

and in addition an administrative assistant at the basic rate of \$8,880 per annum.

THE SPEAKER:⁽¹⁹⁾ Without objection, the resolution is agreed to.

There was no objection.

§ 2.4 Former Speakers have been provided the use of automobiles through the contingent fund of the House.

On Jan. 12, 1959,⁽²⁰⁾ a resolution was adopted regarding benefits for former Speakers of the House.

Resolved, That there shall be paid out of the contingent fund of the House, until otherwise provided by law, expenses necessary for the purchase, maintenance, operation, and driving of an automobile for the use of any Member of the House who has served as Speaker of the House.

THE SPEAKER⁽²¹⁾ Without objection, the resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

§ 2.5 Upon retirement, a former Speaker was provided with federal office space and related expenses and allowances.

On Dec. 22, 1970,⁽²²⁾ a resolution was called up providing that

19. Sam Rayburn (Tex.)

20. 105 CONG. REC. 559, 86th Cong. 1st Sess.

21. Sam Rayburn (Tex.).

22. 116 CONG. REC. 43313, 43314, 91st Cong. 2d Sess.

upon its enactment the Speaker of the 91st Congress, Mr. John W. McCormack, of Massachusetts, would upon his retirement be entitled to, among other things: (1) federal office space, (2) an office expense of \$100 per month, (3) frank mail privileges, (4) a local telephone allowance, (5) salaries for two secretaries, and (6) a stationery allowance without cash withdrawal, all to be financed from the contingent fund of the House. After some debate, the resolution was passed.

§ 3. Jurisdiction and Duties

The Speaker's jurisdiction and duties are found in numerous statutes and, of course, throughout the House rules.

Generally speaking, the Speaker's jurisdiction and duties relate to the House rules, the Members, and the dignity and prerogatives of the House.⁽¹⁾

At the beginning of a Congress, the Speaker normally administers the oath of office to the new Members.⁽²⁾ When a Speaker pro tem-

1. See § 3.1. *infra*.

2. See § 3.2, *infra*, and 2 USC § 25 (1973). See Ch. 1, *supra*, for treatment of the Speaker's role in the assembly of Congress.

pore is elected or designated and approved, the Speaker, if he is present, also administers the oath of office to the Speaker pro tempore.⁽³⁾ In addition, the Speaker has the power to administer oaths to witnesses.⁽⁴⁾

Under various House rules the Speaker presides over all regularly scheduled House business:

(1) He calls the Members to order at the beginning of each daily session.⁽⁵⁾ Under the constitutional provisions dealing with quorums⁽⁶⁾ the Speaker then proceeds unless objection is raised that a quorum is not present.⁽⁷⁾

(2) If a quorum is present, the Speaker, having examined the House Journal, may announce his approval of it. It is ordinarily not read unless such is insisted upon.⁽⁸⁾

3. See §3.3, *infra*.

4. 2 USC §191. See Ch. 15, *infra*, for treatment of the Speaker's role in House investigations and inquiries.

Parliamentarian's Note: This statutory power has rarely been used by Speakers in modern times.

5. Rule I clause 1, *House Rules and Manual* §621 (1973). See Ch. 20, *infra*, for the Speaker's role in the call of the House.

6. U.S. Const. art I, §5.

7. See Ch. 20, *infra*, for treatment of the Speaker's role in determining the presence of a quorum.

8. Rule I clause 1, *House Rules and Manual* §621 (1973). See Ch. 5,

(3) The next item of business under the rules—though infrequently applied—is the reference⁽⁹⁾ or correction of reference of bills, joint resolutions, etc., to appropriate committees.⁽¹⁰⁾ In this regard, the Speaker may defend his reference of measures should they be challenged.⁽¹¹⁾

(4) The Speaker next disposes of business on the Speaker's table. Such business includes Presidential messages, communications from department heads, and measures sent to the House by the Senate.⁽¹²⁾

(5) The Speaker then proceeds to unfinished business.⁽¹³⁾ Under the rules, then comes the morning hour for the consideration of bills called up by committees;⁽¹⁴⁾ how-

supra, for treatment of the Speaker's duties with regard to the House Journal.

9. See §3.5, *infra*. See also §4.3, *infra*. See Ch. 16, *infra*, for fuller treatment of the Speaker's role in the reference of bills, etc., to committees.

10. See §3.6, *infra*.

11. See §3.7, *infra*. See Ch. 29, *infra*, for fuller treatment of the Speaker's participation in debate.

12. Rule XXIV clauses 1 and 2, *House Rules and Manual* §878, et seq. (1973). See also §2, *supra*, for examples of reports cleared through the Speaker's office.

13. Rule XXIV clauses 1 and 3, *House Rules and Manual* §§878 and 885–888 (1973).

14. Rule XXIV clauses 1 and 4, *House Rules and Manual* §§889, 890 (1973).

ever, this procedure is not followed under present House practices, since the House proceeds to business under other provisions of the rules.

(6) Next under the House rules, the Speaker is required to allow up to one hour for the call of the committees under the regular order before a motion can be entertained to go into the Committee of the Whole House on the state of the Union.⁽¹⁵⁾ Again, this is largely an obsolete procedure, since by resolutions from the Committee on Rules the House normally prescribes a different order of business.

When a motion is made for the House to resolve itself into the Committee of the Whole, the Speaker appoints the Chairman of the Committee.⁽¹⁶⁾

(7) When the Committee of the Whole finally rises to report back to the House, the Speaker resumes the Chair and proceeds to the orders of the day.⁽¹⁷⁾

15. Rule XXIV clause 5, *House Rules and Manual* §§891, 892 (1973).

16. Rule XXIII clause 1, *House Rules and Manual* §861 (1973). See also §§6.1 and 6.2, *infra*. See Ch. 19, *infra*, for fuller treatment of the Speaker's role in relation to the Committee of the Whole.

17. Rule XXIV clause 1, *House Rules and Manual* §878 (1973). See also Jefferson's Manual, *House Rules and Manual* §384 (1973).

During a daily session if the Speaker desires to be absent from the Chair momentarily, he has the right under the House rules to designate a Speaker pro tempore.⁽¹⁸⁾ He may also designate a Speaker pro tempore for longer periods, or even invite the election of one, under certain circumstances.⁽¹⁹⁾ When the Speaker is criticized during debate, it is considered proper for him to designate a Speaker pro tempore to rule on whether the criticism is unparliamentary.⁽²⁰⁾

Many more or less routine functions of the Speaker are of course accomplished off of the floor of the House. Examples of these are:

(1) The Speaker certifies the salary and mileage accounts of Members as required by statute.⁽¹⁾

(2) The Speaker has the statutory duty to certify to the appropriate U.S. District Attorney the names of persons found to be in contempt of House committees for prosecution⁽²⁾ when the House has formally authorized such ac-

18. Rule I clause 7, *House Rules and Manual* §633 (1973).

19. See §§9 et seq., *infra*, for treatment of Speakers pro tempore.

20. See 3.11, *infra*.

1. 2 USCA §48. See Ch. 7, *infra*, for treatment of the compensation, allowances, perquisites, and emoluments of Members.

2. 2 USC §194.

tion.⁽³⁾ Likewise, he certifies names of persons who have purged themselves of the contempt charges to the U.S. District Attorneys after formal House authorization.⁽⁴⁾

(3) Whenever a vetoed measure is approved by two-thirds of both Houses of Congress, the Speaker sends the original measure to the General Services Administration for promulgation, if the House was the last body to act on the measure.⁽⁵⁾

The Speaker generally informs the House of actions taken pursuant to House authorization. For instance, the Speaker will inform the House when he has signed enrolled bills during an adjournment of the House,⁽⁶⁾ or when, acting in his official capacity as spokesman of the House, he has accepted a subpoena served on the House.⁽⁷⁾ It is also considered the Speaker's duty to inform the House when a Speaker pro tempore has acted for him during an adjournment.⁽⁸⁾

In certain unusual circumstances, the Speaker is considered to have the inherent power to act on the Members' be-

half without House authorization. For example, in emergency situations, the Speaker is considered to have the inherent power to declare the House in recess, subject to the call of the Chair.⁽⁹⁾

During the consideration of the various measures, the Speaker normally assumes the primary responsibility on the part of the House for enforcing the customary rules of comity between the two Houses of Congress.⁽¹⁰⁾

To facilitate the consideration of measures, the House rules provide the Speaker with three major functions: (1) recognizing Members who seek to address the House,⁽¹¹⁾ (2) construing and applying the House rules,⁽¹²⁾ and (3) putting the question to or stating a motion for the Members for their vote.⁽¹³⁾

The Speaker has held that in construing the rules he may look

3. See §3.40, *infra*.

4. See §3.43, *infra*.

5. 1 USC §106a.

6. See §3.9, *infra*.

7. See §3.39, *infra*.

8. See §3.10, *infra*.

9. See §3.44, *infra*. See Ch. 39, *infra*, for treatment of House recesses.

10. See 3.45, *infra*.

11. Rule XIV clause 1, *House Rules and Manual* §§749 et seq. (1973).

12. See Rule I clause 4, *House Rules and Manual* §§624, 627 (1973).

13. Rule I clause 5, *House Rules and Manual* §629 (1973). See also the forms of putting the question, *House Rules and Manual* §§960-965 (1973). See Ch. 29, *infra*, for fuller treatment of the Speaker's power of recognition.

to all pertinent facts concerning the matter to which the rules would be applied.⁽¹⁴⁾ In ruling on a matter brought to his attention by a point of order, the Speaker normally will wait until the matter is completely before him.⁽¹⁵⁾

In certain circumstances the presiding officer may make inquiries of a Member having the floor.⁽¹⁶⁾ But it is the more frequent case that the Speaker answers inquiries from the Members. For example, he answers questions regarding the applicability of the House rules to standing committees.⁽¹⁷⁾ However, he does not answer hypothetical inquiries or general questions relating to committee procedure.

The Speaker may decline to answer immediately a parliamentary inquiry⁽¹⁸⁾ or he may simply ask a Member to withhold his inquiry until the Speaker has sufficient time to ascertain certain facts.⁽¹⁹⁾

Duties Generally

§ 3.1 In general, as the elected presiding officer of the

14. See § 3.29, *infra*.

15. See § 3.30, *infra*.

16. See § 3.32, *infra*.

17. See § 3.33, *infra*.

18. See § 3.34, *infra*.

19. See § 3.35, *infra*.

House, the Speaker has duties relating to the House rules, to the Members, and to the dignity and prerogatives of the House.

On Jan. 10, 1962,⁽²⁰⁾ Speaker elect John W. McCormack, of Massachusetts, addressed the House from the Chair regarding his duties as Speaker of the House.

THE SPEAKER: Members of the House of Representatives . . . [in] the exercise and performance of the powers and duties of the Speaker, parliamentary or otherwise, I shall perform such duties impartially with fair treatment to all Members in interpreting and enforcing the rules, but above all protecting the rights of all Members without regard to party affiliation.

While as leader in this body of my party, I have my political responsibilities, in the performance of my duties as Speaker, my responsibility is to the House itself and to all of its Members.

As majority leader I always considered that one of my primary duties was to protect the rights, under the rules and also in accordance with the customs of the House, of the minority party. I shall follow that course as Speaker. . . .

I will continue to maintain the dignity of the House of Representatives, protecting its prerogatives and maintaining the right and privileges of its members.

Administering Oaths

§ 3.2 It is the normal practice for the Speaker to admin-

20. 108 CONG. REC. 6, 87th Cong. 2d Sess.

ister the oath of office to Members at the opening of a session of Congress.

On Jan. 3, 1945,⁽¹⁾ the following procedure regarding the swearing in of Members took place.

THE SPEAKER [Sam Rayburn, of Texas]: The Chair understands that two or three Members with certificates on file with the Clerk were not here when the other Members were sworn in, were unable to get here at the hour of meeting on account of late trains. At least two such Members are here now.

MR. [KARL E.] MUNDT [of South Dakota]: Mr. Speaker, I am one of those detained by late trains. I took the oath of office but I was not here in time to answer to the first roll call.

THE SPEAKER: The statement of the gentleman from South Dakota will stand.

The Members who have not taken the oath of office will present themselves in the well of the House and all others will clear the well of the House.

Mr. Gorski and Mr. Stefan appeared at the bar of the House and took the oath of office.

§ 3.3 If the Speaker is present when the House has elected a Speaker pro tempore, it is normally the Speaker who administers the oath of office to the Speaker pro tempore.

On Aug. 26, 1949,⁽²⁾ a resolution was introduced as follows:

1. 91 CONG. REC. 14, 79th Cong. 1st Sess.
2. 95 CONG. REC. 12344, 81st Cong. 1st Sess.

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Speaker, I offer a resolution (H. Res. 351) and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That Hon. E.E. Cox, a Representative from the State of Georgia, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. E.E. Cox as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

THE SPEAKER [Sam Rayburn, of Texas]: The gentleman from Georgia [Mr. Cox] will present himself at the bar of the House and take the oath.

Mr. Cox appeared at the bar of the House and took the oath of office.

Meeting Time and Place

§ 3.4 When the House is to meet in a place other than the House Chamber, the Speaker normally is the one who informs the Members of the time and place of the meeting.

On July 1, 1949,⁽³⁾ Speaker Sam Rayburn, of Texas, made an announcement concerning the time and place of the meeting of the House.

THE SPEAKER: Pursuant to House Resolution 271, the House stands ad-

3. 95 CONG. REC. 8808, 81st Cong. 1st Sess.

journed to meet on Tuesday, July 5, 1949, at 12 o'clock noon, in the caucus room in the New House Office Building.⁽⁴⁾

Referring Measures to Committees

§ 3.5 The Speaker examines and refers to committees all bills and resolutions introduced by Members of the House.

On Jan. 10, 1967,⁽⁵⁾ Speaker John W. McCormack, of Massachusetts, indicated the procedure by which bills introduced on the opening day of a Congress are examined and referred to committees.

THE SPEAKER: The Chair would like to make a statement concerning the introduction and reference of bills today.

As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress several thousand bills have been introduced. It will be readily apparent to all Members that it may be a physical impossibility for the Speaker to examine each bill for reference today. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if

4. *Parliamentarian's Note:* The House moved to the New House Office Building pending remodeling of the House Chamber in the Capitol caused by an insecure ceiling.
5. 113 CONG. REC. 34, 90th Cong. 1st Sess.

he is unable to refer all the bills that may be introduced. Those bills which are not referred and do not appear in the Record as of today will be included in the next day's Record and printed with a date as of today.⁽⁶⁾

§ 3.6 Having the authority to refer Presidential messages and bills to committees, a Speaker may change a reference to another committee if appropriate.

On Jan. 27, 1958,⁽⁷⁾ Speaker Sam Rayburn, of Texas, announced a change of reference of matters from one committee to another:

THE SPEAKER: After further examination of the President's message and the recommendations made therein, the Chair believes that the proper committee to which to refer the President's message is the Committee on Education and Labor instead of the Committee on Interstate and Foreign Commerce, because on the Science Foundation no new law is suggested, simply more appropriations. The other part of the President's message deals with education. Therefore the Chair is going to change the reference of the President's message and whatever bills are introduced on that subject, to the Committee on Education and Labor.

6. *Parliamentarian's Note:* On the opening day of the first session of the 90th Congress a total of 2,247 bills and resolutions were introduced.
7. 104 CONG. REC. 1112, 85th Cong. 2d Sess.

§ 3.7 Although the Speaker has the power to refer bills to proper committees in the first instance, such references may later be challenged and the Speaker may defend his decision.

On Mar. 2, 1966,⁽⁸⁾ Speaker John W. McCormack, of Massachusetts, took the floor in the Committee of the Whole to indicate his responsibility regarding the reference of public bills to proper committees.

MR. MCCORMACK: . . . Mr. Chairman, in view of the remarks by the gentleman from New Hampshire [Mr. Cleveland] about the reference of this bill, and overhearing them and confining myself to that aspect of his remarks, I simply want to advise the Members of the House that in my judgment as the Speaker, this bill was properly referred to the Committee on Public Works.

In the original bill, the bill calls for the participation in the 1967 exposition, jointly with the State of Alaska through economic development projects such as industrial, agricultural, educational, research, or commercial facilities, and so forth.

Mr. Chairman, I thoroughly respect the views of my friend, the gentleman from New Hampshire [Mr. Cleveland], but I cannot be on the floor and listen to one challenge the reference of a bill that I made. I realize that I might make mistakes occasionally, but I will

8. 112 CONG. REC. 4579, 4580, 89th Cong. 2d Sess.

always make the reference of a bill that the rules call for. In my clear judgment this bill was properly referred to the Committee on Public Works⁽⁹⁾

Informing the House of Actions Taken

§ 3.8 The Speaker informs the House when he has accepted a resignation and appointed a successor to a committee during an adjournment.

On Jan. 3, 1957,⁽¹⁰⁾ Speaker Sam Rayburn, of Texas, made the following announcement concerning a committee appointment:

THE SPEAKER: The Chair desires to announce that pursuant to the provisions of House Concurrent Resolution 244, 84th Congress, and the order of

9. *Parliamentarian's Note*: As introduced the bill in question was primarily an economic development measure. In this form, the bill was primarily within the jurisdiction of the Committee on Public Works. As reported, however, the primary emphasis of the bill was federal recognition of and participation in the centennial celebration of the Alaska purchase. In this form, the bill was similar to centennial bills that have been traditionally, under the precedents, referred to the Committee on the Judiciary.

Reference generally, see Ch. 16, *infra*.

10. 103 CONG. REC. 47, 85th Cong. 1st Sess.

the House of July 27, 1956, empowering him to accept resignations and to appoint commissions . . . he did, on September 8, 1956, appoint as a member of the joint committee to represent the Congress at the unveiling of the Commodore John Barry Memorial at Wexford, Ireland . . . the gentleman from Pennsylvania . . . to fill a vacancy caused by the resignation of the gentleman from New York.

§ 3.9 The Speaker informs the House when he has signed enrolled bills during an adjournment pursuant to authority granted him.

On July 26, 1948,⁽¹¹⁾ Speaker Joseph W. Martin, Jr., of Massachusetts, announced his signing of certain enrolled bills subsequent to adjournment.

The Speaker, pursuant to the provisions of House Concurrent Resolution 219, Eightieth Congress, announced his signature to enrolled bills and joint resolutions of the Senate as follows:

On June 22, 1948:

S. 418. An act to provide for water-pollution-control activities in the Public Health Service of the Federal Security Agency and in the Federal Works Agency, and for other purposes. . . .

And on June 23, 1948, enrolled bills of the Senate as follows:

S. 165. An act for the relief of Doris E. Snyder. . . .

On June 10, 1968,⁽¹²⁾ Speaker John W. McCormack, of Massa-

11. 94 CONG. REC. 9363, 80th Cong. 2d Sess.

12. 114 CONG. REC. 16381, 90th Cong. 2d Sess.

chusetts, made an announcement to the House:

THE SPEAKER: The Chair desires to announce that pursuant to the authority granted him on Thursday, June 6, 1968, he did on June 7, 1968, sign the following enrolled bills of the House:

H.R. 6087. An act to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and consideration of law enforcement and criminal justice systems at all levels of government, and for other purposes

§ 3.10 The Speaker informs the House when an elected Speaker pro tempore has signed enrolled bills during an adjournment of the House pursuant to authority granted.

On July 14, 1958,⁽¹³⁾ Speaker Sam Rayburn, of Texas, announced that during an adjournment the elected Speaker pro tempore had signed certain enrolled bills pursuant to authority granted.

Procedure When Speaker Criticized

§ 3.11 When the Speaker is the subject of criticism in debate and a point of order is raised against such criticism, it is customary for the Speaker to

13. 104 CONG. REC. 13695, 13696, 85th Cong. 2d Sess.

appoint a Speaker pro tempore to rule on whether the words spoken were parliamentary.

On Feb. 7, 1935,⁽¹⁴⁾ the following remarks were made:

MR. [THOMAS L. BLANTON [of Texas]: Mr. Chairman, a point of order.

Mr. Chairman, I ask that the words of the gentleman from Massachusetts [Mr. Tinkham] about former Speaker Rainey and Speaker Byrns be taken down. If he has no respect for the living, he ought to have some respect for the dead. I ask that his words be taken down. We will call the gentleman down on that now. . . .

The Chairman [William N. Rogers, of New Hampshire]: The Clerk will report the words objected to.

The Clerk read to the Committee the words objected to.

THE CHAIRMAN: The Committee will rise.

Accordingly the Committee rose; and the Speaker . . . resumed the chair.

THE SPEAKER [Joseph W. Byrns, of Tennessee]: The Clerk will report the words.

The Clerk read the words objected to.

THE SPEAKER: The Chair feels some delicacy in ruling on the language inasmuch as he is involved, and the Chair will ask the gentleman from New York [Mr. O'Connor] to take the chair.

Mr. O'Connor assumed the chair as Speaker pro tempore.

14. 79 CONG. REC. 1680, 1681, 74th Cong. 1st Sess.

Controlling the Record

§ 3.12 It has been held that the Speaker may direct the official House reporters of debates to refrain from inserting in the Congressional Record notations concerning applause and other demonstrations by Members in the House.

On Mar. 6, 1945,⁽¹⁵⁾ Speaker Sam Rayburn, of Texas, responded to a parliamentary inquiry concerning Congressional Record coverage of demonstrations in the House.

MR. [JOHN E.] RANKIN [of Mississippi]: . . . I propound another parliamentary inquiry at this time. Some time ago the Official Reporters of Debates ceased to take down the demonstrations that are made in the course of debate, the only parliamentary body in the world that prints a Record in which that has been done, that I have been able to find. I occasionally get the Record of the British House of Parliament. I read it and in these trying times there is applause, cheers, their cries of "hear, hear" laughter, and other demonstrations that are made. You get the Record of the United States Senate and, as a rule, they do not have probably so many there to applaud, but when there is applause or a demonstration, it is placed in the Record. Our demonstrations have been cut out of our Record

15. 91 CONG. REC. 1789, 79th Cong. 1st Sess.

and I think it is a serious mistake because now a man can make a speech and extend his remarks and you have no indication as to where his speech left off and where his extension of remarks begins. I know it has been contended by a few Members in the House that the extension of those demonstrations in the Record have been abused. But that was done very seldom, and where the Member did abuse that privilege by inserting laughter or applause he has been subjected to the most drastic criticism and ridicule and, as a rule, has never attempted it again. . . .

THE SPEAKER: The Chair does not intend to be facetious, but the Chair would like to give the House his reaction to the expressions "Hear! Hear!" and "Applause" in the Record. When I came here 32 years ago on Sunday last, a gentleman had been elected by a split in the Republican Party in a particular State, and he had come here with Democratic and Progressive votes. He made a speech in the House. Whether it went into the permanent Record I do not know, but I know it went into the temporary Record. It closed in this fashion: "Loud and prolonged applause among Democrats and Progressives, followed by much handshaking."

In times past there appeared in the Record the word "Applause" where a Member spoke. In another place there was "Loud applause." In another place there was "Loud and prolonged applause." In another place there was "Loud and prolonged applause, the Members rising." If I had made a speech and had received "applause," and some Member had followed me immediately and had received "loud and

prolonged applause, the Members rising," my opponent in the next primary might have called attention to how insignificant I was because I only received "applause" and the other Member had received "loud and prolonged applause, the Members rising."

The Chair has held that demonstrations in the House are not a part of the Record, and shall continue to hold that until the rules of the House are changed.

§ 3.13 Although it has been held that it is within the authority and normally the duty of the Speaker to order stricken from the notes of the official House reporters remarks made by Members not legitimately having the floor, it has also been held that it is within the Speaker's power to allow an exception in unusual circumstances.

On Apr. 19, 1937,⁽¹⁶⁾ Speaker William B. Bankhead, of Alabama, responded to a parliamentary inquiry concerning remarks of Members, not legitimately having the floor, being reflected in the *Congressional Record*.

MR. [EDWARD W.] CURLEY [of New York]: I rise to propound a parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

16. 81 CONG. REC.. 3588, 3589, 75th Cong. 1st Sess.

MR. CURLEY: Last Thursday, April 15, during the discussion of the antilynching bill, I submitted two questions to the gentleman from New York [Mr. Wadsworth]. Upon reading the Congressional Record the following day I found they were omitted. In the course of the extension of my own address on the following page in the Record that fact is mentioned in my own address; so that on a checkback it will be found that these two questions have been omitted, and we find that they were omitted inadvertently by the reporter. The reporter has informed me of the fact that that is the truth.

What I wish to know, Mr. Speaker, is whether or not I can have the permanent Record corrected so as to include the two questions and the offside remark that went with them. . . .

THE SPEAKER: Did the gentleman from New York address the Chair and ask whether or not the gentleman from New York [Mr. Wadsworth], then occupying the floor, would yield?

MR. CURLEY: I did, Mr. Speaker. I think the gentleman from New York [Mr. O'Connor] was presiding on both occasions.

THE SPEAKER: Did the gentleman from New York [Mr. Wadsworth] yield?

MR. CURLEY: The gentleman from New York [Mr. Wadsworth] did not yield, and so stated. But not long thereafter the gentleman from New York [Mr. Gavagan] asked the same questions, received the same reply, that the gentleman from New York [Mr. Wadsworth] did not yield; yet the questions and remarks of the gentleman from New York [Mr. Gavagan] are incorporated in the Congressional Record.

THE SPEAKER: This is a rather important inquiry that the gentleman from New York [Mr. Curley] has submitted. It has not been raised, so far as the Chair recalls, during the present session of Congress. In order that the rights of Members may be protected, and that the Members may know what the rules and precedents are with respect to this proposition, the Chair will read from section 3466, volume 8, of Cannon's Precedents of the House of Representatives. . . .

The Chair may say that in conformity with this precedent, and what the Chair conceives to be sound procedure, the rule should be reiterated that when a Member is occupying the floor and a Member after addressing the Chair and asking the Member then occupying the floor if he will yield for a question or for an interruption, and the gentleman then speaking declines to yield, it is not proper for a Member nevertheless to interject into the Record some remark which he desires to make.

Under the particular circumstances now raised by the gentleman from New York [Mr. Curley], and in view of the fact the question has not heretofore been presented at this session of the Congress, the Chair is of the opinion it may not be an injustice to instruct the reporter to incorporate in the permanent Record in this instance the statement made by the gentleman from New York [Mr. Curley].

The Chair may say, however, that hereafter in conformity with this rule and what he regards as sound practice, the Chair instructs the reporters of debates where a Member declines to yield and notwithstanding another Member seeking to interrupt him per-

sists in talking, that those remarks shall not be incorporated in the Record.

Putting Unanimous-Consent Requests

§ 3.14 Unanimous-consent requests are put to the House by the Speaker, and a Member's objection to such a request is ineffective if it fails to follow immediately upon the Speaker's statement of the request.

On Sept. 4, 1940,⁽¹⁷⁾ a unanimous-consent request was made as follows:

MR. [BEVERLY M.] VINCENT [of Kentucky]: Mr. Speaker, I ask unanimous consent to withdraw the last sentence of my statement.

MR. [HENRY C.] DWORSHAK [of Idaho]: I object, Mr. Speaker.

THE SPEAKER PRO TEMPORE [Jere Cooper, of Tennessee]: The gentleman from Kentucky asks unanimous Consent to withdraw the statement. Is there objection? The Chair hears none.

MR. [FREDERICK V.] BRADLEY [of Michigan]: I object, Mr. Speaker.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a point of order and a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN: Mr. Speaker, a moment ago certain words were uttered by the gentleman on the floor of the

House which I demanded be taken down. No report was made of those words. I demand the regular order—the taking down of the words, the report of the words, and the reading by the Clerk.

THE SPEAKER PRO TEMPORE: Subsequently, unanimous consent was granted for the words to be withdrawn.

MR. HOFFMAN: Oh, no, Mr. Speaker; three Members were on their feet. I was one of them, and objecting to that.

THE SPEAKER PRO TEMPORE: That was the ruling of the Chair.

MR. HOFFMAN: I appeal from the ruling of the Chair then.

THE SPEAKER PRO TEMPORE: This is not a ruling, it is just an answer to a parliamentary inquiry.

Stating Motions for Votes

§ 3.15 The Speaker or Chairman of the Committee of the Whole states motions, and it has been held that it is his statement of the motion and not the motion as stated by a Member that is voted upon.

On Mar. 26, 1965,⁽¹⁸⁾ the following motion was made:

MR. [ADAM C.] POWELL [of New York]: Mr. Chairman, I move that all debate and all amendments to section 203 close in 5 minutes, with one-half of the time reserved to the chairman.

THE CHAIRMAN [Richard Bolling, of Missouri]: The chairman of the committee moves that all debate and all amendments—

17. 80 CONG. REC.. 11516, 11517, 76th Cong. 3d Sess.

18. 111 CONG. REC. 6101, 89th Cong. 1st Sess.

MR. [PORTER] HARDY [Jr., of Virginia]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. HARDY: He is moving that he is going to have half of the time. Is that a proper motion? I had understood it was not. I believe it can be done by unanimous consent.

THE CHAIRMAN: Will the chairman of the committee please restate his motion?

MR. HARDY: I understood the motion.

MR. POWELL: I withdraw the previous motion. I move all debate and all amendments on this title and this section close in 10 minutes.

MR. HARDY: Mr. Chairman, I ask that the original motion be read.

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, a point of order. I want to know whether or not it takes unanimous consent to withdraw the motion.

THE CHAIRMAN: The gentleman from New York asks unanimous consent to withdraw the motion.

MR. POWELL: That is right. I withdraw it. I ask unanimous consent to withdraw it.

MR. ASHBROOK: Mr. Chairman, I object.

THE CHAIRMAN: Does the gentleman from New York desire a vote on his original motion?

MR. HARDY: Mr. Chairman, will the Chair state the motion as originally made?

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, a parliamentary inquiry. At the time that the gentleman from New York made the motion his voice was inaudible. I strongly feel that the motion that he made should be reread and read loud.

THE CHAIRMAN: The Chair will attempt to state how he understood it. It may be in error.

MR. GERALD R. FORD: Mr. Chairman, I ask that the reporter read what the Chairman said so we can all hear it. It would be very helpful.

THE CHAIRMAN: The gentleman from Michigan, the distinguished minority leader, is putting the Chair in the same position he had him in a little while ago. This goes straight, head on, into all of the practices and procedures of the House to have the reporter re-report a motion.

MR. GERALD R. FORD: Mr. Chairman, I withdraw my request.

THE CHAIRMAN: The Chair will state the motion as the Chair understood it. The Chair will say frankly the Chair had a little difficulty hearing it, but my understanding of the motion was that the chairman of the committee moved that all debate and all amendments to section 203 be closed in 5 minutes.

MR. GERALD R. FORD: And time was reserved for the chairman.

THE CHAIRMAN: The Chair did not hear that.

MR. [CRAIG] HOSMER [of California]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HOSMER: In the event that the motion is carried, if put, would the motion carried be that which was actually made by the gentleman from New York, or according to the Record as reported, or would it be the motion as stated by the Chair?

THE CHAIRMAN: The motion will be as stated by the Chair, as was the case yesterday and is the case today.

The motion is that all debate on this section close in 5 minutes.

Power of Recognition

§ 3.16 Although the Speaker has discretion to recognize Members to have the floor, he is under no duty to announce in advance whom he might recognize in the future.

On Oct. 8, 1969,⁽¹⁹⁾ a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts:

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DINGELL: If the previous question is voted down, would it then be in order to offer an amendment to raise the sum for water pollution control grants to the States in the sum of \$1 billion?

THE SPEAKER: The Chair will state that, if the previous question is voted down, it would be in order to offer an amendment. The Chair is not going to pass on the amount at the present time.

MR. DINGELL: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DINGELL: Would I be recognized for that purpose? It would be my intent so to do.

THE SPEAKER: The Chair is not going to give a preliminary opinion as to whom the Chair might recognize.

§ 3.17 The Speaker has on occasion announced in advance that he would deny recognition to a Member under certain circumstances.

On Oct. 18, 1943,⁽²⁰⁾ the following parliamentary situation developed under which Speaker Sam Rayburn, of Texas, indicated he would deny recognition to a Member under certain circumstances.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

THE SPEAKER: Is there objection?

There was no objection.

MR. MCCORMACK: Mr. Speaker, I do this for the information of my colleagues, because this morning they received a letter from the Speaker in respect to a meeting to be held Wednesday morning, and in that letter it was stated that the meeting would be held in the Caucus Room of the old House Office Building, at which meeting General Marshall and other generals would appear in an off-the-record manner. The old Caucus Room has been looked over, as well as the auditorium of the Library of Congress. It is felt that the auditorium of the Library of Congress is a much more desirable place to hold the meeting, and I rise to announce that, instead of holding the

19. 115 CONG. REC. 29220, 91st Cong. 1st Sess.

20. 89 CONG. REC. 8433, 78th Cong. 1st Sess.

meeting in the old Caucus Room, it will be held in the auditorium of the Library of Congress. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: Now, if we are going to hold executive sessions of the House, there is only one place that we are authorized by law to hold them, and that is in this Hall.

MR. MCCORMACK: This is not an executive session of Congress.

MR. RANKIN: It is going to be a secret session, and it ought to be, and it ought to be held in the Hall of the House of Representatives.

MR. MCCORMACK: This is not an executive session of Congress.

MR. RANKIN: It is unnecessary for the Congress of the United States to be going off to some other building to hear these leaders report on the war when we have the Hall of the House of Representative built and equipped for that purpose.

Will not the gentleman modify his request to have that meeting here in this Hall?

THE SPEAKER: The Chair would not recognize the gentleman for that purpose and the gentleman would not make such a request.

§ 3.18 The Speaker's power over recognition includes the power to ask for what purpose a Member rises without such request implying that the Speaker recognizes the Member for the purpose for which he has arisen.

On Apr. 13, 1946,⁽¹⁾ two Members rose seeking recognition from Speaker Sam Rayburn, of Texas:

1. 92 CONG. REC. 3669, 79th Cong. 2d Sess.

MR. [DEWEY] SHORT [of Missouri]: Mr. Speaker.

MR. [EDWARD E.] COX [of Georgia]: Mr. Speaker.

THE SPEAKER: For what purpose does the gentleman from Missouri rise?

MR. SHORT: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: For what purpose does the gentleman from Georgia rise?

MR. COX: Mr. Speaker, it was my purpose to demand a reading of the engrossed copy of the bill.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. TARVER: Mr. Speaker, may a demand be made for the reading of the copy of the engrossed bill after the proceedings which have just taken place and after the Clerk has read the bill which was considered engrossed?

THE SPEAKER: The bill was ordered to be engrossed and read a third time. The gentleman from Georgia was on his feet at the time.

Does the gentleman from Georgia insist upon his demand that the engrossed copy of the bill be read?

MR. COX: Mr. Speaker, my making demand that the engrossed copy of the bill be read does not indicate my opposition to the bill.

MR. SHORT: Mr. Speaker, I am opposed to the bill.

MR. COX: I was compelled to make the demand and I did make it.

THE SPEAKER: The gentleman from Georgia [Mr. Cox] demands the reading of the engrossed copy of the bill. The Chair will state that with the number of amendments agreed to, it

would be impossible to have the engrossed copy of the bill this afternoon.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, if I understood the situation correctly, the gentleman from Missouri [Mr. Short] was recognized to offer a motion to recommit.

THE SPEAKER: The gentleman from Missouri [Mr. Short] was not recognized. The Chair asked the gentleman for what purpose he rose, and then recognized the gentleman from Georgia.

§ 3.19 The Speaker's power of recognition includes the power to deny recognition to a Member for the purpose of making a motion which the Speaker determines to be in conflict with previous action of the House.

On Oct. 8, 1968,⁽²⁾ Speaker John W. McCormack, of Massachusetts, heard a Member's motion before recognizing the Member to offer it.

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Ohio rise?

MR. TAFT: Mr. Speaker I have a privileged motion.

MR. [SIDNEY R.] YATES [of Illinois]: A point of order, Mr. Speaker. That is not in order until the reading of the Journal has been completed.

THE SPEAKER: Will the gentleman from Ohio state his privileged motion?

MR. TAFT: Mr. Speaker, my motion is on a point of personal privilege.

THE SPEAKER: Will the gentleman from Ohio state whether it is a point of personal privilege or a privileged motion?

MR. TAFT: It is a privileged motion, and a motion of personal privilege.

Under rule IX questions of personal privilege are privileged motions, ahead of the reading of the Journal.

THE SPEAKER: The Chair will advise the gentleman that a question of personal privilege should be made later after the Journal has been disposed of.

If the gentleman has a matter of privilege of the House, that is an entirely different situation.

MR. TAFT: I believe, Mr. Speaker, this involves not only personal privilege as an individual, but also as a Member of the House and also the privileges of all Members of the House.

THE SPEAKER: The Chair does not recognize the gentleman at this time on a matter of personal privilege.

But the Chair will, after the pending matter, the reading of the Journal has been disposed of, recognize the gentleman if the gentleman seeks recognition.

MR. TAFT: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. TAFT: Mr. Speaker, is it not true in rule IX relating to questions of privilege it is stated that such questions shall have precedence over all other questions except motions to adjourn?

THE SPEAKER: Will the gentleman state the question of privilege.

2. 114 CONG. REC. 30214-16, 90th Cong. 2d Sess.

MR. TAFT: Mr. Speaker, my motion is that I and all other Members in the Chamber who were here at the time of the last quorum call and answered "present" be permitted to leave the Chamber at their desire. . . .

THE SPEAKER: The Chair will state in response to the parliamentary inquiry that the action of the House has deprived—has caused the doors to be closed and has deprived temporarily the privilege that the gentleman refers to. That has been done by the action of the House.

MR. TAFT: Mr. Speaker, I was recognized to make a privileged motion and it was not a matter of a parliamentary inquiry. I have made that motion and I ask that the Chair rule on the motion.

THE SPEAKER: What is the motion?

MR. TAFT: I request that I be given time to discuss the motion as a matter of privilege.

THE SPEAKER: The gentleman will state his motion.

MR. TAFT: Mr. Speaker, my motion is that I and all other Members present on the floor who answered "present" at the time of the last quorum call shall be permitted to leave the House freely at their own desire.

THE SPEAKER: The Chair does not recognize the gentleman for the purpose of making such a motion because the Chair has already clearly indicated the House has already taken action and it is within the power of the House to take the action that it did. Therefore, the Chair does not recognize the gentleman to make such a motion.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, it was my understanding that the gentleman from Ohio had

been recognized for the purpose of offering the motion.

THE SPEAKER: The gentleman from Michigan is well aware of the fact that the question of recognition rests with the Chair. The gentleman did not make a motion which was in order by reason of the action heretofore taken by the House.

§ 3.20 It has been held that the presiding officer has the power to give or deny recognition to a Member who seeks to offer a perfecting amendment which would take precedence over another amendment.

On Dec. 15, 1937,⁽³⁾ the Chairman of the Committee of the Whole, John W. McCormack, of Massachusetts, indicated the discretionary nature of his power to recognize Members in answer to the following parliamentary inquiries:

Mr. [Gerald J.] Boileau [of Wisconsin]: Mr. Chairman, reserving the right to object, and I do so to propound a parliamentary inquiry as to the order in which amendments are to be offered. The amendment offered by the gentlewoman from New Jersey is now pending. Would not perfecting amendments have priority of consideration over a substitute amendment?

THE CHAIRMAN: The Chair has no knowledge of what amendments may

3. 82 CONG. REC. 1590, 75th Cong. 2d Sess.

be offered; but ordinarily a perfecting amendment has precedence over a motion to substitute insofar as voting is concerned. If the unanimous-consent request is granted, it is the understanding of the Chair that amendments will be offered section by section.

MR. BOILEAU: Nevertheless, it is the amendment offered by the gentleman from New Jersey that would be before the House.

THE CHAIRMAN: That is before the Committee now.

MR. BOILEAU: Would not perfecting amendments have priority over an amendment to substitute?

THE CHAIRMAN: So far as voting is concerned, yes.

MR. BOILEAU: I appreciate that fact, but may I propound a further parliamentary inquiry, whether or not a Member rising in his place and seeking recognition would not have a prior right to recognition for the purpose of offering a perfecting amendment to the amendment now pending?

THE CHAIRMAN: It does not necessarily follow that such Member would have a prior right. Recognition is in the discretion of the Chair.

MR. BOILEAU: I recognize it does not necessarily follow, but I am trying to have the matter clarified. Therefore I ask the Chair whether or not a Member who qualifies as offering a perfecting amendment does not have prior right of recognition in offering such amendment?

THE CHAIRMAN: The Chair has tried to be as helpful as he could, but the Chair does not feel he should estop himself of his own discretion in the matter of recognitions.

MR. BOILEAU: Does the Chair then rule that is within the discretion of the Chair rather than a right of the Member?

THE CHAIRMAN: In answer to the gentleman's inquiry, the Chair is of the opinion it is within the province of the Chair whom the Chair will recognize, having in mind the general rules of the House.

§ 3.21 Where there are two matters of equal preference brought before the House at the same time, it is within the Speaker's discretion to recognize whichever matter he chooses to be considered first.

On Sept. 22, 1966,⁽⁴⁾ an announcement was made concerning a change in the legislative program. A Member raised a parliamentary inquiry as a result of the change.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

Under the rules of the House, as I understand them, this rule, House Resolution 1007, to bring up the so called House Un-American Activities Committee bill, is a privileged matter, and if it is not programed, then the gentleman handling the rule or any member of the Rules Committee, may call it up as a privileged matter. Is my understanding correct about that?

THE SPEAKER [John W. McCormack, of Massachusetts]: The gentleman's

4. 112 CONG. REC. 23691, 89th Cong. 2d Sess.

understanding is correct. Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.

If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.

§ 3.22 It is within the Speaker's discretion to recognize a Member for a parliamentary inquiry regarding a resolution and, after such is stated and without answering the inquiry, recognize another Member for the purpose of withdrawing a pending resolution.

On Apr. 8, 1964,⁽⁵⁾ Speaker John W. McCormack, of Massachusetts, indicated the nature of the Speaker's power of recognition during the consideration of two measures before the House. The Committee of the Whole had risen and reported to the House matters pertaining to a bill (H.R. 10222). Upon demand by a Member the bill was ordered to be engrossed and read a third time. While preparation of the engrossed copy of the bill was taking place, a Member called up House Resolution 665 by direction of the Committee

5. 110 CONG. REC. 7303, 7304, 88th Cong. 2d Sess.

on Rules and asked for its immediate consideration. After certain remarks on House Resolution 665 were made, the Speaker declared a recess pending the receipt of the engrossed copy of H.R. 10222. The recess having expired, the House was called to order by the Speaker and the proceedings were as follows:

THE SPEAKER: The unfinished business is the reading of the engrossed copy of H.R. 10222.

The Clerk will read the engrossed copy.

MR. OLIVER P. BOLTON [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. OLIVER P. BOLTON: Mr. Speaker, when the recess was called, it was my understanding that we were engaged in the consideration of [H. Res. 665]. Is it not the rule of the House that we must finish the consideration of that measure before we take up any other measure which has been passed over for parliamentary and mechanical reasons?

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker—

THE SPEAKER: The gentleman from Missouri [Mr. Bolling].

MR. BOLLING: Mr. Speaker, under the rules I withdraw House Resolution 665.

MR. OLIVER P. BOLTON: Mr. Speaker, a parliamentary inquiry.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, that takes unanimous consent, and I object.

THE SPEAKER: The Chair will state that it does not take unanimous con-

sent to withdraw the resolution in the House.

MR. OLIVER P. BOLTON: Mr. Speaker, it is my understanding that the Speaker was addressing the Member now addressing the Chair and had not given an answer to my question. Therefore, the recognition of the Member from the other side, the gentleman from Missouri [Mr. Bolling] was out of order. Am I incorrect?

THE SPEAKER: The recognition of the gentleman from Missouri [Mr. Bolling] terminated the parliamentary inquiry.

MR. OLIVER P. BOLTON: In other words, the Speaker did not answer the parliamentary inquiry; is that correct?

THE SPEAKER: Since the resolution was withdrawn, the parliamentary inquiry was ended.

MR. OLIVER P. BOLTON: If the Speaker will respectfully permit, the gentleman from Ohio would suggest that the question had been asked before the resolution had been withdrawn.

THE SPEAKER: The Chair will state that the Chair has the power of recognition. Now that the resolution has been withdrawn, the unfinished business is the reading of the engrossed copy of H.R. 10222.

MR. OLIVER P. BOLTON: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. OLIVER P. BOLTON: The Speaker had recognized the gentleman from Ohio for a parliamentary inquiry. The parliamentary inquiry had been made. The parliamentary inquiry had not been answered and yet the Chair recognized the gentleman from Missouri.

THE SPEAKER: Which the Chair has the power to do.

The Clerk will read the engrossed copy of H.R. 10222

§ 3.23 The power of recognition vested in the presiding officer is not infringed upon if unanimous consent is requested and received to recognize a Member to speak at a certain time.

The Chairman of the Committee of the Whole, being also a Member, may invoke his right to object to a unanimous-consent request.

On Dec. 9, 1947,⁽⁶⁾ the Chairman of the Committee of the Whole, Earl C. Michener, of Michigan, responded to an inquiry concerning possible infringement on the power of recognition by unanimous consent being given a Member to speak:

THE CHAIRMAN: As the Chair understands the rule, the presiding officer in the Committee is in a dual capacity. First, he is selected to be the presiding officer during the consideration of the bill. But by accepting such appointment he does not lose his right to vote and object as any other Member. That is, his district is not deprived of its rights by virtue of the Chairman selection. That being true, the Chair not making any objection, I cannot see how the rights of the Chair are infringed upon if the Committee, by unanimous consent, wants to provide that a certain individual may speak at a certain

6. 93 CONG. REC. 11231, 80th Cong. 1st Sess.

hour during the Committee consideration. If the Chair is agreeable and all Members are agreeable.

Controlling Scope of Debate

§ 3.24 The scope of debate in the House is generally a matter of relevancy which the Speaker may determine when a point of order is raised.

On Dec. 10, 1963,⁽⁷⁾ Speaker John W. McCormack, of Massachusetts, discussed the scope of House debate during a ruling on a point of order related thereto.

MR. [BYRON G.] ROGERS of Colorado: The point of order is we are now considering the rule on the indigent defendant's bill. The gentleman from Kansas is talking about the civil rights bill, and is out of order.

THE SPEAKER: The Chair is prepared to rule.

The Chair takes a lenient attitude toward debate in the House. If the gentleman from Kansas feels that there is anything involved in this bill that might be connected with legislation concerning civil rights, the Chair feels that the gentleman, who is conversant with the rules, is proceeding and will proceed in order.

The gentleman from Kansas may proceed.

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Speaker, will the gentleman yield?

MR. [WILLIAM H.] AVERY [of Kansas]: Yes, Mr. Speaker, I yield to the gentleman from Iowa.

7. 109 CONG. REC. 23968, 88th Cong. 1st Sess.

MR. GROSS: Mr. Speaker, I ask unanimous consent that the gentleman from Kansas have permission to speak out of order.

THE SPEAKER: Without objection, it is so ordered.

There was no objection.

Controlling Time for Debate

§ 3.25 The presiding officer supervises the timing of the proceedings by a clock in the House Chamber.

On Feb. 10, 1964,⁽⁸⁾ when a discrepancy existed in the times shown on the clocks in the House Chamber, the following question was asked of the Chairman of the Committee of the Whole, Eugene J. Keogh, of New York:

MR. [ROBERT H.] MICHEL [of Illinois]: By what clock are we operating this afternoon?

THE CHAIRMAN: The one the Chair is looking at.⁽⁹⁾

§ 3.26 It is within the authority of the Chairman of the Committee of the Whole to supervise the control of time for debate, and when he is not informed of a delegation of control of time the delegation is ineffective.

8. 110 CONG. REC. 2724, 88th Cong. 2d Sess.

9. *Parliamentarian's Note*: The clock the Chair was "looking at" was the clock on the north wall of the House Chamber.

On Jan. 31, 1964,⁽¹⁰⁾ during the course of the following debate the Chairman of the Committee of the Whole, Eugene J. Keogh, of New York, indicated the manner by which a delegation of control of time for debate is effective.

MR. [BASIL L.] WHITENER: [of North Carolina]: If the gentleman will get me more time, I will be glad to yield to the gentleman.

MR. [PETER W.] RODINO [Jr., of New Jersey]: I will give the gentleman 1 extra minute.

MR. WHITENER: I yield to the gentleman, but please do not take more than 1 minute.

THE CHAIRMAN: The Chair has to inform the gentleman from North Carolina that the gentleman from New Jersey does not have control of the time.

MR. WHITENER: Then, Mr. Chairman, I must respectfully decline to yield to the gentleman. . . .

MR. [BYRON G.] ROGERS of Colorado: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state the point of order.

MR. ROGERS of Colorado: Mr. Chairman, the gentleman from New Jersey is now in charge of the time in the absence of the chairman, the gentleman from New York [Mr. Celler].

THE CHAIRMAN: The Chair was not informed that the gentleman from New York is absent nor is the Chair informed that the gentleman from New Jersey is now in charge of the time.

The gentleman from North Carolina is recognized.

MR. WHITENER: I thank the chairman. . . .

THE CHAIRMAN: The time of the gentleman has expired.

MR. RODINO: Mr. Chairman, I yield myself 10 minutes, and I wish to state I am acting for the chairman of the Committee on the Judiciary who asked me to take charge of the time for him in his absence.

THE CHAIRMAN: The gentleman from New Jersey is recognized.

§ 3.27 It is within the authority of the Speaker and the House, and not the Chairman of the Committee of the Whole, to decide whether time for continued consideration of an unfinished bill will be given in the legislative program.

On Apr. 26, 1948,⁽¹¹⁾ the Chairman of the Committee of the Whole, Leslie C. Arends, of Illinois, responded to an inquiry about what time might be provided for a continuation of consideration of an unfinished bill.

MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN (Mr. Arends): The gentleman will state it.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that

10. 110 CONG. REC. 1538, 88th Cong. 2d Sess.

11. 94 CONG. REC. 4873, 80th Cong. 2d Sess.

this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the [Chairman of the Committee of the Whole] to decide.

§ 3.28 The Speaker has set policy with regard to the practice of one-minute speeches by Members.

On July 22, 1968,⁽¹²⁾ Speaker John W. McCormack, of Massachusetts, discussed the practice of permitting one-minute speeches from the floor of the House:

MR. [LESLIE C.] ARENDS [of Illinois]: . . . Would it be proper if Members were permitted to extend their remarks and make their 1-minute speeches at the end of the legislative day in order that we might just get started right away on the legislative program when we meet.

MR. MCCORMACK: I call the 1-minute period "dynamic democracy." I hesitate to take away the privilege of a Member as to speaking during that period and it has become a custom and a practice of the House. I think it is a very good thing to adhere to that custom and practice.

12. 114 CONG. REC. 22633, 22634, 90th Cong. 2d Sess.

It is only on rare occasions that Members have not been recognized for that purpose. How would the gentleman feel if he had a 1-minute speech to make and he had sent out his press release and then found out that the Speaker was not going to recognize him? Surely, I think, the gentleman would feel better if the Speaker did recognize him; would he not?

MR. ARENDS: According to a person's views—I think it would be the reverse.

MR. MCCORMACK: Does the gentleman mean at the end of the day?

MR. ARENDS: You said that this might be "dynamic democracy." I would rather it would be started when we have the time rather than be started at noon.

MR. MCCORMACK: It is an integral part of the procedure of the House and I like to adhere to it. Very seldom have I said to Members that I will accept only unanimous-consent requests for extensions of remarks. I hesitate to do it. I think every Member realizes that I am trying to protect their rights.

MR. [DURWARD G.] HALL [of Missouri]: I thank the gentleman for yielding.

I think the question is not that of eliminating the 1-minute speeches after the Members have their news releases out. But it is a question of not going back after the second or third rollcall and rerecognizing speeches. In this connection does "dynamic democracy" mean the same thing as benign but beneficial dictatorship—which does have merit?

MR. MCCORMACK: The gentleman from Missouri has raised a very interesting question. Many times I have said to myself, I am going to announce

that the 1-minute speeches will have to be at 12 o'clock and not thereafter. But I have not come to the making of that resolution because I just could not bring myself to it. It is somewhat late in this session to do it and when, of course, we Democrats control the House in the next Congress, and I hope I will be Speaker, then I might do it. I am not promising it, but I may do it. But there is something to what the gentleman from Missouri says.

MR. HALL: I would appreciate it if we had a little more "dynamic democracy" so that we could get to work on the legislative program.

MR. McCORMACK: I realize that any Member who wants to make a 1-minute speech ought to be here at 12 o'clock. But we are all human beings. None of us are perfect.

On June 17, 1970,⁽¹³⁾ Speaker McCormack made the following announcement:

THE SPEAKER: The Chair will recognize Members for unanimous-consent requests to extend remarks, and so forth, or for 1-minute speeches with yielding back of the time, and later in the day the Chair will recognize Members for 1-minute speeches if Members desire to present them. . . .

MR. [WILLIAM V.] ALEXANDER [Jr., of Arkansas]: Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks and to include extraneous matter.

THE SPEAKER: Is there objection to the request of the gentleman from Arkansas?

MR. [HAROLD R.] GROSS [OF IOWA]: Mr. Speaker, reserving the right to object—

THE SPEAKER: The gentleman from Arkansas asked unanimous consent to address the House for 1 minute.

MR. GROSS: I understand that, Mr. Speaker, and I reserved the right to object.

Mr. Speaker, when the session opened this morning the Speaker—very providently, I thought—in the interest of—getting on with the legislative business, precluded 1-minute speeches. However, I am not at all certain that it was done for the purpose of expediting the legislation, but rather to prevent 1-minute speeches on the resolution just passed.

THE SPEAKER: . . . As far as the Chair is concerned the custom of the 1-minute speech procedure is adhered to as much as possible because the Chair thinks it is a very healthy custom.

The Chair had the intent, after the disposition of the voting rights bill, to recognize Members for 1-minute speeches or further unanimous-consent requests if they so desired to do so.

Construing and Applying House Rules

§ 3.29 It has been held within the authority of the Speaker to look to all pertinent facts concerning a matter in order to construe House rules sought to be applied thereto.

On Aug. 13, 1937,⁽¹⁴⁾ Speaker William B. Bankhead, of Ala-

13. 116 CONG. REC. 20158, 20245, 91st Cong. 2d Sess.

14. 81 CONG. REC. 8842-45, 75th Cong. 1st Sess.

bama, described the circumstances that could be considered in construing a rule of the House.

MR. [JOHN H.] KERR [of North Carolina]: Mr. Speaker, I offer a privileged report in the election contest of Roy against Jenks.

The Clerk read the title of the resolution.

THE SPEAKER: Referred to the House Calendar and ordered printed.

MR. [CHARLES W.] TOBEY [of New Hampshire]: Mr. Speaker, I rise to make a point of order against the acceptance by the House of the report and resolution just offered by the chairman of Elections Committee No. 3.

Mr. Speaker, it is my contention that the making of this report constitutes a violation of section 47 of rule 11 of the rules of the House of Representatives, which reads as follows:

47. The several elections committees of the House shall make final report to the House in all contested election cases not later than 6 months from the first day of the first regular session of the Congress to which the contestee is elected except in a contest from the Territory of Alaska in which case the time shall not exceed 9 months.

The language of this rule is not permissive; it is mandatory, compelling. . . .

After lengthy debate Speaker Bankhead said:

THE SPEAKER: The Chair is prepared to rule on this point of order. . . .

. . . Of course, this is a rather serious proposition which has been sub-

mitted to the Chair, because it involves the right of the contestant or the contestee to have the issue presented to this House as to whether or not the contestant or the contestee is entitled to a seat on the floor. . . .

The Chair thinks it proper in the construction of this issue not only to take into consideration the verbiage of this rule but also a provision of the Constitution of the United States which has been cited in this argument. Section 5 of article I of the Constitution, in part, provides:

Each House shall be the judge of the elections, returns, and qualifications of its own Members.

The Chair is of opinion that although the terms of the rule are in the language read by the Chair and as argued by the gentleman from New Hampshire, yet, nevertheless, the Chair must look at all the facts in the case in order to reach a decision as to what was the fair intention of the House of Representatives in the adoption of this rule. . . .

The contestee and the contestant having each more than 6 months under the statutes to present their case, the Chair is of opinion that under all of the circumstances the fair and reasonable and just interpretation of this rule justifies him in overruling the point of order, and the Chair does overrule the point of order.⁽¹⁵⁾

15. *Parliamentarian's Note:* The first regular session of the 75th Congress began on Jan. 5, 1937. The point of order in this case was that the time period under the rule in question was six months, and therefore the committee did not have jurisdiction

Ruling on Resolutions**§ 3.30 The Speaker normally does not rule on whether a resolution is a privileged one until the reading of it is concluded.**

On July 9, 1935,⁽¹⁶⁾ a Member rose to present what he considered to be a privileged resolution.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, I have a matter of correcting a false report that should require not more than a few minutes. For the purpose of getting it immediately before the House, I rise to a question of the privileges of the House and present a privileged resolution.

The Clerk read the resolution, as follows:

RESOLUTION

Whereas all over the United States the press has erroneously asserted that in a brusque, uncalled-for manner the Doorkeeper of the House of Representatives forced a mother and child to leave the House gallery because she was nursing her baby, and inferentially censuring the House of Representatives for not allowing a

on Aug. 13 to submit the report. The issue of the contested election was filed with the committee on July 21, 1937, and immediately referred to the Committee on Elections No. 3. Thus in construing the rule, the Speaker in effect held that the six months' time period in question was directory and not mandatory in nature.

16. 79 CONG. REC. 10905, 74th Cong. 1st Sess.

mother to nurse her baby in the House gallery. . . .

. . . Therefore be it

Resolved, That said report emanating from Washington and published generally in the United States was incorrect and without warrant.

MR. [JOHN E.] RANKIN [of Mississippi] (interrupting the reading of the resolution): Mr. Speaker, I make the point of order that enough of the resolution has been read to show that it is not privileged.

MR. BLANTON: It should be privileged when the House of Representatives has been charged with having shown disrespect and an inexcusable indignity to an American mother.

MR. RANKIN: Mr. Speaker, it does not reflect on the dignity of the proceedings of the House at all.

THE SPEAKER [Joseph W. Byrns, of Tennessee]: The Clerk will finish the reading of the resolution. The Chair cannot pass on the matter until the reading of the resolution has been concluded. . . .

§ 3.31 Although the Chairman of the Committee of the Whole does not ordinarily rule on the effect of an amendment, he has interpreted questioned language in order to rule on a point of order.

On Apr. 26, 1966,⁽¹⁷⁾ a point of order was raised concerning the effect of a proposed amendment.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a

17. 112 CONG. REC. 8968, 8969, 89th Cong. 2d Sess.

point of order against the amendment offered by the gentleman from Illinois on the ground that it is legislation on an appropriation bill. . . .

THE CHAIRMAN [Eugene J. Keogh, of New York]: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Finley] has offered an amendment . . . to which amendment the gentleman from Mississippi has made a point of order on the ground that it is legislation on an appropriation act.

The language sought to be inserted by the amendment reads as follows:

No funds appropriated by the Act shall be used to formulate or administer a Federal crop insurance program for the current fiscal year that does not meet the administrative and operating expenses from premium income.

It might be said that the effect of any proposed amendment is truly not within the competence of the Chair. But a reading of this language indicates to this occupant of the chair that there is here sought an express limitation on the funds appropriated by the pending bill and the Chair, therefore, overrules the point of order.

Inquiries by Chair

§ 3.32 The Chairman of the Committee of the Whole may inquire of a Member offering an amendment the purpose of including therein a reference to existing law.

On Oct. 10, 1963,⁽¹⁸⁾ the Chairman of the Committee of the

18. 109 CONG. REC. 19260, 88th Cong. 1st Sess.

Whole, Richard Bolling, of Missouri, made the following inquiry of a Member:

THE CHAIRMAN: The Chair would like to ask the gentleman from Washington a question. What is the reason for the inclusion of language at the end of the amendment reading:

Except pursuant to an agreement hereafter made by the President by and with the advice and consent of the Senate as provided by section 205 of the National Aeronautics and Space Act of 1958.

The Chair, to make it clear why he is asking the question, has examined section 205 of that act. That says:

INTERNATIONAL COOPERATION

Sec. 205. The Administration, under the foreign policy guidance of the President, may engage in a program of international cooperation in work done pursuant to this Act and in the peaceful application of the results thereof, pursuant to agreements made by the President with the advice and consent of the Senate.

The problem the Chair is considering is why there is any need to include the language at the end of the amendment unless in some way it changes existing law?

MR. [THOMAS M.] PELLY [of Washington]: Mr. Chairman, I would say that it does not change existing law but simply follows it. But, in order to clarify this matter I ask unanimous consent to strike from the amendment the words from "except pursuant to an agreement" to the end.

THE CHAIRMAN: Is there objection to the request of the gentleman from Washington?

There was no objection.

Answering Inquiries

§ 3.33 The Speaker may answer parliamentary inquiries regarding the applicability of the rules of the House to standing committees.

On Feb. 15, 1949,⁽¹⁹⁾ parliamentary inquiries were made concerning the applicability of the House rules to the standing committees.

MR. [EARL] CHUDOFF [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER [Sam Rayburn, of Texas]: The gentleman will state it.

MR. CHUDOFF: Mr. Speaker, I should like to know whether the committees of this House operate under the same rules as the House.

THE SPEAKER: The rules of the House so provide.

MR. CHUDOFF: Mr. Speaker, I should like to know further whether this House has a right to appeal from a ruling of the Chair.

THE SPEAKER: Any Member has the right to appeal from the ruling of the Chair.

MR. CHUDOFF: I should like to know whether, under that ruling, members of the committee can appeal from the ruling of the chairman of the committee.

THE SPEAKER: They can.

MR. CHUDOFF: So that the chairman of a committee who had his ruling ap-

pealed from would have no right other than to allow that appeal to go before the entire committee; is that right, Mr. Speaker?

THE SPEAKER: The rules of the House provide that the rules of the House are made the rules of its standing committees so far as applicable. The Members of the House have a right to appeal from a decision of the Chair. That would also apply in a committee.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Suppose a question is raised here and a roll call is asked for, and one-fifth of the Members rise and ask for a roll call, and the Chair holds that a roll call is called for, no appeal from that ruling would be in order, would it?

THE SPEAKER: That would be in accordance with the rules of the House.

MR. RANKIN: Certainly. That is just what happened in the committee this morning. I demanded a roll call and asked for a showing of hands, and more than one-fifth voted for a roll call. One member tried to appeal from the decision, which, of course, was ridiculous. Then a few of them walked out, evidently to keep from going on record.

THE SPEAKER: The Chair was only answering the parliamentary inquiry. He does not know what happened in the committee.

§ 3.34 The Speaker may decline to immediately answer a parliamentary inquiry

19. 95 CONG. REC. 1212, 1213, 81st Cong. 1st Sess.

when the inquiry would better be taken under advisement.

On July 21, 1956,⁽²⁰⁾ a parliamentary inquiry was directed to Speaker Sam Rayburn, of Texas:

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. HOFFMAN [of Michigan]: Mr. Speaker, can a regular or select committee of the House authorize its chairman to file, subsequent to adjournment sine die, with the Clerk for printing as House documents reports which are approved by a majority of the members of the committee, if such reports do not purport to represent the views and conclusions of the entire membership?

THE SPEAKER: That is something the Chair would certainly have to take under advisement and it would take some time.

§ 3.35 The Speaker may request that a parliamentary inquiry be withheld under certain circumstances until the Speaker has had sufficient time to determine certain facts.

On July 8, 1957,⁽¹⁾ a parliamentary inquiry was addressed to Speaker Sam Rayburn, of Texas:

20. 102 CONG. REC. 13832, 84th Cong. 2d Sess.

1. 103 CONG. REC. 11012, 85th Cong. 1st Sess.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I desire to propound a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. SMITH of Virginia: Mr. Speaker, the bill, H.R. 6127, known as the civil rights bill, as it passed the House, contained an amendment, one amendment, which should have been printed on page 13 where it was adopted. By inadvertence an error was made in the Journal and in the printing of the bill, and the bill was printed so that the amendment appears at the bottom of page 8 of the bill instead of as a new section on page 13. It was so messaged to the other body in the erroneous form. In other words, the House sent to the other body a bill which is not in conformity with the action of the House. The bill was received by the other body and was read the first time and was then read the second time and it is now on the calendar of the other body. My parliamentary inquiry is whether it is not the proper procedure at this time to ask the other body to return the bill to the House for action to conform to what actually took place and to conform with the Record and the Journal of the House.

THE SPEAKER: The Chair would ask the gentleman from Virginia to withhold his inquiry for the purpose of enabling the Chair to look further into the matter.

MR. SMITH of Virginia: I thank the Speaker.

§ 3.36 The Speaker, and not the Chairman of the Committee of the Whole, is considered the proper person to

answer parliamentary inquiries regarding points of order which might be made against a conference report under consideration in the House.

On May 18, 1966,⁽²⁾ a parliamentary inquiry was addressed to the Chairman of the Committee of the Whole, Eugene J. Keogh, of New York:

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONAS: In case the bill agreed on in the conference should delete this amending language, and the bill which came back to the House contained the objectionable language, against which the point of order was lodged, could a point of order be made against the conference report to strike that language?

THE CHAIRMAN: The present occupant of the chair would not assume to undertake to suggest what would be done by the Speaker in that event.

MR. JONAS: That would be a matter for the Speaker to decide.

THE CHAIRMAN: The gentleman is correct.

§ 3.37 The Speaker, and not the Chairman of the Committee of the Whole, is considered the person having authority to answer par-

2. 112 CONG. REC. 10895, 89th Cong. 2d Sess.

liamentary inquiries regarding voting requirements in the House.

On June 13, 1946,⁽³⁾ a parliamentary inquiry was addressed to the Chairman of the Committee of the Whole, William M. Whittington, of Mississippi:

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE: Would it be possible to get a rule making in order a paragraph which had previously been stricken from the bill on a point of order, unless that rule was adopted by a two-thirds vote?

THE CHAIRMAN: The Chair may say to the gentleman that that inquiry is not one that can be answered in the Committee of the Whole. It is a matter that would have to be determined by the Speaker of the House.

§ 3.38 It is within the authority of the Speaker, and not the Chairman of the Committee of the Whole, to answer parliamentary questions concerning possible procedures whereby the House could authorize the Committee of the Whole to sit in executive session.

On May 9, 1950,⁽⁴⁾ a parliamentary inquiry was addressed to the

3. 92 CONG. REC. 6877, 79th Cong. 2d Sess.

4. 96 CONG. REC. 6746, 81st Cong. 2d Sess.

Chairman of the Committee of the Whole:

MR. [ERRETT P.] SCRIVNER [of Kansas]: Mr. Chairman . . . I would submit a parliamentary inquiry as to whether or not an executive session could be held and, if so, what procedure would be necessary to bring that to pass before we are asked to vote upon the \$350,000,000 additional.

THE CHAIRMAN [Mike Mansfield, of Montana]: The Chair will state to the gentleman from Kansas that the Committee of the Whole would have no control over that. That would be a matter for the House itself to decide.

MR. SCRIVNER: I understand that, of course, and raised the question for information of the Members. Since it is a matter for the House to determine, as a further parliamentary inquiry, what would be the method followed to take that action?

THE CHAIRMAN: The Chair will say to the gentleman from Kansas that a parliamentary inquiry of that sort should be addressed to the Speaker rather than the chairman.

Accepting subpoena

§ 3.39 The Speaker accepts service of a subpoena duces tecum in his official capacity as Speaker of the House.

On Feb. 11, 1965,⁽⁵⁾ Speaker John W. McCormack, of Massachusetts, made an announcement concerning a subpoena duces tecum from a U.S. District Court.

THE SPEAKER: The Chair desires to make a statement.

5. 111 CONG. REC. 2645, 89th Cong. 1st Sess.

The Chair, in his official capacity as Speaker of the House, has been served with a subpoena duces tecum, issued by the U.S. District Court for the District of Columbia, commanding him to appear in the said court to testify in the case of the United States of America against Russell Nixon, Dagmar Wilson, and Donna Allen on the 18th day of March 1965.

Under the precedents of the House, the Chair is unable to comply with this subpoena without the consent of the House, the privileges of the House being involved. The Chair therefore submits the matter for the consideration of this body. The Clerk will read a copy of the subpoena. . . .⁽⁶⁾

Certifying for Contempt

§ 3.40 The Speaker may be authorized by a formal House resolution to certify to a U.S. attorney the names of persons found to be in contempt of a House committee.

On Mar. 28, 1946,⁽⁷⁾ the following resolution was introduced in the House:

MR. [JOHN S.] WOOD [of Georgia]: Mr. Speaker, I offer a privileged resolution (H. Res. 573) and ask for its immediate consideration.

6. *Parliamentarian's Note*: In order to avoid the problems which might be associated with his being served in the Capitol Building, the Speaker agreed in advance to receive the deputy marshal in his hotel suite.

7. 92 CONG. REC. 2745, 79th Cong. 2d Sess.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following persons to produce before the said committee for its inspection the books, papers, and records of an unincorporated organization known as the Joint Anti-Fascist Refugee Committee, with offices at 192 Lexington Avenue, New York, N.Y., together with all the facts relating thereto, under seal of the House of Representatives, to the United States attorney for the District of Columbia to the end that the said persons named below may be proceeded against in the manner and form provided by law: . . .

[Names]

On Aug. 2, 1946,⁽⁸⁾ the following resolution was introduced in the House:

THE SPEAKER: [Sam Rayburn, of Texas]: The Clerk will read the resolution.

The Clerk read as follows:

Resolved, That the Speaker of the House of Representatives certify the foregoing report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following person to produce before the said committee for its inspection certain books, papers, and records which had been duly subpoenaed, and to testify under oath concerning all pertinent facts relating thereto; under seal of the House of Representatives to the United States attorney for the District of Columbia to the end that the said person

named below may be proceeded against in the manner and form provided by law; Richard Morford, 114 East Thirty-second Street, New York, N.Y.

§ 3.41 When the Speaker certifies to a U.S. District Attorney for prosecution (2 USC §194) the name of a person a House committee has found to be in contempt, it has been held that no further action of the House is required for the courts to begin proceedings.

On Nov. 14, 1944,⁽⁹⁾ Speaker Sam Rayburn, of Texas, made an announcement concerning his certification to the U.S. Attorney of the District of Columbia of statements of fact concerning the willful refusal of certain individuals to testify for a special committee of the House:

THE SPEAKER: The Chair desires to announce that during the past recess of the Congress the Special Committee to Investigate Campaign Expenditures authorized by House Resolution 551, Seventy-eighth Congress, reported to and filed with the Speaker statements of facts concerning the willful and deliberate refusal of Edward A. Rumely of the Committee for Constitutional Government and Joseph P. Kamp of the Constitutional Educational League, Inc., to testify and to produce the books, papers, records, and documents

8. 92 CONG. REC. 10748, 79th Cong. 2d Sess.

9. 90 CONG. REC. 8163, 78th Cong. 2d Sess.

of their respective organizations before the said Special Committee of the House, and the Speaker, pursuant to the mandatory provisions of Public Resolution No. 123, Seventy-fifth Congress, certified to the United States attorney, District of Columbia, the statement of facts concerning the said [persons]. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Mr. Speaker, what is necessary to dispose of the document which the Speaker has just read? Will it require a resolution by the House or will it be referred to some committee?

THE SPEAKER: That is not necessary under the statute. It is before the court now.

MR. RANKIN: I understand, but in order to call for court action it will be necessary, as I understand it, to have a resolution from the House.

THE SPEAKER: The Chair thinks not, under the law.

§ 3.42 Once authorized by the House, the Speaker certifies to U.S. District Attorneys for prosecution the names of persons that House committees have found to be in contempt.

On Aug. 24, 1960,⁽¹⁰⁾ Speaker San Rayburn, of Texas, made the following announcement:

THE SPEAKER: The Chair desires to announce that, pursuant to sundry res-

10. 106 CONG. REC. 17479, 86th Cong. 2d Sess.

olutions of the House, he has, today, made certifications to the U.S. attorney, District of Columbia, and to the U.S. attorney, Commonwealth of Puerto Rico, as follows:

To the U.S. attorney, District of Columbia:

House Resolution 606, the refusal of Austin J. Tobin to furnish certain documents to the Committee on the Judiciary. . . .

Ending Contempt Proceedings

§ 3.43 The Speaker must be formally authorized by the House to certify to a U.S. District Attorney the name of a person who has purged himself of contempt of a House committee for purposes of ending prosecution of the person.

On July 23, 1954,⁽¹¹⁾ the following resolution was introduced in the House:

MR. [HAROLD H.] VELDE [of Illinois]: Mr. Speaker, I offer a resolution (H. Res. 681) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives concerning the action of Francis X. T. Crowley in purging himself of contempt of the House of Representatives of the

11. 100 CONG. REC. 11650, 83d Cong. 2d Sess.

United States, together with all the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the District of Columbia to the end that legal proceedings based upon the matter certified by the Speaker pursuant to H. Res. 541, 83d Congress, second session, against the said Francis X. T. Crowley may be withdrawn and dropped in the manner and form provided by law.

Emergency Recesses

§ 3.44 In cases of emergency, the Speaker has the inherent power to declare recesses of the House subject to the call of the Chair.

On Mar. 2, 1943,⁽¹²⁾ Speaker Sam Rayburn, of Texas, declared a recess of the House pursuant to his inherent powers in the case of an emergency.

THE SPEAKER: The time of the gentleman from Massachusetts has expired.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Nichols: On page 1, line 4, after "on" and before "aviation", insert "civil and commercial."

Mr. [ALFRED L.] BULWINKLE [of North Carolina]: I rise in opposition to the amendment.

THE SPEAKER: The gentleman from North Carolina is recognized for 1 hour.

12. 89 CONG. REC. 1487, 78th Cong. 1st Sess.

MR BULWINKLE: Mr. Speaker—

RECESS

THE SPEAKER: Pursuant to the inherent power lodged in the Presiding Officer in case of emergency, the Chair declares this House in recess subject to the call of the Chair for the purpose of participating in a practice air-raid drill. The alarm has sounded. Members will leave the Chamber as rapidly as possible, and the galleries will be cleared.

Accordingly (at 2 o'clock and 18 minutes p.m.) the House stood in recess, subject to the call of the Speaker.

On Mar. 1, 1954,⁽¹³⁾ Speaker Joseph W. Martin, Jr., of Massachusetts, without authorization, declared the House in recess.

At approximately 2 o'clock and 30 minutes p.m. a demonstration and the discharge of firearms, from the southwest House Gallery, interrupted the counting of the vote; the Speaker, pursuant to the inherent power lodged in the Presiding Officer in the case of grave emergency, after ascertaining that certain Members had been wounded and to facilitate their care, at 2 o'clock and 32 minutes p.m. declared the House in recess, subject to the call of the Chair.

Enforcing Rules of Comity

§ 3.45 The Speaker, on the part of the House, has within his

13. 100 CONG. REC. 2434, 83d Cong. 2d Sess.

For a more detailed treatment of this precedent, see Ch. 4, supra.

authority the enforcement of the customary rules of comity between the House and the Senate.

On Jan. 17, 1955,⁽¹⁴⁾ Speaker Sam Rayburn, of Texas, announced his policy with the regard to the rule of comity between the two Houses.

THE SPEAKER: The Chair desires to make this statement at the beginning of this session with reference to something that has been maintained by every Speaker of the House since the present occupant of the Chair has been a Member of this body, and that is that the House of Representatives, regardless of what any other body or any other individual does, has maintained strictly those rules and regulations which protect and perpetuate the comity between the two Houses. And when any Member of this House rises to make remarks about what has happened in another body or about any individual in that body, the present occupant of the Chair will certainly see that the rules of the House and the rules of comity between the two Houses are enforced.

On Mar. 26, 1964,⁽¹⁵⁾ a Member made reference to a Senator in the course of debate:

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Speaker, I want to express myself as being in whole-heart-

14. 101 CONG. REC. 386, 84th Cong. 1st Sess.

15. 110 CONG. REC. 6361, 88th Cong. 2d Sess.

ed disagreement with the amazing, incredible, and dismaying remarks regarding American foreign policy of the chairman of the Senate Foreign Relations Committee made on the Senate floor yesterday. . . .

May the Lord help us should this sort of policy be in effect—

MR. [KENNETH] HECHLER [of West Virginia]: Mr. Speaker, a point of order.

THE SPEAKER: [John W. McCormack, of Massachusetts]: The gentleman will state it.

MR. HECHLER: Mr. Speaker, the gentleman's remarks are directed to a Member of the other body, which is a violation of the rules of the House.

THE SPEAKER: The Chair will say that under the rules no Member may refer to a Member of the other body, or to a speech another Member has made in that body.

The gentleman from New Hampshire will proceed in order.

MR. WYMAN: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. WYMAN: Mr. Speaker, I had no intention to violate the rules of the House. The speech is a matter of record. It was made by the chairman of the Foreign Relations Committee of the Senate, and I do not know how I could refer to it otherwise. The speech is in the Record, and it is before us at our seats.

May I inquire as to how I may now properly refer to the speech and disassociate myself from its views without referring to its author?

THE SPEAKER: The Chair has stated what the rules of the House are. The

Chair did not use the word "violate." The Chair did not go that far. The Chair simply says reference to a Member of the other body is not proper, and is not consistent with the rules of the House. The gentleman was recognized to proceed in order.

MR. WYMAN: Mr. Speaker, I will, of course, accord with the rule and I will therefore refer only to prominently publicized remarks appearing on the front pages of the Nation's newspapers of last night and this morning

§ 4. Limitations on the Speaker's Powers

As previously noted, the Speaker is not unlimited in the exercise of his various powers. The House rules and precedents serve not only as a guide for his actions but also as a constraint on them. In Jefferson's Manual, the author noted the importance of such constraints:

And whether these forms be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker. . . .⁽¹⁶⁾

Thus, the Speaker is constrained to follow formal procedures when they exist. For exam-

16. *House Rules and Manual* §285 (1973).

ple, the Speaker normally does not refer matters to the various House committees without first examining the measures⁽¹⁷⁾ and conferring with the House Parliamentarian.⁽¹⁸⁾

The Speaker is, of course, guided in his duties by the House rules and precedents. Thus, he normally does not comment on the advisability of one rule over another in a case where a previous rule is in conflict with a current rule,⁽¹⁹⁾ nor does he normally rule on a point of order in such a way as to overturn previous rulings, though he has the power to do so.⁽¹⁾

Though in certain circumstances it might seem helpful for the Speaker to interpret the Senate rules of procedure, he does not normally even attempt to do so.

Similarly, the Speaker does not rule on the effect of a resolution being considered by the House which deals with the House rules.⁽²⁾

17. See § 4.2, *infra*.

18. See § 4.3, *infra*. See Ch. 16, *infra*, for treatment of reference of bills to committees.

19. See § 4.4, *infra*. See Ch. 5, *supra*, for treatment of the House rules.

1. See § 4.5, *infra*. See Ch. 31, *infra*, for fuller treatment of the Speaker's rulings on points of order.

2. See § 4.8, *infra*.