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 example, 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]

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

**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.

Whether a Member may display exhibits during his remarks is a matter for the House and not the Speaker to decide.[3]

Tke Speaker's duty to rule on various points of order is limited in certain ways.[4] It is considered improper for the Speaker to rule, for example: on the constitutionality of measures;[5] on the effect of an amendment;[6] on the merits of a measure;[7] on the purpose of an amendment;[8] on the sufficiency, insufficiency, or binding effect of a committee report;[9] on the substantive effect of extraneous material in a committee report;[10] on the possible ambiguity of language in a measure;[11] on the propriety of instructions that might subsequently accompany a motion to recommit a measure;[12] on the propriety of an announced speech topic in advance of its delivery;[13] or on how the results of a vote should be construed.[14]

In many situations, the Speaker is entitled to perform certain actions only after the House has given him its formal authorization. Thus, for example, under normal circumstances, the Speaker must be authorized by the House prior to declaring a recess.[15] This authorization may later be vacated by the House.[16]

The Speaker must also be authorized to sign enrolled bills and joint resolutions during House adjournments.[17] The Speaker's signature may later be rescinded by House action.[18]

### *Congressional Record Policy*

**§ 4.1 Although the Speaker may have set policy regard-**

3. See § 4.10, infra. See Ch. 29, infra, for fuller treatment of the Speaker's role in consideration and debate of legislative measures, and as to the use of exhibits.
4. See Ch. 31, infra, for fuller treatment of the Speaker's role vis-a-vis points of order.
5. See § 4.18, infra.
6. See § 4.19, infra.
7. See § 4.20, infra.
8. See § 4.21, infra.
9. See § 4.22, infra.
10. See § 4.23, infra.
11. See § 4.24, infra.
12. See § 4.25, infra. See Ch. 28, infra, for treatment of the germaneness rule generally.
13. See § 4.26, infra.
14. See §§ 4.27, 4.28, infra.
15. See § 4.34, infra. See also § 3.44, supra, for Speaker's power to declare recesses in an emergency. See Ch. 39, infra, for fuller treatment of the Speaker's role in recessing the House.
16. See § 4.35, infra.
17. See §§ 4.37, 4.38, infra. See Ch. 24, infra, for fuller treatment of the formal passage of bills.
18. See §§ 4.39, 4.40, infra

**ing matter to be included in the Congressional Record, it is a matter for the House to decide whether such a policy, not being a House rule, shall be followed.**

On Mar. 6, 1945,[19] Speaker Sam Rayburn, of Texas, discussed extension of remarks in the *Congressional Record* in response to a parliamentary inquiry:

> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. RANKIN: Mr. Speaker, on yesterday several Members made 1 minute speeches. Among them was the gentleman from Arkansas . . . the gentle man from Nevada . . . the gentleman from New York . . . and your humble servant.
>
> Without consulting the gentleman from Nevada . . . or the gentleman from Arkansas . . . or me, somebody down the line inserted our speeches in the Appendix of the Record and left the speech made by the gentleman from New York . . . in the body of the Record where it should be.
>
> As I understand the rules of the House, nobody in the Printing Office has any right to change this Record. One reason I am raising this question is this: The Speaker is familiar with the fact that a short time ago, I made a short address on the floor and when it was sent down to the Printing Office it had a heading on it, and . . . one of the Official Reporters in the well of the House here called down there at midnight and had that heading changed.
>
> It seems to me that we have come to the time, if Congress is going to control the Congressional Record, that we might as well find it out. I understand it has been the ruling of the Chair that where a Member makes a 1-minute speech, if he asks to insert extraneous matter that contains more than 300 words, the speech must be inserted in the Appendix of the Record. But where a Member makes his own speech and extends his own remarks, he has the right to have that speech appear in the Record at that point. . . .
>
> THE SPEAKER: The Chair can reiterate what he has said many times.
>
> When I became majority leader, I made the statement to the House, after consulting with the minority leader, who I think at that time was Mr. Snell, of New York, that if anyone asked to proceed for more than 1 minute before the legislative program of the day was completed we would object. Since then Members have not asked to proceed for more than a minute before the legislative program.
>
> Then Members began speaking for a minute and putting into the Record a long speech, so that 10 or a dozen pages of the Record was taken up before the people who read the Record would get to the legislative program of the day, in which I would think they would be the most interested. So we adopted the policy—there is no rule about it—of asking that when Members speak for a minute, if their remarks are more than 300 words, which many times can be said in a minute,

**19.** 91 CONG. REC. 1788, 1789, 79th Cong. 1st Sess.

their remarks or any extension of their remarks go in the Appendix of the Record. The Chair has on numerous occasions spoken to those who control the Record and asked them to follow that policy.

MR. RANKIN: Mr. Speaker, I take issue of course with that policy, because these 1-minute speakers do not abuse the Record, as a rule. The only question that has been raised about any abuse of the Record in regard to these 1-minute speeches was with reference to a speech made on the 5th of February, I believe, wherein the 1-minute speaker used several pages.

THE SPEAKER: The Chair might state also that when there is no legislative program in the House for the day, such speeches may go in, and they will go in as 1-minute speeches.

MR. [DANIEL A.] REED of New York: Mr. Speaker, verifying the statement, which, of course, needs no verification, I remember going to the Speaker and asking if it would be proper to put the speech in the body of the Record, and the Speaker said that there was no legislative program for the day and there was no reason why a Member could not do it. I assume that was on the 5th of February.

THE SPEAKER: That is correct.

Mr. Rankin: Let me say to the gentleman from New York that on yesterday one of the Members made a speech that you will find in the Record almost or quite as long as the speech of the gentleman from Nevada . . . or the one of the gentleman from Arkansas . . . or the one that I made. It was placed in the body of the Record, and it was in excess of 300 words. I can go back through the Record here and find numerous occasions.

If we are going to adopt the policy that everybody who speaks in the well of the House and uses over 300 words must have his speech printed in the Appendix, it should apply to all of us.

. . . I think this should be a matter to be settled by the membership of the House. . . .

THE SPEAKER: The House has that within its entire control at any time it desires to act upon the question. . . .

Mr. Rankin: Let me ask the Speaker now, I want to know, because the Members of the House are all interested, if Members, when they make a 1-minute speech, use more than 300 words, it is to be printed in the Appendix of the Record and not in the body?

THE SPEAKER: That is correct.

MR. RANKIN: So the rule will be applied to all alike?

THE SPEAKER: The Chair tries to apply that rule.

### *Announcing Reference of Bill*

**§ 4.2 The Speaker may refuse to say, in advance of examination of a bill, to which committee the bill will be referred.**

On Feb. 1, 1966,[1] parliamentary inquiries were addressed to Speaker John W. McCormack, of Massachusetts:

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

1. 112 CONG. REC. 1716, 89th Cong. 2d Sess.

MR. HALL: . . . [M]y parliamentary inquiry would involve two questions: First, would reference of the President's message to the Committee on Foreign Affairs of this House automatically involve reference of bills referred to therein to the same committee of this House?

THE SPEAKER: It would depend upon the nature of the bill. The answer as to one does not necessarily follow as to the other. On the other hand, the provisions of the bill and the Rules of the House would govern.

MR. HALL: I thank the Speaker.

The second portion of my parliamentary inquiry, Mr. Speaker, if I may continue, is this: In view of the fact that the military and economic authorization requests are to be contained, according to the President's message, in two separate bills—again, for the first time in some years—would the military authorization part thereof, when submitted, apparently by the administration, per this message, be referred to the Legislative Committee on Armed Services of this House, or would it go to the Committee on Foreign Affairs?

THE SPEAKER: The Chair is not prepared to answer that inquiry at the present time, because the answer to the second inquiry would relate back to the first inquiry made by the gentleman from Missouri, and the response of the Chair to that inquiry.

In the opinion of the Chair, the second question is related to the first question, that question being answered that it does not necessarily follow that specific legislation would be referred to the committee to which the message would be referred.

MR. HALL: I thank the Speaker.

THE SPEAKER: Therefore, the Chair does not feel able to pass upon the second inquiry until the Chair has had an opportunity to observe the provisions of the bill.

### *Bill Reference After Consultation*

### § 4.3 The Speaker may withhold referral of a Senate bill on the Speaker's Table until he has studied the question, consulted with the Parliamentarian, and decided on the proper jurisdiction.

On June 6, 1949,[2] Speaker Sam Rayburn, of Texas, indicated the nature of his duty to refer bills to committees.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. PATMAN: Mr. Speaker, may I ask the status of the bill S. 1008, which, I understand, was messaged over from the Senate on Friday last?

THE SPEAKER: The Chair understands it is on the Speaker's table.

MR. PATMAN: Will it be referred to the Committee on the Judiciary?

THE SPEAKER: The Chair does not know about that.

MR. PATMAN: What action will be necessary in order to get it referred to the committee?

THE SPEAKER: It is the duty and the privilege of the Chair to refer bills to

**2.** 95 CONG. REC. 7255, 81st Cong. 1st Sess.

whatever committee he desires, after consultation with the Parliamentarian, of course. The Chair will not recognize any motion in that regard at this time.

### *Speaker Guided by Rules and Precedents*

### § 4.4 It has been considered not within the province of the Speaker to pass on the advisability of a more recent House rule which appears to conflict with previous ones.

On July 16, 1935,[3] Speaker Joseph W. Byrns, of Tennessee, responded to a point of order.

THE SPEAKER: The Chair is ready to rule.

Last Friday the gentleman from Texas [Mr. Blanton] kindly indicated that it was his purpose to make the point of order he has raised today when the House began consideration of the so-called "omnibus private claims bill." The gentleman from Texas has served in the House for many years with distinction and is familiar with the rules of the House, and the Chair has given considerable thought to the point of order since the gentleman indicated on last Friday that it was his purpose again to raise it on this occasion.

The gentleman from Texas, in his argument today, has contended that this rule conflicts with a number of rules to which he has referred. Without passing upon the question of whether or not there is a conflict, the Chair will state that if there is a conflict the rule last adopted would control. The Chair assumes that if this rule should be found to conflict with previous rules, that the House intended, at least by implication, to repeal that portion of the previous rule with which it is in conflict.

The Chair may state that in passing upon this point of order it is not the province of the Chair, nor has the Chair any such intention, to pass upon the question of whether or not this rule is advisable or whether a better one could have been adopted.

### § 4.5 Although it is within the authority of the Speaker to rule on a point of order in such a way as to overturn previous precedents of the House, the Speaker in most instances follows the precedents of the House when they are very clearly applicable to a given situation.

On June 24, 1958,[4] a point of order was raised against the following remarks of a Member:

MR. [THOMAS B.] CURTIS of Missouri: . . . If this committee [the Subcommittee of the Interstate and Foreign Commerce Committee on Legislative Oversight] does not intend to do its job, but rather intends to continue this campaign on these collateral issues which I have alleged, in my judgment, amount to defamation, I think it should be called sharply to

3. 79 CONG. REC. 11264, 74th Cong. 1st Sess.

4. 104 CONG. REC. 12121, 12122, 85th Cong. 2d Sess.

task first by the full Committee on Interstate and Foreign Commerce, and if the full committee fails in this responsibility then the House should take action. . . . Not only is this subcommittee, in my judgment, not doing the job that needs to be done, it has brought the institution again, in my judgment, into disrepute by disregarding the rules of the House and permitting a committee of the House to be used as a forum in this fashion.

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, I must object again and ask that those words be deleted.

MR. CURTIS of Missouri: I would like to ask the gentleman before he does, just what language is he objecting to?

MR. HARRIS: To the charge that this committee is violating the rules of the House.

MR. CURTIS of Missouri: Well, I certainly do charge that and I think it is proper to charge such a thing if I have presented the evidence. How else are we going to present the case to the House?

THE SPEAKER [Sam Rayburn, of Texas]: There is a long line of decisions holding that attention cannot be called on the floor of the House to proceedings in committees without action by the committee. The Chair has just been reading a decision by Mr. Speaker Gillett and the decision is very positive on that point.

MR. CURTIS of Missouri: Mr. Speaker, in addressing myself to that, may I say I am unaware of such a rule and I would argue, if I may, in all propriety, that that rule, if it does exist, should be changed because how else will the House ever go into the functioning and actions of its committees?

THE SPEAKER: That is not a question for the Chair to determine. That is a question for the House to change the rule.

MR. CURTIS of Missouri: Mr. Speaker, is it a rule or is it a ruling? If it is a ruling of the Chair, then it is appropriate for the Chair to consider it.

THE SPEAKER: The precedents of the House are what the Chair goes by in most instances. There are many precedents and this Chair finds that the precedents of the House usually make mighty good sense.

MR. CURTIS of Missouri: But the Chair can change a precedent. That is why I am trying to present this matter.

THE SPEAKER: If the Chair did not believe in the precedents of the House, then the Chair might be ready to do that, but this Chair is not disposed to overturn the precedents of the House which the Chair thinks are very clear.

### *Interpreting Senate Rules*

### § 4.6 The Chairman of the Committee of the Whole may decline to interpret the rules or procedures of the Senate.

On June 6, 1961,[5] a Member raised the following question:

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Chairman, the language of the amendment now pending at the desk is the identical language that came into conference from the other body following action of the House, and my amendment in 1959 became incor-

**5.** 107 CONG. REC. 9627, 87th Cong. 1st Sess.

porated, I believe, in the conference report. Does that in any way change the legislative history of the amendment?

THE CHAIRMAN [Paul J. Kilday, of Texas]: The Chair may advise the gentleman that nothing is pending before the Chair, but by way of observation, the language the gentleman speaks of was apparently added by the other body. The present occupant of the Chair would not attempt to state or to interpret the rules or procedure of the other body.

### *Passing on Resolutions and Special Orders*

**§ 4.7 The Speaker may decline to answer hypothetical questions regarding special orders.**[6]

**§ 4.8 The Chair does not pass on the effect of a pending resolution amending the House rules.**

On Apr. 25, 1967,[7] a parliamentary inquiry concerning the effect of a resolution [H. Res. 42] amending the rules of the House was addressed to Speaker pro tempore Carl Albert, of Oklahoma:

MR. [DURWARD G.] HALL [of Missouri]: . . . [W]ill the distinguished gentleman yield at this time for a parliamentary inquiry of the Chair, inasmuch as it is important that we try to envisage, in passing this legislation today, what effect it will have on the future rules of procedure in the House, and their application.

MR. [WILLIAM M.] COLMER [of Mississippi]: I yield to the gentleman from Missouri.

THE SPEAKER PRO TEMPORE: The Chair must advise the distinguished gentleman from Missouri that this is a matter for debate on a resolution pending and not a matter properly within the jurisdiction of the Chair on a parliamentary inquiry. It is up to the sponsor of the resolution to explain the terms of the resolution.

### *Quorum Request Not Dilatory*

**§ 4.9 Since the Constitution defines a quorum of the House and states that it shall be required for the conduct of business, a point of order that a quorum is not present is in order in the absence of a quorum, and the Chair does not hold such a point to be dilatory.**

On Oct. 8, 1968,[8] Speaker pro tempore Wilbur D. Mills, of Arkansas, heard a parliamentary inquiry concerning an alleged dilatory tactic.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

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**6.** Special orders generally, see Ch. 21, infra.

**7.** 113 CONG. REC. 10710, 90th Cong. 1st Sess.

**8.** 114 CONG. REC. 30097, 90th Cong. 2d Sess.

MR. [JAMES C.] WRIGHT [Jr., of Texas]: I thank the Speaker for permitting me this additional parliamentary inquiry. . . .

On occasion the Chair has held that certain motions and points of order amounted to dilatory tactics, and that that was their obvious motivation, and on those occasions the Chair has summarily refused to recognize such obviously dilatory points of order and motions.

Mr. Speaker, my point of parliamentary inquiry is: would the Chair not feel that under the present situation, with repeated points of order being made that a quorum is not present, immediately followed by the absenting of themselves by certain Members who have come in to answer the quorum, to be a rather obvious dilatory tactic, and one which might obviously lend itself to the assumption on the part of the Chair that a quorum having been established and proven so frequently and repeatedly during the day, would be presumed to be present for the completion of business?

THE SPEAKER: PRO TEMPORE: (Mr. Mills): The Chair is ready to respond to the parliamentary inquiry posed by the gentleman from Texas.

It is the understanding of the Chair that no occupant of the Chair has ever in the history of the Congress held that a point of order that a quorum is not present is a dilatory tactic. The reasoning, obviously, is that the Constitution itself requires the presence on the floor of the House of a quorum at all times in the transaction of the business of the House of Representatives.[9]

### *Permitting Exhibits*

**§ 4.10 It is for the House and not the Speaker to decide whether a Member may be allowed to display an exhibit in debate.**

On June 2, 1937,[10] a point of order was made concerning the display of an exhibit during debate in the House.

MR. [MAURY] MAVERICK [of Texas]: Mr. Speaker, I make the point of order that the gentleman has no right to display a liquor bottle in the House of Representatives.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, this is Government rum, presented to me by Secretary Ickes.

THE SPEAKER: [William B. Bankhead, of Alabama]: The gentleman will suspend. The gentleman from Texas makes the point of order that the gentleman from Pennsylvania has no right to exhibit the bottle without permission of the House. The point of order is well taken.

MR. [CHARLES W.] TOBEY [of New Hampshire]: Mr. Speaker, a parliamentary inquiry.

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**9.** *Parliamentarian's Note:* The precedents of the House which indicate that the Chair has held a point of no quorum to be dilatory when it immediately follows a call of the House which discloses the presence of a quorum are not applicable to the situation where there is "intervening business" between the establishment of the quorum and the making of the point of no quorum. Generally, see Ch. 20, infra.

**10.** 81 CONG. REC. 6104, 6105, 75th Cong. 1st Sess.

THE SPEAKER: The gentleman will state it.

MR. TOBEY: The Speaker called the attention of the gentleman from Texas to the fact that the gentleman had a bottle of liquor.

How does the Speaker know it is liquor, sir?

THE SPEAKER: That is a question of which the House cannot take judicial notice. The point of order is well taken.

The Chair will submit it to the House, if the gentleman insists on displaying the exhibit.

MR. MAVERICK: I insist on the point of order, Mr. Speaker.

THE SPEAKER: As many as are in favor of granting the gentleman from Pennsylvania the right to exhibit the bottle which he now holds in his hand will say "aye" and those opposed will say "no."

The vote was taken and the Speaker announced that the ayes have it, and the permission is granted.

### *Answering Parliamentary Inquiries*

### § 4.11 The Speaker normally declines to answer parliamentary inquiries that are improperly addressed to him.

On Apr. 11, 1935,[11] a parliamentary inquiry was addressed to Speaker Joseph W. Byrns, of Tennessee:

MR. [JOSEPH P.] MONAGHAN [of Montana]: Mr. Speaker

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

MR. MONAGHAN: For the purpose of submitting a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MONAGHAN: Is not the statement that was made by the gentleman from Oregon [Mr. Mott] correct, that if this rule passes, then only one particular plan, the plan that we now have under discussion, may be passed upon by the Congress,

THE SPEAKER: The Chair is not in position to answer that parliamentary inquiry. That is a matter which will come up subsequently under the rules of the House. The Chair would not seek to anticipate what the Chairman of the Committee of the Whole may rule or what the Committee itself may do. The Chair feels very certain that the Chairman of the Committee will he governed, as all chairmen of committees are, by the rules and precedents of the House. Certainly the Chair would not anticipate his ruling; and in addition to this, the Chair cannot pass upon any particular amendment until it has been presented in all its phases.

### § 4.12 The Chair has declined to answer a parliamentary inquiry in the midst of a demand that certain words be taken down.

On Oct. 31, 1963,[12] a Member made some remarks which became the subject of a request that they may be taken down.

THE SPEAKER: [John W. McCormack, of Massachusetts]: Under previous

11. 79 CONG. REC. 5457, 5458, 74th Cong. 1st Sess.

12. 109 CONG. REC. 20742, 88th Cong. 1st Sess.

order of the House, the gentleman from Texas [Mr. Foreman] is recognized for 60 minutes.

MR. [EDGAR FRANKLIN] FOREMAN: Mr. Speaker, Mr. Bernard Baruch once said:

> Every man has a right to his opinion but no man has a right to be wrong in his facts.

My purpose today is to set the facts straight to clarify and briefly discuss a seemingly very interesting and disturbing subject for some colleagues at least of a recent news article by a Washington news correspondent employed by the Scripps-Howard newspapers. . . . I was surprised to see the story written by their dedicated Washington correspondent, Mr. Seth Kantor, last week, because I was quoted as calling 20 of my colleagues in this body "pinkos." Apparently in his zeal to write a colorful and controversial front page story, at the time when congressional news was very meager, this enterprising correspondent decided to do some name calling for me.

"Pinkos" seems to be a very popular and controversial name, so he wrote a story, "Foreman Labels 20 Colleagues Pinkos." The fact of the matter is, to set the record straight, I have only referred to one Member of this body as a "pinko." On Friday, October 18, 1963——

MR [JOHN J.] ROONEY [of New York]: Mr. Speaker, I demand the gentleman's words be taken down.

THE SPEAKER: The gentleman will suspend. The demand has been made that the gentleman's words be taken down.

MR. [BRUCE R.] ALGER [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair cannot entertain that at this time.

## § 4.13 The Speaker does not entertain hypothetical questions.

On Sept. 14, 1944,[13] a parliamentary inquiry was addressed to Speaker pro tempore Orville Zimmerman, of Missouri:

> MR. [CLARK E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE:: The gentleman will state it.
>
> MR. HOFFMAN: I gathered from statements which were made on the floor today that a statement going back as far as 1920 and containing information as to the amounts of money requested by the military establishments of the Government, as to the amounts that had been recommended by the executive department, and as to the amounts finally appropriated by Congress, had been sent to the Committee on Appropriations, but for some 2 years it had been in the safe over there, inaccessible to Members of the House. By what authority or what rule of Congress or what rule governing committees was that suppressed?
>
> THE SPEAKER PRO TEMPORE (Mr. Zimmerman): The present occupant of the chair has no knowledge of any such facts, and therefore is not in a position to answer the gentleman's inquiry.
>
> MR. HOFFMAN: Does the Chair mean he does not have any knowledge that that is true?

**13.** 90 CONG. REC. 7772, 78th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The Chair has no knowledge of that, except that somebody has said it is true, according to the gentleman's statement.

MR. HOFFMAN: Submitting that then as a hypothetical question.

THE SPEAKER PRO TEMPORE: The Chair does not entertain a hypothetical question. . . .

## § 4.14 The Speaker normally avoids answering parliamentary inquiries based upon hypothetical facts or future events which are not certain of happening.

On Mar. 1, 1967,[14] a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts:

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, in view of the fact that I am limited to one inquiry, that one inquiry will of necessity be rather long.

Am I correct in assuming that under the rules in debating House Resolution 278 that now, since the time has been extended an additional hour by unanimous consent over and beyond what the rules of the House provide for, that the gentleman from New York [Mr. Celler] will control the time for the 2 hours less that yielded to the gentleman from West Virginia and that this time will be used for no purpose except debate of House Resolution 278; that he will have the option of determining whether or not amendments or substitutes can be offered; that at the conclusion of this two hours of debate on House Resolution 278 he will move the previous question, which, if voted down, will make amendments or substitutes to House Resolution 278 in order; at that time will the Speaker give preference, if the previous question is voted down, to the minority who oppose the resolution to control the ensuing hour, or will the Chair give preference to committee members who oppose the resolution regardless of which side of the aisle they sit on to offer amendments or substitutes to House Resolution 278; and if amendments or substitutes are offered then will there occur another vote on the previous question, if the preceding previous question is voted down, and what will be the order of priority in recognizing some Member of the House on either side of the aisle, either alternatively Democratic and Republican or alternatively Republican and Democratic in determining who will control each ensuing hour; and will we have the opportunity to vote on all previous questions no matter how many amendments are offered as long as preceding previous questions are voted down?

THE SPEAKER: In answering the several questions involved in the statement made or in the parliamentary inquiry made by the gentleman from Louisiana, the Chair will state that the Chair will follow the rules of the House of Representatives as it is the duty of the Chair to do, and the precedents. The question of the allocation of time is a matter for the chairman of the committee, one-half of the time being yielded to the gentleman from West Virginia [Mr. Moore]. Both the chairman and the ranking minority member

14. 113 CONG. REC. 4997, 90th Cong. 1st Sess.

of the select committee control the allocation of time. The question of recognition is one that the Chair will pass upon if that time should arise.

On the other questions of the gentleman from Louisiana the Chair will determine them as they arise in accordance with the rules of the House and the precedents.

**§ 4.15 Although it is generally within the discretion of the Speaker to construe the applicability of a House rule to a given situation, where a rule explicitly calls for a decision by a House committee the Speaker does not normally answer a general parliamentary inquiry regarding a committee's actions or future actions respecting such a decision.**

On Apr. 5, 1967,[15] a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts:

MR. [SIDNEY R.] YATES [of Illinois]. Mr. Speaker, a parliamentary inquiry:

THE SPEAKER: The gentleman will state it.

MR. YATES: Mr. Speaker, rule XI, 26(m) of the Rules of the House of Representatives states as follows:

> If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—
>
> (1) receive such evidence or testimony in executive session;

Mr. Speaker, my question is this: If the committee determines that the evidence it is about to receive may tend to defame, degrade or incriminate a witness, is it not compulsory under the Rules of the House for the committee to hold such hearings in executive session?

THE SPEAKER: The Chair will state that that is a matter which would be in the control of the committee for committee action.

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

THE SPEAKER: The gentleman will state it.

MR. YATES: I must say that I do not understand the ruling. Is the Chair ruling that a committee can waive this rule? That it can refuse to recognize this rule?

THE SPEAKER: The Chair would not want to pass upon a general parliamentary inquiry, as distinguished from a particular one with facts, but the Chair is of the opinion that if the committee voted to make public the testimony taken in executive session, it is not in violation of the rule, and certainly that would be a committee matter.

**§ 4.16 Although it is considered within the discretion of the Chair to respond to a parliamentary inquiry concerning an amendment, it is not considered proper for him to do so before the amendment is offered.**

15. 113 CONG. REC. 8420, 90th Cong. 1st Sess.

On June 28, 1967,[16] a parliamentary inquiry was addressed to the Chairman of the Committee of the Whole, John J. Flynt, Jr., of Georgia:

MR. [JOSEPH E.] KARTH [of Minnesota]: Mr. Chairman, if that figure cannot be further amended, and the gentleman chooses to pursue his amendment, and change the figure on page 2, would it then be a proper amendment?

THE CHAIRMAN: The Chair does not pass on that until an amendment described by the gentleman from Minnesota is offered.

The gentleman's parliamentary inquiry is premature. It cannot be made until such an amendment is offered.

### § 4.17 Whether a proposition will be subject to a roll call vote at a future time is a matter for the House, and not the Speaker, to decide.

On June 29, 1961,[17] a Member introduced a resolution which became the subject of two parliamentary inquiries when he withdrew it.

MR. [SAMUEL W.] FRIEDEL [of Maryland]: Mr. Speaker, I withdraw the resolution.

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

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

MR. GROSS: Is is not necessary to ask unanimous consent to withdraw the resolution?

THE SPEAKER: It is, but the Chair did not think anyone would object to that unanimous consent request.

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

THE SPEAKER: The gentleman will state it.

MR. GROSS: Will this resolution be subject to a rollcall vote when it is called up again?

THE SPEAKER: That would be up to the House to decide.

## *When Rulings Would Be Improper*

### § 4.18 The Chair does not rule on the constitutionality of measures.

On Oct. 7, 1966,[18] the Chairman of the Committee of the Whole ruled on a point of order as follows:

THE CHAIRMAN (Mr. [Charles Melvin] Price [of Illinois]): The Chair is ready to rule.

The gentleman from Virginia [Mr. Smith] raises a point of order against the amendment as to the constitutionality and the germaneness of the amendment. The Chair holds that the amendment is germane because it provides a different condition in the matter of agreement to the compact.

As to the question of constitutionality, the Chair holds that the

**16.** 113 CONG. REC. 17754, 17755 90th Cong. 1st Sess.

**17.** 107 CONG. REC. 11799, 87th Cong. 1st Sess.

**18.** 112 CONG. REC. 25677, 89th Cong. 2d Sess.

Chair does not pass upon a constitutional question and this is in keeping with the ruling made by the gentleman from Virginia [Mr. Smith] on March 11, 1958.

Therefore, the point of order is overruled.

### § 4.19 The Chair does not pass on the effect of an amendment. . . .

On June 23, 1960,[19] Mr. Herman C. Anderson, of Minnesota, sought a determination from the Chair as to whether an amendment, if adopted, would "undo" the work of the previous day. Chairman Frank N. Ikard, of Texas, in the exchange below, declined to rule on the effect of the amendment:

MR. ANDERSON of Minnesota: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. ANDERSON of Minnesota: Is the gentleman's amendment in order at this point after the substitute for the Quie amendment has been adopted?

THE CHAIRMAN: It is.

MR. ANNDERSON of Minnesota: And its effect would be to undo everything that we did yesterday?

THE CHAIRMAN: The Chair does not pass on the effect of amendments. . . .

### § 4.20 Although the Chair may rule on the germaneness of an amendment to a bill, he does not rule on the merits of the amendment or bill.

On May 19, 1948,[1] a point of order was raised against an amendment being considered by the Committee of the Whole:

MR. [KARL E.] MUNDT [of South Dakota]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the pending bill. . . .

THE CHAIRMAN [James W. Wadsworth, Jr., of New York]: . . . The Chair is ready to rule.

The Chair would remind the gentleman . . . that [the Chair's] function is not to pass upon the merits of an amendment nor to pass upon the merits of the bill which the gentleman says has already passed the House. The Chair may personally find himself in complete agreement with the objective sought by the legislation. . . . but the legislation to which he refers, as the Chair understands, has to do with the immigration and naturalization laws of the United States. This bill pending before the Committee of the Whole does not approach that subject. . . . It comes from the Committee on Un-American Activities. That committee has no jurisdiction over legislation having to do with immigration and naturalization laws. Therefore, the Chair holds that the amendment is not germane.

### § 4.21 The Speaker does not rule on the purpose of a

**19.** 106 CONG. REC. 14062, 86th Cong. 2d Sess.

**1.** 94 CONG. REC. 6140, 80th Cong. 2d Sess.

**recommended committee amendment to a bill.**

On Apr. 1, 1935,[2] a point of order was raised against an amendment being considered by the House:

MR. [MALCOLM C.] TARVER [of Georgia] (interrupting the reading of the committee amendment): Mr. Speaker, I desire to make a point of order against the first committee amendment, which is to strike out all of section 1 after the enacting clause and insert certain language. The language which is proposed be inserted is identical with the language of section 1 now in the bill. The proposal of the committee amendment is simply to strike out existing language and then reinsert identical language.

THE SPEAKER: [Joseph W. Byrns, of Tennessee]: The Chair cannot pass on that. The Chair will say to the gentleman from Georgia that is a matter for the House to determine. The Chair cannot enter into the purpose of the committee in proposing the amendment, since that is not within the province of the Chair. The Chair will suggest to the gentleman from Georgia that the remedy that occurs to the Chair is for the House to vote down the committee amendment and pass the bill as originally introduced.

## § 4.22 The Chair does not rule on the sufficiency, insufficiency, legal effect, or binding nature of a committee report.

On Apr. 14, 1955,[3] a question regarding a committee report was raised during debate in the Committee of the Whole:

MR. [ROBERT C.] WILSON of California: I have a question relative to the United States Information Agency as it affects the report of the committee. . . .

I am wondering if the fact that these limitations appear in the report make them actual limitations in law. [ notice they are not mentioned in the bill itself, and I wonder if the committee regards them as binding on the agency, because there are many serious limitations, particularly in regard to exhibits, for example. I would just like to hear the opinion of the chairman.

MR. [JOHN J.] RODNEY [of New York]: I may say to the gentleman from California that it is expected that they will be the law; and that they are binding. The fact that they have not been inserted in the bill is not important. They represent the considered judgment of the committee and we expect the language of the report to be followed.

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN [Jere Cooper, of Tennessee]: The gentleman will state it.

MR. WILSON of California: Are limitations written in a committee report such as this, but not written into the wording of the legislation, binding?

THE CHAIRMAN: That is not a parliamentary inquiry. That is a matter to be settled by the members of the Committee of the Whole.

2. 79 CONG. REC. 4781, 4782 74th Cong. 1st Sess.

3. 101 CONG. REC. 4463, 4464, 84th Cong. 1st Sess.

MR. WILSON of California: I merely wanted it for my own understanding and information, for I am fairly new here. It seems to me rather unusual to consider matter written into a report of the same binding effect on an administrator as though written into the law itself.

THE CHAIRMAN: It is not the prerogative of the Chair to pass upon the sufficiency or insufficiency of a committee report.

### § 4.23 The Speaker does not rule on the substantive effect of extraneous material in a committee report on a bill.

On Dec. 3, 1963,[4] a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts, during the colloquy set out below after his ruling on a committee report:

THE SPEAKER: The Chair is prepared to rule. . . .

It is the opinion of the Chair that the report of the committee complies with the Ramseyer rule, the purpose of which is to give Members information in relation to any change in existing law.

If a report includes some other references to other laws which in a sense would be surplusage or unnecessary, it is the Chair's opinion that the committee was attempting to give to the Members of the House as full information as was possible. . . .

MR. [PAUL] FINDLEY [of Illinois]: Mr. Speaker——

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

MR. FINDLEY: To propound a parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. FINDLEY: I am not clear about the substantive effect of the ruling of the Chair at this time. Does it mean that section 105 of the 1949 act and section 330 of the 1938 act are repealed by this bill?

THE SPEAKER: The Chair did not pass on that. The Chair simply said that they were included in the report.

### § 4.24 The Chair does not rule on whether language contained in a measure is ambiguous.

On July 5, 1956,[5] certain points of order were raised concerning a pending amendment:

MR. [ROSS] BASS of Tennessee: I make the point of order that the amendment is not germane to the bill.

THE CHAIRMAN [Francis E. Walter, of Pennsylvania]: It is certainly germane to the amendment offered by the gentleman from New York to substitute the word "decisions" for the word "provisions." The Chair so rules.

MR. BASS of Tennessee: Mr. Chairman, a further point of order.

THE CHAIRMAN: The gentleman will state it.

MR. BASS of Tennessee: I make the point of order that the word "provisions" is ambiguous and has no mean-

4. 109 CONG. REC. 23038, 88th Cong. 1st Sess.

5. 102 CONG. REC. 11875, 84TH CONG. 2D SESS.

ing whatever and would make the amendment not germane.

THE CHAIRMAN: The Chair does not rule on the question of ambiguity. It is a question of germaneness solely, and the Chair has ruled that the amendment is germane.

### § 4.25 The Speaker does not rule in advance as to whether a particular motion to recommit a measure with instructions might be in order.

On Dec. 19, 1963,[6] a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts, relative to a motion to recommit with instructions a conference report.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HALLECK: Mr. Speaker, in the event that the conference report is acted on first in the House, as we now understand it will be, would a motion to recommit with instructions be in order?

THE SPEAKER: A proper motion would be.

MR. HALLECK: Of course, it would have to be germane. If so, a motion to recommit to insist on the wheat amendment, I take it, would be in order.

THE SPEAKER: The Chair, of course, would pass upon any question at the appropriate time.

MR. HALLECK: I thank the Chair.

### § 4.26 The Chair does not rule in advance whether an announced topic of speech is in order.

On Sept. 26 (legislative day, Sept. 25), 1961,[7] a Member requested unanimous consent to address the House on a particular topic:

MR. [CLARK E.] HOFFMAN of Michigan: Mr. Speaker, I ask unanimous consent that at the conclusion of the regularly scheduled business of the House and all other special orders for today that I may be permitted to proceed for 5 minutes on the topic: "Is the Congress Mentally Ill?"

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, a parliamentary inquiry.

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

MR. BOW: Is that a proper subject for debate on the floor of the House?

MR. HOFFMAN of Michigan: Mr. Speaker, I submit neither the Chair nor the gentleman from Ohio [Mr. Bow], can tell until they hear it.

THE SPEAKER PRO TEMPORE: The gentleman from Michigan [Mr. Hoffman] asked unanimous consent that after all other special orders he be permitted to address the House for 5 minutes. That is the gentleman's unanimous consent request?

MR. HOFFMAN of Michigan: Yes, Mr. Speaker.

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**6.** 109 CONG. REC. 25249, 88th Cong. 1st Sess.

**7.** 107 CONG. REC. 21466, 87th Cong. 1st Sess.

THE SPEAKER PRO TEMPORE: What the gentleman from Michigan [Mr. Hoffman] talks about is a matter for him to determine, and then a matter for the Members.

Is there objection to the request of the gentleman from Michigan?

There was no objection.

### § 4.27 The Chair does not construe the consequences of a "no" vote by the House on a proposed motion.

On Sept. 7, 1965,[8] various parliamentary inquiries concerning certain motions were addressed to Speaker pro tempore Carl Albert, of Oklahoma, as follows:

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALL: Is a highly privileged motion according to the Constitution subject to a motion to table?

THE SPEAKER PRO TEMPORE: It is.

MR. [L. MENDEL] RIVERS of South Carolina: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. RIVERS of South Carolina: Those desiring to table the motion of the gentleman from Missouri will vote "aye" when their names are called.

THE SPEAKER PRO TEMPORE: The Chair is about to state the question. So many as are in favor of the motion by the gentleman from South Carolina to table the motion of the gentleman from Missouri will when their names are called vote "aye" and those who are opposed will vote "no."

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALL: Mr. Speaker, would a "no" vote as just stated by the Chair be tantamount to overriding the Presidential veto of the military construction bill?

THE SPEAKER PRO TEMPORE: The Chair cannot make such construction on a motion.

### § 4.28 The Chair does not construe the result of a vote.

On Sept. 13, 1961,[9] questions regarding a future vote were addressed to Speaker pro tempore John W. McCormack, of Massachusetts.

MR. [WILLIAM C.] CRAMER [of Florida]: Is it true, Mr. Speaker, that if this motion is voted upon favorably, there will be no opportunity on the part of the House whatsoever to consider the vote fraud amendment approved in a bill——

MR. [JOHN J.] ROONEY [of New York]: Mr. Speaker, I submit that is not a parliamentary inquiry.

MR. CRAMER: Which is now pending before the Committee on Rules?

THE SPEAKER PRO TEMPORE: The Chair has stated before that he has his own personal opinion. The Chair cannot construe the result of the vote.

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**8.** 111 CONG. REC. 22958, 22959, 89th Cong. 1st Sess.

**9.** 107 CONG. REC. 19206, 87th Cong. 1st Sess.

### *Challenge of Conference Report*

**§ 4.29 The Speaker may not impeach the names of conferees who have signed a conference report on a bill when the report has been challenged as being invalid for an alleged failure of the conferees to meet.**

On June 19, 1948,[10] a point of order was raised regarding a conference report.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I make a point of order, and I ask the indulgence of the Speaker so that I may argue the point.

THE SPEAKER: [Joseph W. Martin, Jr., of Massachusetts]: The Chair will hear the gentleman.

MR. MARCANTONIO: Mr. Speaker, I make the point of order that the document which has just been presented is not the report of any conference. It is not the product of a full and free conference as required in Jefferson's Manual. I make my point of order based on the proposition that there has never been a valid conference—specifically, that there has never been a valid meeting on the part of the managers on the part of the House. . . .

THE SPEAKER: The Chair is ready to rule.

On page 770, volume 5, of Hinds' Precedents, section 6497 states:

> A conference report is received if signed by a majority of the managers of each House.

The Chair has examined the report and the papers and finds that it is signed by five of the managers on the part of the Senate and six of the seven managers on the part of the House.

The Chair has no knowledge, of course, how this report was reached, but the Chair cannot impeach the names of the managers on the part of the two Houses. Furthermore, the Senate having already received the report, and according to a message heretofore received by the House has officially adopted it, the Chair feels that under the circumstances the report is properly before the House for such action as the House may see fit to take. The Chair overrules the point of order.

### *When Recognition Required*

**§ 4.30 The Speaker is constrained to recognize on Calendar Wednesdays any Member properly proposing a motion to dispense with Calendar Wednesday business.**

On June 5, 1946,[11] a motion was made to dispense with Calendar Wednesday business.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, that motion is not in order. To dispense with Calendar Wednesday requires the unanimous consent of the House. . . .

THE SPEAKER: [Sam Rayburn, of Texas]: The Chair will state that the following was held by Speaker Gillette, who has been quoted today, as follows:

10. 94 CONG. REC. 9268, 9269, 80th Cong. 2d Sess.

11. 92 CONG. REC. 6357, 79th Cong. 2d Sess.

The Speaker is constrained to recognize on Wednesdays any Member proposing a motion to dispense with further proceedings in order on that day.

The motion is in order, but it takes a two-thirds vote to pass it.

**§ 4.31 Although the Speaker has the discretion to choose between Members seeking recognition,[12] he is obliged to recognize for a privileged motion when the proponent has the floor and no other motion of higher privilege is pending or offered.[13]**

**§ 4.32 Although the Speaker has discretion to recognize, or not, a Member under most circumstances, he may not refuse to recognize a Member having the floor for a motion to adjourn.**

On Mar. 16, 1945,[14] a motion to recommit a bill was made. Votes were taken and a quorum found not to be present. This led to a call for adjournment.

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

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

MR. HOFFMAN: What is the regular order now?

THE SPEAKER: The regular order is to see if a quorum develops.

MR. HOFFMAN: Is it in order to adjourn?

THE SPEAKER: That motion is always in order in the House.

MR. HOFFMAN: If there is not a quorum, Mr. Speaker, I move we adjourn.

THE SPEAKER: Will the gentleman withhold that for a moment?

THE HOFFMAN: If the Chair is refusing recognition, I will.

THE SPEAKER: The Chair cannot do that.

The House then agreed to a motion, offered by Mr. John W. McCormack, of Massachusetts, to adjourn.

**§ 4.33. Inasmuch as Members of the Senate may not address the House unless the House rules are changed by proper procedure, the Speaker has declined to recognize a Member for the purpose of asking unanimous consent for the consideration of a resolution to allow Senators to address the House.**

On Oct. 11, 1943,[15] Members discussed the desirability of inviting certain Senators to address the House.

MRS. [EDITH NOURSE] ROGERS of Massachusetts: Mr. Speaker, on Thurs-

**12.** Recognizing for debate, see Ch. 29, infra.

**13.** Motions generally, see Ch. 23, infra.

**14.** 91 CONG. REC. 2379, 2380, 79th Cong. 1st Sess.

**15.** 89 CONG. REC. 8197, 78th Cong. 1st Sess.

day last I, with several others, called attention to the importance of having the five Senators who have just returned from the far-flung battle fronts give the Members of the House their findings regarding conditions on the battle fronts. I understand there is some objection to having them appear in the House Chamber. I hope the gentleman from Mississippi and some of the other Members will join in asking them to appear in the Caucus Room. Then we can all have the benefit of their valuable information. It does not matter where we hear their testimony so long as we hear it.

MR. [JOHN E.] RANKIN [of Mississippi]: If the gentlewoman will yield, let me say that these are Members of the United States Senate. They have the privilege of the floor. We have a perfect right to invite them here to address the Members of the House in secret session. We want them to come here and give us the benefit of the information they have garnered in their trip to the various battle fronts of the world.

MRS. ROGERS of Massachusetts: Has the gentleman consulted the Speaker and leaders about it?

MR. RANKIN: I have, and I think that when the resolution is offered they will agree that this is the place to have them.

THE SPEAKER: [Sam Rayburn, of Texas]: The Chair thinks it is time for the Chair to make a statement, because this matter was discussed with the Chair by the gentlewoman from Massachusetts [Mrs. Rogers], last week, and the gentleman from Mississippi [Mr. Rankin], over the phone.

The Chair does not intend to recognize a Member to ask unanimous consent for the present consideration of a resolution inviting Senators to address the House in open or executive session, because the Chair thinks that is tantamount to an amendment to the rules of the House and, therefore, is a matter for the House to determine. If resolutions like that are introduced, they will be sent to the proper committee.

### *Authority to Declare Recess*

**§ 4.34 The Speaker, under normal circumstances, must be authorized by the House to declare recesses.**[16]

On Oct. 3, 1964,[17] for example, unanimous consent was requested and received to authorize Speaker John W. McCormack, of Massachusetts, to declare recesses, subject to the call of the Chair, during the remainder of the day.

**§ 4.35 Authority conferred upon the Speaker to declare recesses of the House may be vacated by unanimous consent.**

On Sept. 8, 1969,[18] unanimous consent was requested to vacate previous authorization for Speaker John W. McCormack, of Massa-

16. Compare § 3.44, supra, as to the Speaker's inherent power to declare a recess in an emergency.
17. 110 CONG. REC. 23955, 88th Cong. 2d Sess.
18. 115 CONG. REC. 24653, 91st Cong 1st Sess.

chusetts, to declare recess on a certain day.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the authority for the Speaker to declare a recess on September 10 be vacated.

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

There was no objection.

MR. ALBERT: Mr. Speaker, I also ask unanimous consent that it may be in order for the Speaker to declare a recess at any time on September 16 for the purpose of receiving in joint meeting the Apollo 11 astronauts.

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

There was no objection.[19]

### *Authority to Sign Bills and Resolutions*

### § 4.36 The Speaker must be formally authorized to sign a duplicate copy of an enrolled bill.

On May 27, 1938,[20] a unanimous-consent request was made as follows:

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I ask unanimous consent for the present consideration of Senate Concurrent Resolution No. 37.

The Clerk read the concurrent resolution, as follows:

SENATE CONCURRENT RESOLUTION 37

*Resolved by the Senate (the House of Representatives concurring),* That the Speaker of the House of Representatives and the President of the Senate be, and they are hereby, authorized to sign a duplicate copy of the enrolled bill (S. 3532) entitled "An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Randolph, Mo.," and that the Secretary of the Senate be, and he is hereby, directed to transmit the same to the President of the United States.

THE SPEAKER [William B. Bankhead, of Alabama]: Is there objection to the request of the gentleman from Texas?

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, reserving the right to object, will the gentleman from Texas explain the purpose of this resolution?

MR. RAYBURN: Mr. Speaker, the situation is that before this bill got to the President for his signature it was misplaced or lost. This is a resolution to allow the President to sign a duplicate.

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

There was no objection.

### § 4.37 The Speaker must be formally authorized by the House to sign enrolled bills and joint resolutions during a sine die adjournment of the Congress.

19. *Parliamentarian's Note:* The authorization to declare the recess was vacated due to the death of Senator Everett Dirksen.

20. 83 CONG. REC. 7637, 75th Cong. 3d Sess.

On Oct. 14, 1968,[11] a resolution was offered by Mr. Carl Albert, of Oklahoma, as follows:

MR. ALBERT: Mr. Speaker, I call up Senate Concurrent Resolution 82 and ask for its present consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 82

*Resolved by the Senate (the House of Representatives concurring),* That, notwithstanding the sine die adjournment of the two Houses, the Speaker of the House of Representatives and the President of the Senate, the President pro tempore, or the Acting President pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The Senate concurrent resolution was concurred in.

## § 4.38 The Speaker is normally authorized by unanimous consent to sign enrolled bills and joint resolutions during any adjournment of the House.

On Aug. 10, 1961,[2] a unanimous consent request was made as follows:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House during the present session of the 87th Congress, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, are we going to enter into some recesses or adjournments of the House?

MR. MCCORMACK: For example, such as adjourning from Friday to Monday.

MR. GROSS: That is all the gentleman has in mind?

MR. MCCORMACK: That is all. . . .

THE SPEAKER: [Sam Rayburn, of Texas]: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## § 4.39 Although it is within the authority of the Speaker to sign enrolled bills, by concurrent resolution the Congress may rescind the Speaker's signature.

On July 1, 1947,[3] a resolution was introduced as follows:

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate Concurrent Resolution 22. . . .

The Clerk read the concurrent resolution, as follows:

*Resolved by the Senate (the House of Representatives concurring),* That

1. 114 CONG. REC. 31313, 90th Cong. 2d Sess.
2. 107 CONG. REC. 15320, 87th Cong. 1st Sess.
3. 93 CONG. REC. 8012, 80th Cong. 1st Sess.

the President of the United States be, and he is hereby, requested to return to the House of Representatives the enrolled bill (H.R. 493) to amend section 4 of the act entitled "An act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia," approved July 8, 1932 (sec. 22, 3204 D.C. Code, 1940 ed.): that if and when the said bill is returned by the President, the action of the Presiding Officer of the two Houses in signing the said bill be deemed to be rescinded; and that the House engrossed bill be returned to the Senate.

THE SPEAKER [Joseph W. Martin, Jr., of Massachusetts]: Is there objection to the request of the gentleman from Illinois?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

### § 4.40 Although it is within the authority of the Speaker to sign enrolled bills of the House, the House may agree to a Senate resolution requesting that the Speaker's signature be rescinded.

On July 30, 1942,[4] Speaker pro tempore Alfred L. Bulwinkle, of North Carolina, laid before the House a Senate resolution:

*Resolved*, That the Secretary be directed to request the House of Representatives to rescind the action of the Speaker in signing the enrolled bill (H.R. 7297) entitled "An act authorizing the assignment of personnel from departments or agencies in the executive branch of the Government to certain investigating committees of the Senate and House of Representatives, and for other purposes," and that the House of Representatives be further requested to return the above-numbered engrossed bill to the Senate.

THE SPEAKER PRO TEMPORE: Without objection, it is so ordered.

There was no objection.

## § 5. Participation in Debate and Voting

The Speaker is entitled as a Member of the House to participate in debate.[5] Accordingly, when the Speaker desires to be heard in debate on a matter he may speak from the floor, whether debate is in the House[6] or in the Committee of the Whole.[7] Occasionally the Speaker will speak in debate from the Chair.[8]

Under the House rules[9] the Speaker may, but is not required, to vote on matters except where (1) his vote would be decisive, or

4. 88 CONG. REC. 6713, 77th Cong. 2d Sess.

5. *House Rules and Manual* § 751 (1973).

6. See §§ 5.1, 5.2, infra.

7. See § 5.3, infra.

8. See Ch. 29, infra, for fuller treatment of the Speaker's participation in debate.

9. Rule I clause 6, *House Rules and Manual* § 632 (1973).