chairman McGovern:

We write to request that you enact a temporary change to House Rules to allow remote voting by Members of the House during national emergencies, especially the current one involving COVID-19.

By their very nature, national emergencies threaten the health and safety of the American people and require quick action by Congress. COVID-19 is upsetting the expectations and experiences of people across the country. Untold numbers are being stricken with illness or dying, millions are losing jobs, and some economists are predicting a recession we have not experienced since World War II. Helping families who may be suffering from drastically negative health and financial consequences is of paramount importance.

With COVID-19, and likely during any national emergency, that assistance must be provided with as much speed as Congress can muster. Unfortunately, during such circumstances, requiring Members to vote in person may pose public health risks or even be physically impossible for persons under quarantine. We need to provide a mechanism through which Congress can act during times of crisis without having to assemble in one place.

That is why we support temporarily changing the Rules of the House to allow for remote voting. It would enable the House to act quickly to address the suffering of American families and ensure that no matter how this crisis develops, the voices of our constituents will be represented in Congress.

Furthermore, using technology in this way is consistent with what millions of American businesses are doing across this country, right now, to deal with COVID-19. Millions of workers at businesses, schools, nonprofits, and local governments are using technology to continue to be productive. Congress should be no exception to adapting to this crisis. The House must adopt remote voting both to protect public health and to allow us to be the voices of our constituents.

While few have raised constitutional concerns about remote voting, we are confident it is permitted. As Erwin Chemerinsky, Dean of the University of California at Berkeley School of Law, explains, "Article I, Section 5 says: 'Each House may determine the Rules of its Proceedings.' I believe this is authority for a house of Congress to use remote voting, especially

given our emergency situation.”¹ Well-known Harvard Law Professor Lawrence Tribe echoes that view, writing: “The Constitution needn’t and shouldn’t be construed to preclude virtual presence any more than it had to be constituted to treat air travel or indeed email as something other than interstate commerce or electronic surveillance as less than a fourth amendment search and seizure.”² The opinions of these renowned legal scholars, as well as our own careful study of the Constitution, reassure us that remote voting is consistent with the framework of our democracy.

This view is consistent with how the Supreme Court viewed a similar matter, in the case of *United States v. Ballin* (1892). In approving a change to the way the House measured a quorum, the Court reasoned that the Constitution “has prescribed no method” for determining one is present, “and it is therefore within the competency of the house to prescribe any method which shall be reasonably certain to ascertain the fact.”³

We ask that you consider giving the House the technical means to, first and foremost, help others. If we cannot, American families will suffer. In national emergencies like the rapid spread of COVID-19, time is of the essence, and we should be willing to adapt our congressional procedures to meet the needs of this singularly pressing moment in time.

Sincerely,



Eric Swalwell
Member of Congress



Katie Porter
Member of Congress



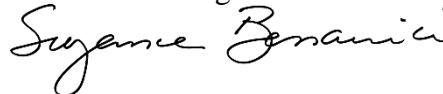
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Member of Congress



Max Rose
Member of Congress



Rashida Tlaib
Member of Congress



Suzanne Bonamici
Member of Congress



Lori Trahan
Member of Congress



Kendra S. Horn
Member of Congress

¹ Personal message between Rep. Eric Swalwell and Dean Erwin Chemerinsky (March 19, 2020).

² Personal message between Rep. Eric Swalwell and Professor Lawrence Tribe (March 19, 2020).

³ *United States v. Ballin*, 144 U.S. 1 (1892).



Greg Stanton
Member of Congress



Andy Kim
Member of Congress



Pramila Jayapal
Member of Congress



Joyce Beatty
Member of Congress



Jesús G. "Chuy" García
Member of Congress



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Suzan DelBene
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Susan Wild
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Alexandria Ocasio-Cortez
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Frederica S. Wilson
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Eleanor Holmes Norton
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Chellie Pingree
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Donald M. Payne, Jr.
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Angie Craig
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Kim Schrier
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Tony Cardenas
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Steve Cohen
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Brendan Boyle
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Ruben Gallego
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Ilhan Omar
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Susie Lee
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Karen Bass
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Mike Quigley
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Barbara Lee
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Filemon Vela
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Ted Lieu
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Tom Malinowski
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Lucy McBath
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